

**PRIVATE ACTS
OF
BENTON COUNTY, TENNESSEE**

REVISED EDITION

**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 Benton County will provide a useful reference for county administration in Benton County.

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

HOW TO USE THE PRIVATE ACTS OF BENTON 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, now 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 2005 Regular Session of the 104th Tennessee General Assembly.

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CHAPTER I - ADMINISTRATION

ADMINISTRATION

BUDGET SYSTEM

PRIVATE ACTS OF 1939

CHAPTER 541

SECTION 1. The following definitions apply to the terms used in this Act:

(1) The term "budget" when used in this Act shall mean the appropriation of money appropriated by the County Commission for each department or activity of Benton County for the period shown by the adoption of the budget by the County Legislative Body and any appropriation authorized by statute.

(2) The term "official of the county" when used in this Act shall mean any official authorized by the County Legislative Body or the statutes of the State of Tennessee to draw from the Trustee and expend money of Benton County.

(3) The term "budget committee" when used in this Act shall mean a committee of five (5) members appointed or elected by the County Legislative Body of Benton County as hereinafter provided.

(4) The term "expenditure" or "expend" when used in this Act shall mean the act of committing Benton County to expend monies then and there in the Office of the County Trustee or to come into the office of the County Trustee of Benton County.

(5) The term "commission" when used in this Act shall mean the County Legislative Body of Benton County, Tennessee.

SECTION 2. The Budget Committee shall consist of not more than five (5) members who shall be appointed by the Chairman and confirmed by the County Legislative Body. The Budget Committee is to receive as compensation for their services in the preparation and supervision of the making of the budget a per diem fee as set by the County Legislative Body each fiscal year.

The Budget Committee shall have the power and authority to employ such help and assistance as may be necessary to properly prepare and work out the budget and to do the matters and things in connection with said work and in preparation of said budget, as required by this Act, and to fix the wages or pay for the services of such help and assistance as may be employed for that purpose.

SECTION 3. Immediately after the second Monday of March, the Budget Committee of Benton County shall begin the preparation of a budget, containing a complete plan, itemized and classified according to function and activity of all proposed expenditures and all estimated revenues by sources, including borrowings by or for the county, for the ensuing appropriation year, which shall begin on the first day of July of each year, or at such other date as may be provided for by law,

for the beginning of the appropriation year. Opposite each item of proposed expenditure, the budget shall show in separate parallel columns the amount appropriated for the preceding appropriation year, the amount expended during that year, the amount appropriated for the current appropriation year, and increases and decreases in the proposed expenditures for the ensuing year as compared with the appropriation for the current year. This budget shall be accompanied by:

(1) A statement of the contemplated revenues, including borrowings, of Benton County for the ensuing appropriation year; and

(2) An itemized and complete financial balance sheet of each fund account of Benton County, at the close of the last preceding appropriation year.

SECTION 4. A brief synopsis of the budget, as prepared by or under the supervision of said Budget Committee, shall be posted at one (1) or more public places in said county, including the bulletin board at the courthouse door, and a copy thereof shall be furnished to each County Commissioner and notice given of one (1) or more public hearings, at least five (5) days prior to the date of such hearing, at which citizens of said county shall have the right to attend and state their views thereon. The Budget Committee shall submit said budget to the County Commission at such time as will allow the Commission to adopt the budget at or prior to the July meeting with recommendation for adoption of said budget as may be agreed upon by the committee. However, it shall not be mandatory upon the commission to adopt the budget recommended by the Budget Committee, but if said budget is not adopted, the County Legislative Body shall prepare and adopt a budget of its own, using the budget estimate as a basis, but appropriating such sums as the Commission may deem proper for the expenses listed under subdivision (2) of Section 5 of this Act, whether greater or less than the budget estimate, but no appropriation recommended by the budget estimate under subdivisions (1) and (3) of Section 5 of this Act shall be reduced by the Commission and the taxes levied for such appropriations may be over and above all other taxes authorized or limited by law, and the Commission shall by appropriate order, adopt and enter upon the minutes of the Commission a budget covering all expenditures for the county for the next appropriation year, itemized and classified as required by Section 3 of this Act.

It shall be mandatory upon the County Legislative Body to adopt a resolution or fix a tax rate, levying upon all property subject to taxation within the county, and basing such levy upon the current tax collection experience of the preceding fiscal year, such rate of tax as may be required to produce the sum necessary to balance the budget upon a cash basis. In order that the current tax levy shall be truly based upon the current tax collection experience of the preceding year, such current tax levy shall be determined by dividing the sum necessary to be raised in order to balance the budget, by a percentage which does not exceed the percentage obtained by dividing the amount of current taxes collected in cash in the preceding fiscal year, by the amount of the taxes levied and payable in such preceding fiscal year.

SECTION 5. The sum necessary to balance the budget as provided in Section 4 of this Act, shall be ascertained by adding the appropriation included in said budget, which shall be as follows:

(1) The full amount required for interest on the indebtedness of the county and for sinking funds for the retirement of the bonded indebtedness of the county as it matures in an orderly and systematic financial way, and for the principal payment of serial bonds maturing during the fiscal year.

(2) The amounts required and appropriated for the fiscal year for the expense of conducting and/or operating each department, division, office or board and the subdivisions of each.

(3) The amount of any cash deficit, being the sum of all outstanding and unpaid bills or other lawful obligations and all amounts payable to all special funds of the county at the close of the last preceding fiscal year incurred for debt or other lawful charges in connection with the operation of the county to the extent that such sums exceed the cash on hand or on deposit to the credit of the general funds of the county in relation to expenditures for strictly county general expenses; and the school, highway and other funds, for those purposes, and by deducting therefrom, the estimate of the cash receipts to be available during the current year, from the taxes and miscellaneous revenue.

SECTION 6. The Budget Committee of Benton County may require the heads or other responsible representatives of all departments, divisions, boards, commissions, agencies or offices of said county, to furnish such information as may be deemed advisable and in such form as may be required in relation to their respective affairs and activities.

SECTION 7. The County Legislative Body shall cause to be made out immediately preceding the July meeting of said Commission in each and every year hereafter a statement showing the aggregate amount of the receipts and itemized disbursements of the twelve (12) month period ending on June 30. A copy of such statement shall be posted on the bulletin board at the courthouse door of said county.

SECTION 8. It shall be the duty of the School Board and County Superintendent of Benton County, to prepare and file with the Budget Committee, an itemized statement or budget, as specified in Section 3 of this Act, and figured and ascertained in accordance with the provisions of Sections 4 and 5 of this Act, of the funds which said board and superintendent estimate will be necessary for the maintenance and operation of the schools and expenses incident thereto for the year commencing the first day of July following the filing of such statement or budget, so that said school budget may be presented to the Commission by the Budget Committee along with the regular county budget.

SECTION 9. The County Legislative Body shall include in the county budget required by law and as a part thereof, a budget for the schools of the county, using such recommended budget estimate as a basis, but appropriating such sums as the commission may deem proper therefor fixing the amounts necessary for said purposes, and levying the taxes covering such proposed expenditures in the same manner and by the same method as that contained in Sections 4 and 5 of this Act.

SECTION 10. It shall be the duty of the County Executive to install and maintain or to cause to be installed and maintained a set of accounts as prescribed by the County Legislative Body and this Act, classified according to functions and activities, which will at all times reveal the amount appropriated, the amount expended to date chargeable against such appropriations and the unexpended balance of such appropriations. Furthermore, it shall be the duty of each and every official of the county, before making an expenditure for any purpose whatsoever, whether it be for personal services, contracted services, materials and supplies, equipment, bounties and claims, pensions and relief contributions, or debt service, to issue or cause to be issued to the county executive a requisition, and to receive from the County Executive a purchase order, which among

other things, shall show the unexpended balance of the appropriation against which such purchase order or requisition has been charged.

SECTION 11. If any official of Benton County who has the power, right or authority to expend county funds from the County Trustee or funds coming into the County Trustee from the State of Tennessee expends any sum in excess of the monies or funds then and there actually in the County Trustee to the credit of his department of the county government or in excess of the budget adopted by the County Legislative Body covering that certain period of time as shown by the budget, such county official making any overdrafts of the County Trustee or commitment in excess of the amount appropriated for the specific purpose for which the expenditure was made by the County Legislative Body of Benton County, shall be personally liable, together with the sureties of his official bonds, to Benton County for such overdraft, and/or the payee of any such warrant for the full amount of such overdraft or over-expenditure, and the county and/or payee of any such warrants, shall have cause of action of debt to recover from such official or officials and their bondsmen, the amount of the overdraft or over-expenditure, with interest from the date of issuance of such warrants.

SECTION 12. It shall be unlawful for any official and/or employee of Benton County, to draw, sign, issue, deliver, or to authorize the drawing, signing, issuance or delivery of any purchase order, warrant, or other commitment during the appropriation year when such warrant, purchase order or other commitment, added to amounts previously expended, shall exceed the appropriation made by the County Legislative Body for the specific purpose for which the expenditure is made. A violation of this Section shall be punished as official misconduct pursuant to § 39-16-402. It shall be mandatory upon the members of the County Legislative Body to determine whether or not warrants or purchase orders, or other commitments have been issued or made in violation of the intent of this Act, and if warrants, purchase orders or other commitments are found to have been issued in violation of the intent of this Act, it shall be mandatory upon said Commission or its qualified representative to certify the facts to the District Attorney General for presentation to the Grand Jury at the next term of the Circuit Court; and it shall be the duty of the District Attorney General to present facts to the said Grand Jury and to institute such other proceedings that may be necessary to give full effect to the provisions of this Act.

SECTION 13. It shall be unlawful for any official of the county, including the School Board, the Highway Superintendent, the County Superintendent, the County Executive, the County Clerk, Circuit Court Clerk, the Sheriff, the Trustee, the Register of Deeds, the Clerk and Master, the Property Assessor, or any other official of the county to violate any provision of this Act, to fail or refuse to perform any of the duties placed upon them or any of them by this Act, and any such official, or officials failing to perform the duties imposed by this Act, or otherwise violating this Act, or who procures, aids or abets in violation of any provision of this Act. Any violation of this Act shall be punished as official misconduct pursuant to § 39-16-402, provided further, that any county official convicted under this Act, shall be subject to removal from office under the ouster laws of the State of Tennessee, and it shall be mandatory upon the County Legislative Body to appropriate the necessary funds for the prosecution of such case.

SECTION 14. Appropriations for which no provision was made in the budget as adopted, shall be made only from any surplus resulting from an unappropriated balance of the tax rate, and then only by a two-thirds (2/3) majority vote of the members of the County Legislative Body.

SECTION 15. The holding of any section or part thereof, or any subsection, clause or phrase of this Act, to be void or ineffective for any cause shall not in any way affect any other section or part thereof in this Act. It is hereby declared, and shall be conclusively presumed that this Act and each section, subsection, sentence, clause and phrase thereof would have been passed and enacted, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional or void or ineffective for any cause.

SECTION 16. All laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

As amended by: Private Acts of 1999, Chapter 32.

Passed: March 7, 1939.

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 Benton County, but they have been specifically repealed or superseded by current law. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1937, Chapter 400, was the initial act providing for a Budget System for Benton County. The first section was given over to legal definitions. The Budget Committee, provided for in the Act, would prepare a budget ninety days before the meeting of the County Court in which the tax levy would be set which would show all the details of

the items of anticipated expenses and revenues for the coming year. An analysis of the proposed budget must be published in the newspaper, and a public hearing conducted to which all people were invited. The County Court, which was not bound to accept the recommended budget, would fix a tax rate based on the amount of the budget, as adopted, and on an 85% probability of collection, and at least 5% above the budget requests to allow for errors and emergencies. The Budget Committee could force a department head including the school Board, to submit a budget request based on the anticipated need. The County Judge must keep accurate records and no expenditure would be allowed which exceeded the budget allocation. Violations were subject to fines as other misdemeanors were. J. T. Hollingsworth, N. J. Cuff, E. E. McDaniel, L. E. Hatley, and J. O. Cagle were named to the first Budget Committee. They would be paid \$5.00 per day for each day spent on this assignment up to \$45 per year. This Act was repealed by the one below.

2. Private Acts of 1939, Chapter 24, repealed Private Acts of 1937, Chapter 400, above, in its entirety.
3. Private Acts of 1973, Chapter 9, amended Section 4 of the Private Acts of 1939, Chapter 541, to require the budget committee to submit the budget to the quarterly county court at such a time as would allow the court to adopt a budget at or prior to the July term of court.
4. Private Acts of 1999, Chapter 32, repealed Private Acts of 1973, Chapter 9, and extensively amended Private Acts of 1939, Chapter 541 relative to the budget law in Benton County. This version of the Private Acts of 1939, Chapter 541, as substantially amended by the Private Acts of 1999, Chapter 32, is reproduced herein as an act in force.

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.

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. § 8-21-407.

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

1. Acts of 1855-56, Chapter 253, created the office of County Judge in every county of the State who would be learned in the law and elected by the people to an eight year term. He shall be commissioned and sworn into office as are the other judges. Quorum Courts were abolished and all their duties and functions were assigned to the County Judge, who would also preside over the County court in place of the Chairman who was relieved of this task. The jurisdiction of the Court and the powers and authority of the Judge were enumerated in the act. This act was repealed by the Public Acts of 1857-58, Chapter 5, and Quorum Courts were restored to activity.
2. Public Acts of 1889, Chapter 94, as amended by Private Acts of 1919, Chapters 425 and 613, Private Acts of 1920 (Ex. Sess.), Chapter 90, and Private Acts of 1925, Chapter 668, created the office of County Judge to be elected on the first Thursday in August, 1890 by the qualified voters of Benton County for a term of eight years. The jurisdiction, powers and authority of the Judge were enumerated in the act. The compensation for his services was

\$300 per year, paid quarterly from the county treasury upon the Judge's own warrant and countersigned by the county court clerk.

2. Private Acts of 1927, Chapter 725, set the salary of the County Judge of Benton County, using the 1920 Census figures, at \$1,000 per annum, payable at the rate of \$83.33 per month upon the warrant of the Judge drawn on the County Trustee.
3. Private Acts of 1945, Chapter 582, abolished the office of County Judge in Benton County transferring his duties and obligations to the Chairman Pro Tem of the Quarterly County Court, who would discharge them in his place or, if there were no Chairman Pro Tem, then the Chairman of the County Court would serve until the January term of 1946, at which time both will be selected. These officials when elected were authorized to employ a secretary at an amount not to exceed \$75 per month payable from the general fund of the County. This Act was repealed by the one following.
4. Private Acts of 1947, Chapter 448, specifically repealed Private Acts of 1945, Chapter 582, above, in its entirety, returning the county to the situation existing in this regard prior to the passage of that act.
5. Private Acts of 1949, Chapter 835, amended Private Acts of 1927, Chapter 725, above, by increasing the salary of the County Judge from \$1,000 per year to \$3,600 per year payable \$300 per month out of regular county funds.

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 Benton County and are included herein for historical purposes.

1. Private Acts of 1835-36, Chapter 30, stated that the County and Circuit Courts would meet at the house of Samuel H. Burton in Benton County until the building of a courthouse.
2. Private Acts of 1919, Chapter 647, provided that each Justice of the Peace in Benton County, using the 1910 Federal Census Figures, shall be paid \$2.50 per day for each day of attendance at a regular, or called, meeting of the Quarterly County Court, plus five cents per mile for each mile traveled when going to and from their residences and the meeting place but they could be paid for only one round trip per court session.
3. Private Acts of 1949, Chapter 908, stated that in counties having a population of no less than 11,900 and no more than 12,000 according to the Federal Census of 1940, or any subsequent Federal Census, the Justices of the Peace would be paid \$5 per day for each day's attendance at the sessions of the Quarterly County Court of Benton County.

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 set in accordance with T.C.A. § 8-24-102.

ADMINISTRATION

FORREST MEMORIAL PARK

PUBLIC ACTS OF 1963

CHAPTER 101

Whereas, the General Assembly of the State of Tennessee in 1929 saw fit to appropriate funds through the Miscellaneous Appropriations Bill for the erection of a monument in Benton County to be known as the Forrest Memorial Park; and

Whereas, during the extra ordinary session of such General Assembly, a further appropriation was made and a Commissioner established by Chapter 31 of such extra session to manage such property; and

Whereas, due to its location at or near TVA lands adjacent to Kentucky Lake, which could be made available in conjunction with such memorial park, thereby providing ample lands for a regular state park a wonderful opportunity exists for development of a state park there at; now therefore

SECTION 1. That, the Forrest Memorial Park in Benton County, Tennessee be taken over by the Division of State Parks, of the State Department of Conservation and Commerce and developed as a part of the state park system.

SECTION 2. That Chapter 31 of the Public Acts of Tennessee, 1929, Extra Ordinary Session, and all other actions of the General Assembly whether by bill or resolution in conflict herewith, be and the same are hereby repealed.

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

Passed: March 12, 1963.

COMPILER'S NOTE: This is a "Special Public Act" and is not printed in the Tennessee Code Annotated. It is published here as a service to our readers.

ADMINISTRATION

NORTHWEST TENNESSEE DEVELOPMENT AGENCY

PUBLIC ACTS OF 1967

CHAPTER 345

SECTION 1. That it is hereby created and established the Northwest Tennessee Development Agency, being a public body corporate and politic, and for the purpose of this Act it will be hereinafter referred to as the "Agency".

The Agency is created for the purpose of developing and effectuating plans and programs for comprehensive development, including the control and development of the water resources of the Big Sandy River, West Sandy Creek, Middle Fork of the Obion River, the combined Middle Fork and South Fork of the Obion River from that point of confluence to the point of confluence with the Rutherford Fork of the Obion River, the Middle Fork, South Fork, and Rutherford Fork of the Obion River from the points of their confluence to their subsequent confluence with the North Fork of the Obion River, and of the Obion River proper from such point of its confluence with the Mississippi River, located in Benton, Henry, Obion, and Dyer Counties, Tennessee, and for the purpose of planning, developing, and constructing a fresh water canal, with the necessary lakes, locks, and dams in the watershed of and along the waters of the aforesaid rivers and creeks, and for the purpose of intergrating plans, programs, and development activities with the overall development of the area described.

SECTION 2. That the organization of the Agency shall be as follows:

(1) The Agency shall be governed by a Board of Directors consisting of eleven (11) members.

(2) The Quarterly County Court of each of the above-named counties shall nominate by a majority vote two (2) candidates for each directorship from the county. Candidates shall include persons active in municipal, industrial, agricultural, commercial, and citizen organizations, such as the Northwest Tennessee Development Agency, active in promoting comprehensive unified development of the resources and economic growth of the watershed area of the aforesaid rivers, creeks, and tributaries. The presiding officer of the governing body of each county shall certify such nominations to the Governor, who shall appoint from the nominations from each county one from each group of the two (2) nominated for each directorship. From the above, the Governor shall appoint one for a term of two years, one for a term of four years, one for a term of six years, and one for a term of eight years. However, such terms shall continue in all event until successors are appointed. Successors shall be appointed for terms of eight years. In the event of a vacancy on the Board, the Governor shall appoint a successor for the remainder of the unexpired term.

(3) The Governor shall appoint a resident of one of the aforesaid counties as the eleventh (11) Director, to serve as such Director during the Governor's term of office.

(4) The County Judges of Benton, Henry, Weakley, Obion, and Dyer Counties shall be ex-officio members of such Board of Directors.

(5) The situs and place of business of the body corporate and politic, or Agency, herein created, shall be at Dresden, in Weakley County, Tennessee.

(6) Upon the completion of its membership, the appointees and those designated as ex-officio members shall meet and organize at Dresden, Tennessee, electing a Chairman, Vice-Chairman, and Secretary-Treasurer, and set a regular time and place for the meetings of the Board.

(7) Directors shall serve without compensation, except reimbursement for actual traveling expenses and other necessary expenses incurred in the performance of their official duties, such expenses to be reimbursed from such funds as may be available to the Agency.

SECTION 3. That the powers, duties, and functions of the Agency shall be as follows:

(1) General

- (a) Perpetual succession in corporate name.
- (b) Sue and be sued in corporate name.
- (c) Adopt, use, and alter a corporate seal, which shall be judicially noticed.
- (d) Enter into such contract and cooperative agreements with the Federal, State, and local governments, with agencies of such governments, with private individuals, corporations, associations, and any other organizations as the Board may deem necessary or convenient to enable it to carry out the purpose of the Act.
- (e) Adopt, amend, and repeal by-laws.
- (f) Appoint such managers, officers, employees, attorneys, and agents as the Board deems necessary for the transaction of its business, fix their compensation, define their duties, require bonds of such of them as the Board may determine. Salary of any such employee may be paid out of such funds as may be available to the Agency from any source.

(2) Formulation and Execution of Development Plans

The Agency is authorized to:

- (a) Investigate the resources of the watershed areas of the Big Sandy River, West Sandy Creek, Middle Fork of the Obion River, the combined Middle Fork and South Fork of the Obion River from their point of confluence to the point of confluence with the Rutherford

Fork of the Obion River, the Middle Fork, South Fork, and Rutherford Fork of the Obion River from the point of their confluence to their confluence with the North Fork of the Obion River, and of the Obion River proper from such point to the point of its confluence with the Mississippi River, and determine the requirements for their full development, and for the control and development of the watershed areas thereof, including, but not limited to, the building and constructing of a fresh water canal for the purpose of water transportation between the Tennessee and Mississippi Rivers, and for the further purpose of furnishing large quantities of water for manufacturing and industrial purposes, and for the better development of the economy of the general area.

- (b) Develop and carry out a unified comprehensive program of resource development for the economic growth of the area. These plans shall be consistent with the plans for state-wide economic development.
- (c) In making such investigations and in formulating development plans, to seek and utilize the assistance of appropriate Federal, State, and local agencies and of private citizens and citizen organizations interested in the conservation and development of the resources of the area.
- (d) Provide, develop, and help as appropriate the needed and feasible cooperative arrangements for the construction of water control structures, channel improvements, and facilities for navigation, drainage, irrigation, water conservation and supply, industrial development, recreation, and land improvement as a part of its comprehensive plans and, in aid of such activities, to accept loans and grants, or other assistance, from Federal, State, and local governments, or from the agencies of such governments.
- (e) Arrange with any city, county, municipality, or supplier of utilities for the abandonment, relocation, or other adjustment of roads, highways, bridges, and utility lines.
- (f) To particularly arrange and develop plans with the Corp of Engineers of the United States Army, Department of Defense, for the surveying, locating, and constructing of a navigable canal, on and along the aforesaid rivers and creeks, from the confluence of the Big Sandy River with the Tennessee River, over, through, and along the waters of the Big Sandy River, West Sandy Creek, Middle Fork of Obion River, and the combined waters of the Middle Fork, South Fork, Rutherford Fork of the Obion River to their confluence with the North Fork of the Obion River, and the Obion River proper to its confluence with the Mississippi River, so as to afford opportunity for the economic development of such areas.
- (g) To arrange, develop, and make all necessary contracts and agreements with the Middle Fork Obion River Watershed District, of

Henry and Weakley Counties, Tennessee, and with any and all other watershed districts within the aforesaid areas, or that may hereafter be created within such areas, or created on a tributary of any of the streams, herein above set out, which might be affected by the projects contemplated for this Agency.

(3) Land Acquisition:

- (a) To acquire by purchase, lease, gift, or in any manner other than by condemnation, property of any kind, real, personal, or mixed, or any interest therein, which the Board deems necessary or convenient to the exercise of its powers or functions, provided, that acquisition by condemnation shall be limited to land, rights in land, including leaseholds and easements, and water rights, in, on, and adjacent to the watershed areas of the above-named rivers, streams, and creeks, that the Board deems to be necessary to the control and optimum development of the aforesaid rivers, streams, and creeks, and their tributaries. The amount and character of interest in land, rights in land, water rights to be acquired within any of these boundaries shall be determined by the Board of Directors and its determination shall be conclusive. The Agency's power of eminent domain may be exercised under Sections 23-1401 through 23-1425, Tennessee Code Annotated and any amendments thereto, or pursuant to any other applicable statutory provisions, now in force or hereafter enacted, for the exercise of the power of eminent domain; provided, that where condemnation proceedings become necessary the Court in which any such proceedings are filed shall, upon application of the Agency, and upon posting of a bond with the Clerk of the Court in such amount as the Court may deem commensurate with the value of the property, order that writ of possession shall issue immediately or as soon, and upon such terms as the Court in its discretion may deem proper and just. The Agency is exclusively authorized to acquire by condemnation or otherwise and hold for resale to private or other industrial organizations waterfront land that it determines to be suitable for industrial or other appropriately planned uses, and such acquisition is hereby declared to be for the public purpose of the State's industrial development and for the increase of industrial development opportunities.

(4) Management and Operation:

- (a) Enter into contracts with municipalities, corporations, or other public agencies, or political subdivisions of any kind, or with others for the sale of water for municipal, domestic, agricultural, or industrial use of or any other services, facilities, or commodities that the Agency may be in a position to supply.

- (b) Develop reservoirs and shoreline lands for recreational use and provide for their operation for this purpose directly or by concessionaires, lessees, or vendees, or shoreline lands.
- (c) Sell or lease shoreline lands acquired in connection with the development of the watershed areas of the above-named rivers, streams, and creeks or the tributaries thereof, and included within the area suitable to be developed by the Agency, for uses consistent with the Agency's development plan and subject to such restrictions as the Agency deems necessary for reservoir protection and to such requirements as to: (1) character of improvements and activities, and (2) time within which such improvements or activities shall be undertaken as the Agency deems appropriate to its overall development plan.
- (d) Acquire or operate shoreline lands of reservoirs owned by the United States of America as the agent of the Federal agency having custody and control thereof under appropriate agreements with such agencies.
- (e) Acquire, construct, or operate such other facilities or works of improvement as are necessary to effectuate the plans for comprehensive development of the area.
- (f) To enter into contracts and agreements with The Tennessee Valley Authority, an agency of the United States Government, for the purpose of constructing facilities and works within the area embraced in this Act, including, but not limited to, the development of hydroelectric dams for the purpose of manufacturing electrical power.

SECTION 4. That the Agency shall be authorized and have the authority with respect to finances as follows:

- (1) Financing
 - (a) Issue its bonds from time to time in an amount not to exceed a total of Ten Million Dollars (\$10,000,000) for the purpose of paying in whole or in part the cost of the acquisition of necessary land or interests therein and the development of the resources of the above-named rivers, streams, and creeks, and expenses incidental thereto;
 - (b) Secure such bonds by a pledge of all of any of the revenues which may now or hereafter come to the Agency from any source, by a mortgage or deed of trust of the Agency's land or any part thereof, or by a combination of the two; and
 - (c) May make such contracts in the issuance of such bonds as may be necessary to assure the marketability thereof.

SECTION 5. That the various counties, towns, and incorporated municipalities within the five above-named counties sought to be improved by this Act:

- (1) To contribute to the work of the Agency any amount or amounts of money that their respective governing bodies, acting in their sole discretion, shall approve to be paid from the general fund of the respective county or city. Quarterly County Courts and governing bodies of such cities or towns shall be empowered to levy and collect ad valorem taxes for such purposes, which are hereby declared to be for municipal and county public purposes.
- (2) To issue their bonds as provided for counties in Sections 5-1101 through 5-1125, Tennessee Code Annotated, and for municipalities in Sections 6-1601 through 6-1632, Tennessee Code Annotated, to obtain funds for the financing of public works by the Agency, or secure advances made by Federal agencies for the construction of public works in the above-named rivers, streams, and creeks pursuant to cooperative agreements with the Agency.

SECTION 6. That the Board of Directors of the Agency shall report annually to the Governor of the State of Tennessee and shall likewise report annually to the governing bodies of the various Counties, towns, and incorporated municipalities of the area. Such reports shall include statement of financial receipts and expenditures, and a summary of all activities and accomplishments for the period and proposed plans for the next year.

SECTION 7. That all agencies of the State of Tennessee are hereby authorized and directed to extend their cooperation and lend assistance to the Agency in the formulation and implementation of a development program.

SECTION 8. That for purpose of coordinating its activities with the needs and undertakings of other local organizations and groups, the Board of Directors may establish an advisory board consisting of the Chairman of the Agency Board (who shall be chairman of the Advisory Board), and of sufficient members to represent adequately so far as possible industry, commerce, agriculture, the general public, any official planning and developmental bodies in the locality, and organized citizen groups working for the development of the aforesaid rivers, streams, creeks, and tributaries.

SECTION 9. That there is hereby appropriated out of the Treasury of the State of Tennessee to the Agency created by this Act, the sum of Ten Thousand and no/100 Dollars (\$10,000) for the purpose of aiding in the organization and development of the programs initiated and proposed by the Board of Directors of the Agency, and particularly to promote the building of a fresh water transportation canal, including lock and dams, as defined and set forth in this Act, by the Corp of Engineers, United States Army, Department of Defense, and of the building and construction of dams, reservoirs, and other necessary facilities for the production of hydroelectric power by the Corp of Engineers, The Tennessee Valley Authority, or any other agency of the Federal Government, or of the State of Tennessee, under the authority of the "State Rural Electrification Authority Law," the same being Sections 65-2301 through 65-2323, Tennessee Code Annotated, or the Tennessee Rural Electrification Authority, when and if organized by authority of Sections 65-2301 through 65-2323, Tennessee Code Annotated, provided, however, that the funds or portions thereof, so appropriated,

shall be paid out only upon a voucher approved by the member of the Board of Directors appointed by the Governor under the terms of this Act and subject to the approval of the Governor.

SECTION 10. That if any clause, sentence, paragraph, section, or any part of this Act shall be held or declared to be unconstitutional and void, it shall not affect the remaining part or parts of this Act, it being hereby declared to be the legislative intent to have passed the remainder of this Act notwithstanding the part held to be invalid, if any.

SECTION 11. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: May 25, 1967.

COMPILER'S NOTE: This is a "Special" Public Act and is not printed in the Tennessee Code Annotated. It is published here as a service to our readers.

ADMINISTRATION

PORT AUTHORITY

PRIVATE ACTS OF 1957

CHAPTER 162

SECTION 1. That in order to facilitate transportation in Benton County, Tennessee, and to promote the navigation on the Tennessee River which borders Benton County, and to facilitate the movement and transfer of people, goods and merchandise, to, from, at and through the County of Benton, and to fully utilize the natural resources of said County, so that the same may be shipped and transported, and to provide for internal improvement in the development of the resources in Benton County and the State of Tennessee, and to promote the happiness and prosperity of the citizens, there is hereby established in Benton County, Tennessee, a Port Authority to be known as "The Port Authority of Benton County, Tennessee," hereinafter designated as "The Port Authority," for the purpose of acquiring, constructing, operating and maintaining port and harbor facilities, ports, wharves, piers, loading and unloading machinery, equipment and facilities, harbor and river front improvement, storage and transfer facilities, elevators, terminal and terminal facilities, navigation facilities, railroads, truck and truck scales, switch yards, concentration yards, roads and bridges, truck and bus lines, airports and aircraft landing facilities, communication facilities related or incidental to such port and other facilities, or one or more or a combination of the same, and to provide that the same shall be under the jurisdiction, control and management of said Port Authority, to be constructed and conducted as hereinafter provided.

SECTION 2. That the development, maintenance and operation of such facilities are hereby declared to be essentially public and governmental functions. The powers herein granted in connection therewith are declared to be public and corporate purposes and matters of public necessity.

SECTION 3. That the Port Authority shall consist of the Port Authority Commissioners, who shall be five in number, and such subordinate officers and employees as may be selected by said Port Authority Commissioners, as hereinafter provided.

SECTION 4. That the said Port Authority Commissioners shall have power, and they are hereby authorized:

(a) To acquire, construct, purchase, operate, maintain, replace, repair, rebuild, extend and improve, within the limits of the County of Benton and the State of Tennessee, or on the Tennessee River in any other state or partly within any other state, the port and other facilities described in Section 1 hereof and any and all related facilities, equipment and appurtenances necessary or convenient to the improvement of the access of Benton County, Tennessee, to all channels of commerce, and to make such facilities available to any person, firm, public or private corporation, to any other shipper, consignee or carrier, and to charge for their use and for any and all services performed by the Authority.

(b) To accept donations to the Authority of cash, lands, or other property to be used in the furtherance of the purposes of this Act.

(c) To accept grants, loans or other financial assistance from any federal, state, county or municipal agency, or in aid of the acquisition or improvement of any of the facilities herein provided for.

(d) To purchase, rent, lease or otherwise acquire any and all kinds of property, real, personal or mixed, tangible or intangible, and whether or not subject to mortgages, liens charges or other encumbrances, for the said County of Benton, which, in the judgement of the Port Authority Commissioners, is necessary or convenient to carry out the powers herein granted.

(e) To make contracts and execute instruments containing such covenants, terms and conditions, as, in the judgement of said Commissioners, may be necessary, proper or advisable for the purpose of obtaining grants, loans or other financial assistance from any federal or state agency, for or in the aid of the acquisition or improvement of the facilities herein provided for; to make all other contracts and execute all other instruments including, without limitations, licenses, long or short term leases, mortgages and deeds of trust, and other agreements relating to property and facilities under its jurisdiction, and the construction, operation, maintenance, repair and improvement thereof, as in the judgement of said Board of Commissioners may be necessary, proper or advisable for the furtherance of purposes of this Act, and the full exercise of the powers herein granted; and to carry out and perform the covenants, terms and conditions of all such contracts or instruments.

(f) To establish schedules of tolls, fees, rates, charges and rentals for the use of the facilities under its jurisdiction, and for services which it may render.

(g) To enter upon any lands, waters and premises for the purpose of making surveys, soundings and examinations in connection with the acquisition, improvement, operation or maintenance of any of the facilities herein provided for.

(h) To promulgate and enforce such rules and regulations as the said Board of Commissioners may deem proper, for the orderly administration of The Port Authority, and the efficient operation of its facilities.

(i) To do all acts and things necessary, or deemed necessary or convenient to carry out the powers expressly given in this Act.

SECTION 5. That except as otherwise expressly provided in this Act, The Port Authority Commissioners shall have full and exclusive control of and responsibility for the administration of facilities constructed or acquired pursuant to this Act; provided, however, that said Authority may lease or license lands or facilities under its jurisdiction, for operation by private persons or corporations, as provided in Section 4 (e) of this Act.

SECTION 6. That the Port Authority is hereby authorized and empowered to condemn on behalf of and in the name of Benton County, Tennessee, any land, easements or rights of way, that, in the opinion of the Board of Commissioners, are necessary or convenient or carry out the purpose of this Act. Title to property so condemned shall be taken in the name of the County of Benton, and property shall thereafter be entrusted to said Authority, as the agent of the County of Benton, to

accomplish the purposes of this Act. Such condemnation proceedings shall be pursuant to and in accordance with Section 23-1401 through 23-1525, inclusive, of Tennessee Code Annotated, or as the same may be hereafter amended, or other eminent domain laws of the State of Tennessee that may be hereafter enacted; provided, however, that where title to any property sought to be condemned is defective, it shall be passed by the judgement or decree of the court, provided, further, that where condemnation proceedings become necessary, the court in which any such proceedings are filed, shall, upon application by The Port Authority, and upon posting of a bond with the Clerk of the Court, in such amount as the court may deem commensurate with the value of the property, order that a writ of possession shall issue immediately, or as soon and upon such terms as the court, in its discretion, may deem proper and just.

SECTION 7. That bonds issued pursuant to this Act, and income therefrom, shall be exempt from all state, county, and municipal taxation, except inheritance, transfer and estate taxes. So long as title to land or rights therein acquired, or facilities constructed or acquired pursuant to this Act remains in the County of Benton, such property, and the income therefrom, shall be exempt from all state, county and municipal taxation, provided, however, that such exemption shall not extend to the leasehold or other interest in such property which may be held by any private person.

SECTION 8. That neither the County of Benton, the Port Authority, nor the Board of Commissioners shall be required to obtain any certificate of convenience or necessity, franchise, license, permit or other authorization from any bureau, board, commission or other like instrumentality of the State of Tennessee, or any political subdivision thereof in order to acquire, construct, purchase, operate or maintain any of the facilities authorized by this Act.

SECTION 9. That neither the Tennessee Public Service Commission, nor any other board or commission of like character, hereafter created, shall have jurisdiction over the Port Authority, which respect to the management and control of the facilities authorized by this Act, including the establishment of rates, fees and charges or otherwise.

SECTION 10. That the initial members of the Board of Commissioners of the Port Authority, shall be elected by the Quarterly County Court for terms of ten years or until their successors are duly elected and qualified.

The Quarterly County Court of Benton County, Tennessee, at the expiration of the term of the Commissioners, shall elect their successors from among the seven nominees for the office, whose names shall be submitted to the Quarterly County Court of Benton County, Tennessee, by the Board of Commissioners of the Port Authority, and whose names shall be filed with the County Court Clerk not less than thirty days prior to the expiration of the term of the Commissioners; provided, however, that the Quarterly County Court, by a three-fourths vote of all the members of said court, may elect a successor Board of Commissioners not nominated by the Board of Commissioners of the Port Authority.

In the event of the death or resignation of a Commissioner prior to the expiration of his term, his successor shall be elected for the unexpired term by the Quarterly County Court from among seven nominees for the office, whose names shall be submitted to the Quarterly County Court of Benton County by the remaining Commissioners not less than thirty days prior to the meeting of the Quarterly County Court, and such successor Commissioner shall be elected for the unexpired term of the deceased or retiring Commissioner. All Commissioners shall be eligible for re-election.

Before entering upon their duties, all Commissioners shall take and subscribe to an oath of office, as provided by the constitution and law for county officers, and the same shall be filed with the County Court Clerk.

A majority of the Commissioners shall constitute a quorum and the Commissioners shall act by vote of a majority present at any meeting attended by a quorum, and vacancies among the Commissioners shall not affect their power and authority, so long as a quorum remains. Within thirty days after this Act becomes effective, the Commissioners shall hold a meeting to elect a Chairman. The Commissioners shall hold regular meetings at least once every ninety days, and at such regular time and place as the Commissioners may by resolution determine, and may hold such additional meetings, either regular or special, as may be determined by the Board of Commissioners.

Special meetings may be called and held upon such notice and in such manner as the Board of Commissioners may, by resolution, determine. Save as otherwise expressly provided, the Board of Commissioners shall establish their own rules of procedure.

The Commissioners shall designate a secretary and a treasurer, or the same individual as secretary and treasurer, and such secretary and/or treasurer, may or may not be a Commissioner or Commissioners. The secretary shall attend all regular and special meetings and keep minutes thereof. The minutes of said meetings shall be available for inspection by the public at the office of the Authority, at all reasonable times.

The Board of Commissioners, by resolution, shall require the Treasurer or Secretary-Treasurer, if he is one and the same person, to execute a bond with approved corporate surety, for the faithful performance of his duties and the accounting of all monies and revenues that may come to his hands, as such, in such penalty as the Board shall specify, by resolution. Said bond shall be filed with the County Court Clerk and registered in the Register's Office, as required of county officers.

The Board of Commissioners, by resolution, may require all other subordinate officers, or employees, to execute such fidelity bond for the faithful performance of their duties and the accounting of funds that may come to their hands, in such an amount, with such conditions and such sureties, as the Board of Commissioners may determine.

All members of the Board of Commissioners shall serve as such without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of the Authority, as may be provided and approved by the Board, payable from the funds of the Authority, or such funds as may be appropriated by the Quarterly County Court of Benton County, Tennessee. The members of the Board shall be paid such amount for attendance at board meetings as may be fixed by resolution of the Quarterly County Court of Benton County, Tennessee.

SECTION 11. That the Port Authority Commissioners shall be removable only for good cause, and after preferment of charges, as provided by law for county officers.

SECTION 12. That the Port Authority Commissioners shall be authorized to employ and fix the compensation of such architects, attorneys, engineers, superintendents, consultants, professional advisors and other subordinate officers and employees, as may be necessary for the efficient management and operation of the Port Authority, and the operation of the facilities

provided for in this Act, and who shall continue in the employment of the Authority, at the will and pleasure of the Board of Commissioners.

SECTION 13. That the County of Benton shall have power and authority to issue and sell its bonds to finance the acquisition, construction, improvement and/or expansion of the facilities herein authorized, and to refund bonds previously issued, or refinance indebtedness previously incurred for such purposes. The County of Benton may, in all respects, provide for the rights of the holder of all bonds, including the manner in which future bonds may be issued on a parity with such bonds.

The bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times, not exceeding forty years from their respective dates, may be in such denomination or denominations, may be in such form either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be sold or hypothecated in such blocks, may be subject to such terms of redemption with or without premium, may be declared or become due after the maturity date thereof, and may be in such amount as may be provided by resolution or resolutions of the Quarterly County Court of Benton County, Tennessee. Such Bonds may be issued for money or property, at public or private sale, for such price or prices and at such rate or rates of interest, and may be hypothecated in such manner as said Quarterly County Court may determine, but the interest cost to maturity of the bonds, when issued for property (at the value determined by said Quarterly County Court, which determination shall be conclusive), or the money received for any issue of said bonds, shall not exceed the maximum rate fixed by law, payable semi-annually. Such bonds shall have all the qualities and incidents of negotiability.

Pending the preparation of the definitive bonds, interim receipts or certificates in such form, and with such provisions, as the Quarterly County Court may determine, in the resolution authorizing said bonds, may be issued to the purchaser or purchasers of bonds sold pursuant to this Act. Said bonds and interim receipts of certificates, shall be fully negotiable.

In case any of the officers, whose signatures or counter-signatures, appear on such bonds shall cease to be such officers before the delivery of the bonds, such signatures and counter-signatures shall nevertheless be valid and sufficient for all purposes, the same as though such officers had remained in office until the bonds had been delivered. Such bonds may be issued, notwithstanding and without regard to any limit or restriction on the amount or percentage of indebtedness, or of outstanding obligations of the County of Benton, contained in any other statute, general or special, and notwithstanding and without regard to the requirements of any other general or special statute, including requirements as to elections for the approval of such bonds.

In the case of bonds payable solely out of the revenues of The Port Authority, it shall be the duty of the Quarterly County Court of Benton County, Tennessee, to provide by resolution for the issuance of such bonds, as requested by the Port Authority Commissioners.

Prior to a vote by the Quarterly County Court of Benton County, authorizing the issuance of bonds to be financed wholly or in part through tax levies by the Quarterly County Court, the Port Authority Commissioners shall prepare and submit to the Quarterly County Court a recommendation that bonds in a stated amount be issued hereunder, supported by a report on the need for and projected use of the facilities for the financing of which such bond issue is proposed, including a review of alternate solutions, if any, and a justification of the solution proposed.

Bonds may be issued as direct and general obligations of the County of Benton, payable out of its general income and revenue, or at the election and subject to the determination of the Port Authority Commissioners, may be made payable only out of the revenues from the facilities of the Port Authority. In case the bonds are issued as general obligations of the County, it shall be the duty of the Quarterly County Court of said County of Benton to levy a tax each year, over and above the taxes levied for general county purposes, to pay the interest and principal of said bonds, as they mature; provided, however, that in case the revenues derived from the operation of the facilities herein provided for, are sufficient to pay the interest and principal of said bonds, or a part thereof, as they may severally mature, then a special levy for the full payment of said interest and principal shall not be required, but the Quarterly County Court shall each year levy an amount of tax, which, when added to the amount of revenue derived from the operation of said facilities, then on hand and available for that purpose will be sufficient to pay the interest and principal maturing prior to the collection of the next succeeding tax levy. Said bonds shall be sold at public or private sale, and in such manner as may be determined by resolution of the Quarterly County Court, authorizing their issuance. Said bonds shall contain a recital that they are issued pursuant to and in accordance with this Act, and such recital shall be conclusive evidence of their legality.

SECTION 14. That in order to secure the payment of any of the bonds issued pursuant to this Act, the interest thereon or in connection with such bonds, the Quarterly County Court of Benton County, Tennessee shall have power as to such bonds to the extent not inconsistent with the mandatory provisions of this Act:

(a) To pledge the full faith and credit and unlimited taxing power of the County of Benton to the punctual payment of the principal of and interest of such bonds.

(b) To pledge all or any part of the revenue derived from the operation of the facilities herein authorized.

(c) To provide for the terms, form registration, exchange, execution, and authentication of such bonds.

(d) To provide for the replacement of lost, destroyed or mutilated bonds.

(e) To covenant as to the use and disposition of the proceeds from the sale of such bonds.

(f) To covenant as to the rates and charges for the use of facilities of the Port Authority, and for its services.

(g) To redeem such bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(h) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default," and the terms and conditions upon which any or all of such bonds shall become or may be declared due, before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition or obligation.

(j) To vest in a Trustee or Trustees, the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of bonds issued hereunder and to hold, apply and dispose of the same, and the right to enforce any covenant made to secure or pay, or in relation to the bonds; to execute and deliver a trust agreement or trust agreements, which may set forth the powers and duties, and the remedies available, to such trustee or trustees, and limiting the liability thereof, and describing what occurrences shall constitute "events of default," and prescribing the terms and conditions upon which such trustee or trustees, or the holder or holders of bonds of any specified amount or percentage of such bonds, may exercise such rights and enforce any and all such covenants and resort to such remedies as may be appropriate.

(k) To make covenants other than and in addition to the covenants herein authorized, of like or different character, necessary or advisable to effectuate the purpose of this Act.

(l) To execute all instruments necessary or convenient in the exercise of the powers granted herein, or in the performance of its covenants or duties.

SECTION 15. That any holder or holders of bonds, including trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights:

(a) By mandamus or other suit, action or proceeding in any court of competent jurisdiction, to enforce his or their rights against the county of Benton, the Quarterly County Court, the Port Authority, the Port Authority Commissioners, or any other proper officer, agent or employee of any of them, including, but without limitation, the right to require the County, the Quarterly County Court, the Port Authority, the Port Authority Commissioners and any proper officer, agent or employee of any of them, to assess, levy and collect taxes, and to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of taxes or Authority revenues, and to require the County of Benton, the Quarterly County Court, the Port Authority, the Port Authority Commissioners, and any officer, agent or employee of them, to carry out any other covenants and agreements, and to perform its and their duties under this Act.

(b) By action or suit in equity to enjoin any acts or things, which may be unlawful or in violation of the rights of such holders of bonds.

SECTION 16. That the Quarterly County Court of Benton County, Tennessee shall have power, by resolution, to confer upon any holder or holders of a specified amount or percentage of bonds, including a trustee or trustees for such holders, the rights, in the event of an "event of default," as defined in such resolution or as may be defined in any agreement with the holder or holders of such bonds, or the trustee or trustees thereof:

(a) By suit, action or proceedings in any court of competent jurisdiction, to obtain the appointment of a receiver of the Authority's facilities or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such facilities or part or parts thereof, and operate and maintain the same, and collect and receive all revenues thereafter arising therefrom, in the same manner as the Authority itself might do, and shall deposit such monies in a separate account or accounts, and apply the same in accordance with the obligations of the County of Benton, issued under this Act, as the court may direct.

(b) By suit, action or proceedings in any court of competent jurisdiction, to require the Quarterly County Court of Benton County, Tennessee, or the Port Authority Commissioners, to act as if they were the trustees of an express trust.

Any such resolution shall constitute a contract between the County of Benton and the holders of bonds for such issue.

SECTION 17. That all expenses actually incurred by the Port Authority Commissioners in the making of surveys, estimates of cost and of revenue, employment of engineers, attorneys or other employees, the giving of notices, taking of options, selling of bonds, and all other preliminary expenses of whatever nature, which said Commissioners deem necessary in connection with or precedent to the acquisition or improvement of any of the facilities herein provided for, and which they deem necessary to be paid prior to the issuance and delivery of the bonds issued pursuant to the provisions of this Act, may be met and paid out of the general funds of the County of Benton, not otherwise appropriated or from any other fund available, as may be provided by the Quarterly County Court.

All such payments from the general or other funds shall be considered as temporary, non-interest bearing loans, and shall be repaid immediately upon sale and delivery of the bonds, and claim for such repayment shall have priority over all other claims against the proceeds derived from the sale of such bonds.

SECTION 18. That the Quarterly County Court of Benton County, Tennessee, is authorized to appropriate to the Port Authority from the general funds of Benton County, Tennessee, or such other funds as may be unappropriated, to pay the expenses of the Port Authority Board of Commissioners, or expenses or operation of any of the facilities authorized by this Act, and said Quarterly County Court is authorized and empowered to levy a tax, in addition to all other taxes, upon all taxable property within the county, sufficient to pay the appropriation made by it to The Port Authority.

SECTION 19. That all monies derived from the issuance of bonds hereunder, together with any federal or other grant or loan made, for the purposes of this Act, shall be paid to the Treasurer of the Port Authority. The Treasurer shall deposit such monies, together with all the receipts from the Authority operations, in a separate bank account or accounts, separate from all other county funds, and shall keep adequate record of all such receipts and their sources. The Treasurer shall pay out such monies only on vouchers signed by such Authority officials as The Port Authority Commissioners shall, by resolution, designate to sign such vouchers. No such vouchers for the payment of any such monies shall be issued except upon the resolution or order of the said Commissioners, a certified copy of which shall be filed in the office of the Treasurer.

SECTION 20. That the revenues derived from the operation of the port, storage and transfer facilities, and any and all other facilities herein authorized, shall be applied and used as follows:

- (1) The payment of all operating expenses of the Port Authority.
- (2) The payment of the interest on the bonds issued pursuant to the provisions of this Act, and the principal of said bonds, as they severally mature, and/or payments into the sinking fund reserves for this purpose.

(3) The establishment of necessary reserves for contingencies, depreciation, maintenance, replacement of said port, storage, transfer facilities and any and all other facilities, or other purposes, as may be required under any bond indenture or as The Port Authority Commissioners may deem necessary or desirable.

(4) Any revenue remaining after all the above items have been provided for, shall be held and used for the further development of and for additions to the Authority facilities, and for the acquisition or construction of new facilities, which may become necessary or desirable to further the purposes of this Act. None of such revenue shall go to the general funds of the County of Benton, except as may be directed by The Port Authority Commissioners.

SECTION 21. That except as otherwise herein expressly provided, all contracts of The Port Authority shall be entered into and executed in such manner as may be prescribed by the Board of Commissioners, but no contract or acquisition by purchase of equipment, apparatus, materials or supplies, involving more than \$500.00 or for construction, installation, repair or improvement of the property or facilities, under the jurisdiction of the Board of Commissioners, involving more than \$1,000.00 shall be made except after said contract has been advertised for bids, provided that advertisement shall not be required when:

(1) An emergency requires immediate delivery of the supplies or performance of the service; or,

(2) Repair, parts, accessories supplemental equipment or services are required for supplies, or services previously furnished or contracted for, in which case such purchase of supplies or procurement of services shall be made in the open market in the manner common among businessmen:

Provided further, That in comparing bids and in making awards, the Commissioners may consider such features as quality and adaptability of supplies or services, the bidders' financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance service, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

Provided further, That in the employment of architects, engineers and attorneys, or other professional advisors for personal services, no advertisement or bids shall be required, but the Board of Commissioners may employ or select such architects, engineers, attorneys or professional consultants and advisors, as in the judgment of the Commissioners best meet the qualifications for rendering such services.

Provided further, That after advertisement for bids, as provided in this section, if no acceptable bid is received, the Port Authority Commissioners may reject any and all bids, or the Board of Commissioners may negotiate with contractors or suppliers, to secure the construction of facilities or the purchase of equipment, apparatus, materials or supplies at the best possible price, or the Board of Commissioners may construct such facilities, by "Force Account Construction"; that is, the Board of Commissioners may employ the necessary engineers, supervisors and other personnel, purchase necessary materials, equipment and supplies to construct such facilities authorized by this Act, with its own employees.

SECTION 22. That the Port Authority may use any property, right of way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of the facilities herein authorized, held by the State of Tennessee, any county or municipality in the State of Tennessee, provided such municipality shall consent to such use.

SECTION 23. That the Quarterly County Court of Benton County, Tennessee, with the approval of the Port Authority Commissioners, may dispose of all or substantially all of the land and real property acquired under the provisions of this Act, upon a vote for such disposal, or a majority of all the members of the Quarterly County Court. Any such vote shall be taken at a meeting duly and regularly called for the purpose of considering the question of the disposition of such property.

The Port Authority Commissioners may dispose of personal property of said Authority when, in the judgement of said Board of Commissioners, it is advantageous to or necessary for the efficient operation of said Authority, to dispose of the same, or when said personal property is being replaced by new or more efficient property of like character, or when said personal property is no longer necessary for the operation of the Authority.

SECTION 24. That the powers, authority and rights conferred by this Act shall be in addition and supplemental to, and the limitations imposed by this Act shall not affect the powers conferred by any other general, special or local law.

SECTION 25. That if any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional and void, it shall not affect the remaining part or parts of this Act, it being hereby declared to be the legislative intent to have passed the remainder of this Act, notwithstanding the part held to be invalid, if any.

SECTION 26. That this Act is remedial in nature, and shall be liberally construed to effect its purpose of facilitating the removal and transfer of people, products and goods to, from, at and through Benton County, and to improve the access of Benton County to all channels of commerce, and to encourage the industrial development and growth of Benton County, and the use of the natural resources of Benton County, including the navigation of the Tennessee River.

SECTION 27. That this Act shall have no effect unless the same shall have been approved by a two-thirds vote of the Quarterly County Court of Benton County, Tennessee. Its approval or non-approval shall be proclaimed by the County Judge, countersigned by the County Court Clerk, and shall be certified by them to the Secretary of State.

SECTION 28. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 28, 1957.

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 \$5,000 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 \$5,000 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 \$5,000, (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 \$5,000 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

SURPLUS PROPERTY BOARD

PRIVATE ACTS OF 1949

CHAPTER 886

WHEREAS, Benton County, Tennessee, and the Board of Mayor and Aldermen of the Town of Camden, Tennessee, are the owners of a certain tract of land located in the Town of Camden, in Benton County, Tennessee, upon which has been constructed a building; said tract of land being described as follows:

Bounded on the north by the lands of J. W. Capps; on the south by the lands of Frank Saunders; on the east by the Camden School property; and on the west by the lands of D. L. Holland, and containing four acres, more or less.

WHEREAS, said property is not now being used by Benton County, Tennessee, nor the Board of Mayor and Aldermen of the Town of Camden, and is not now needed by either in the exercise of its governmental functions;

SECTION 1. That there is hereby created a Surplus Property Board consisting of five (5) members who are hereby authorized and directed to take charge of the above described property and to manage, rent, improve, control and maintain the same for and on behalf of Benton County, Tennessee, and the Board of Mayor and Aldermen of the Town of the Camden, Tennessee. Said Board shall be known as the Surplus Property Board, shall be a body corporate and governmental agency with the powers, privileges and exemptions appertaining thereto, and shall consist of five (5) members, who shall be of lawful age and residents of Benton County, Tennessee; one member to be elected by a majority of the Board of Mayor and Aldermen of the Town of Camden, to serve for a term of three years beginning April 15, 1949, and two members to be elected by a majority vote of the Quarterly County Court of Benton County, Tennessee, one of such members to serve for a term of one year beginning April 15, 1949, and the other such member to serve for a term of two years beginning April 15, 1949. Successors to said three original members of said Board shall be elected respectively by the Board of Mayor and Aldermen of the Town of Camden, Tennessee, and the Quarterly County Court of Benton County, Tennessee, for three years, except in the case of a vacancy, in which case the election shall be for the unexpired term. The Mayor of the Town of Camden and the County Judge of Benton County shall be ex officio members of said Board while they remain in such offices.

The member who shall be elected by the Board of Mayor and Aldermen of the Town of Camden shall be a member of such Board of Mayor and Aldermen; and the members to be elected by the Quarterly County Court of Benton County shall be members of that body. Members of the Quarterly County Court who shall become candidates for such office may vote in the election therefor, and members of the Board of Mayor and Aldermen who become candidates may likewise vote in the election to be held by that body.

SECTION 2. That said Board shall have full and complete custody, control and charge of said above described property, and is hereby authorized and directed to maintain said property and keep the same in good repair or provide for its repair and maintenance and is hereby authorized to rent or lease said property for a period of not to exceed twenty-five years upon such term and conditions as it shall think proper.

SECTION 3. That said Board may from time to time, as it sees fit, expend upon said property such funds as may be available by the Quarterly County Court of Benton County, Tennessee, and by the Board of Mayor and Aldermen of the Town of Camden, Tennessee and such funds as may come into the hands of said Board as rent on said property. In the event said Board shall have on hand any net profits on the first day of July of any year, it shall turn over to the County of Benton two-thirds of such profits and the Town of Camden one-third of such profits.

Said Board shall make a report to the Quarterly County Court of Benton County, Tennessee, and to the Board of Mayor and Aldermen of the Town of Camden on the first day of January of each year.

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

Passed: April 15, 1949.

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 Benton County but are today no longer operative because 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 1837-38, Chapter 144, amended an act dated November 16, 1835, which authorized the County Courts of the various counties to order the sale in certain cases of the sites and the improvements thereon of jails and public prisons, and to buy or build others, by including within that authority to sell and buy, county courthouses, also, and the act further stipulated that Humphreys County shall divide equally all proceeds of the sale of the same with Benton County.
2. Acts of 1845-46, Chapter 132, Section 10, required the County Surveyor of Benton County to make an accurate survey of the Tennessee River as it formed the county line of Benton County, and to furnish notes of the same to the Entry Taker who shall make out a correct plan and map according to the survey. The Surveyor shall be paid \$2.50 a day and the two chain carriers shall be paid seventy-five cents a day each for each day spent in this work. Compensation for the services of the Entry Taker would be at the rate of \$1.50 per day.
3. Acts of 1851-52, Chapter 249, Section 5, provided that Benton County would retain its original name in honor of David Benton, an old and highly respected citizen of the county.
4. Public Acts of 1867-68, Chapter 65, Section 6, set up a Board of County Commissioners for Madison County, consisting of three members who would be elected by the people to three year terms. Any vacancy was to be filled by the two remaining members until the next general election. The Board would meet four times a year and exercise all the powers of the old county court which were transferred to the Board plus some new ones incorporated into this act. The Recorder would be the Clerk for the Board and the magistrates were deprived of all their duties and powers as members of the County Court. Section 11 of this act made the same applicable in all respects to Benton County which would pay the Chairman of the Board \$150 a year and the members \$100 a year. This act was repealed by the one below.
5. Public Acts of 1868-69, Chapter 40, Section 17, repealed Sections 11 and 17 of the above act which made the provisions of that act creating a Board of County Commissioners applicable to Benton County.

CHAPTER II - ANIMALS AND FISH

ANIMALS - FISH

RED FOXES

PRIVATE ACTS OF 1953

CHAPTER 549

SECTION 1. That a closed season is hereby declared on the killing and trapping of Red Foxes in Benton County throughout the year.

SECTION 2. That it shall be unlawful to kill or trap Red Foxes in Benton County at any time during the year. Any person violating this Act shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than Twenty-Five (\$25.00) Dollars, or over Fifty (\$50.00) Dollars.

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

Passed: April 10, 1953.

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

1. Public Acts of 1871, Chapter 9, repealed an Act passed on June 17, 1870, which prohibited the use of certain methods for catching fish in several counties, naming Rutherford, Davidson, Robertson, Montgomery, Cheatham, Williamson, Maury, Stewart, Cannon, Marion, Warren, and Dickson. The methods prohibited were by seining, basketing, netting, and trapping in any stream in the counties mentioned. The repealing act names Benton County but no act could be found which added Benton County to the above list.
2. Public Acts of 1871, Chapter 31, specifically repealed an act passed June 16, 1870 which suppressed hunting or killing deer with dogs or guns, and of netting or seining of fish in Benton and Humphreys Counties.
3. Private Acts of 1897, Chapter 146, made it unlawful for any person to hunt, capture, or kill, any quail, or partridge, or squirrels in Benton County for the purpose of exporting the same from the County. The Act further declared that the buying of any of the above for the purpose of exporting was also unlawful and violators were subject to being fined.
4. Public Acts of 1901, Chapter 211, declared it to be unlawful for any person to catch fish in any of the waters of the Big Sandy River and its tributaries in Benton County and in Henry County. Failure to comply would be punished by a fine as in case of other misdemeanors.
5. Private Acts of 1911, Chapter 417, made it lawful after the passage of this Act for the citizens of Benton County to take and catch fish out of the Tennessee River by trot line, gigging, bait, or, by net with no fees or licenses to be charged when citizens are fishing in accordance with the terms of this Act. Those portions of Public Acts of 1907, Chapter 489, which regulated the taking of fish on a statewide basis, which were in conflict with the provisions of this Act, were repealed.
6. Private Acts of 1917, Chapter 521, declared it to be lawful for the people of Benton and Henry Counties to take fish from the Tennessee River in said Counties for their personal use by any means except by the use of explosives or poison, this privilege being conferred upon them under the provisions of Article Eleven, Section 13, of the Constitution of Tennessee.

7. Private Acts of 1919, Chapter 16, made it illegal to take or kill quail or partridges in Benton County, using the 1910 Federal Census figures, from February 1 to December 1 of each year. Fines for violations ranged from \$5.00 to \$15.
8. Private Acts of 1921, Chapter 405, was the means by which a great number of Tennessee Counties, including Benton County exempted themselves from the provisions of Public Acts of 1919, Chapter 61, which was a rather stringent law regulating the ownership care, and keeping of dogs throughout the State.
9. Private Acts of 1923, Chapter 128, made it the duty of the Election Commissioners of Benton County, Decatur County, Dickson County and Houston County, to hold an election within ten days from the passage of this Act to ascertain the will of the people of those counties on the question of whether to have a "stock law" or not. It was the duty of the Commissioners to certify the results of the elections to the delegation representing the county in the General Assembly within five days after being held.
10. Private Acts of 1925, Chapter 496, made it unlawful for any person owning, or having the charge of, any horses, mules, cattle, goats, sheep and swine to willfully, knowingly, or negligently, permit such stock to run at large in Benton County. All persons who were damaged because of trespassing stock were given a lien upon the said marauding beasts and could also take them up and care for them, adding these costs to the damages. In addition to the liens granted hereunder, the guilty person could also be punished by fines. This Act was held to be constitutional in the case of Lindsey v. Aldrane, 154 Tenn. 458, 285 S.W. 705 (1926).
11. Private Acts of 1935, Chapter 311, made it lawful for the people of Henry and Benton Counties to take fish from the Tennessee River in any way in these counties for their own personal use, but not to sell, except by the use of explosives or of poisons. This Act would be enforced under the provisions of Article Eleven, Section 13, of the Tennessee Constitution.
12. Private Acts of 1937, Chapter 539, provided that Bob Smith and O. P. Smith, who have been practicing veterinary surgery and medicine in Benton County for the past twenty years, or longer, were hereby fully authorized to continue to do so without any further authority than this Act being required.
13. Private Acts of 1937, Chapter 642, conferred the same privilege to practice veterinary medicine upon G. T. Lashlee in Benton County and under the same conditions.

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 Benton County is included below for reference purposes, although these acts are no longer current. Also referenced below are acts which repeal prior law without providing new substantive provisions.

COURTHOUSE

1. Private Acts of 1915, Chapter 376, permitted the Quarterly County Court of Benton County to issue \$30,000 in bonds, at an interest rate which could not exceed 5%, and payable at the rate of \$3,000 per year for the next ten years, to build and equip and furnish a new Courthouse for the county. All the essential details to make a bond issue valid were incorporated into the act, including a mandatory tax levy for the sinking fund. The County Judge was charged with keeping records of all transactions and the County Trustee with handling the money.

DEBTS

1. Private Acts of 1937, Chapter 237, validated and legalized all the prior actions taken by the Quarterly County Court of Benton County on January 16, 1937, and by the County Judge and County Court Clerk subsequently, in the issuance of \$65,000 in the bonds which had already been contracted at an interest rate of 2 3/4%, the bonds being due semi-annually until amortized. The form of the bond notes was incorporated into the law. The details were present, and the tax levy was ordered and the General Assembly stated that this law should settle and put all legal questions to rest.
2. Private Acts of 1949, Chapter 906, recited in the preamble that the Quarterly County Court of Benton County did on October 4, 1948, authorize the issuance of five notes adding up to \$24,000, at an interest rate of 2 3/4%, which were payable over the next six years, and that the court had no authority to do this at the time, therefore, this act ratifies, confirms, and renders lawful, and, in so doing, declares these notes to be the valid and bonding general obligations of the county. The court was instructed to advertise and sell these bonds to the highest and best bidder. The Trustee will apportion the money to those county accounts from which the \$24,000 was originally taken.

GENERAL

1. Public Acts of 1875, Chapter 56, declared that, due to the general scarcity of money, widespread crop failure, and acute destitution throughout, the poor people cannot be cared for. This act authorized the counties of Stewart, Montgomery, Houston, Dickson, Cheatham, Humphreys, and Benton, acting by and through their respective county courts to issue bonds, or to borrow money whereby to supply the wants and the needs of their citizens. The bonds, or loans could not exceed \$10,000, and the interest rate had to be 6%, or less, for which they could levy a tax. This act would expire in 1876, and the authority granted hereunder terminated. Anyone misappropriating funds was guilty of a felony and subject to imprisonment from two to five years, and a fine, as the court may direct.

JAIL AND WORKHOUSE

1. Private Acts of 1947, Chapter 598, allowed the Quarterly Court of Benton County to issue \$25,000 in 3%, 30 year bonds, to erect, equip, and to furnish a county jail, or workhouse. All the details of the issue were specified and a tax levy to amortize the bonds was made mandatory.

ROADS

1. Private Acts of 1913, Chapter 72, authorized the County Court to issue bonds in blocks of \$50,000, up to \$200,000, to locate, grade, bed, drain, and macadamize such public roads as may be designated by the County Court. Interest rates were not to exceed 5%, and the maturity schedule could extend from ten to thirty years. The efficacy of the law was subject to a referendum vote but a list of the roads to be repaired must be completed and published before the vote on the issue. If the referendum were in the affirmative, then the details and tax levy would be as stated in the act. The County Court would appoint three Highway Commissioners, one of whom could be designated Chairman, whose duties are enumerated in the act as to supervising and managing the projects, and coordinating them with other programs.

SCHOOLS

1. Private Acts of 1931, Chapter 60, authorized the Quarterly County Court of Benton County to issue \$60,000 in 6% bonds with which to acquire the lands and erect a central high school, at or near Camden. The County Court would establish the maturity schedule for the bonds but it could not exceed thirty years. A building committee was organized composed of the County Judge, the Chairman of the Board of Education, two members of the Board of Education selected by the others, and three from the County Court chosen by the other members. The details and tax levy were attended to in ordinary fashion.
2. Private Acts of 1931, Chapter 288, was the authority for the County Court to issue \$20,000 in 6% bonds to acquire the land, erect and equip a high school thereon at or near Big Sandy in Benton County. The County Court could fix the maturity schedule which could not exceed 30 years. A building committee composed as in the act above was provided, as well as the essential details and mandatory tax levy.
3. Private Acts of 1931, Chapter 292, further permitted the issuance by the Quarterly County Court of Benton County of \$4,000 in 6% bonds, to erect on land now owned, or to be acquired, by the school system, and to equip and furnish a high school building near Eva in the 10th Civil District. The court could establish a bond maturity schedule up to five years in duration. The essential details and the tax levy were mentioned. The building committee

would be made up of the Superintendent of Education, J. G. Fry, W. M. Pafford, and Laymon Cuff.

4. Private Acts of 1931 (2nd Ex. Sess.), Chapter 18, allowed the Quarterly Court to issue by proper Resolution \$50,000 in bonds to pay off the outstanding school debts now due and owing and to pledge the full faith and credit of the county to the transaction. A finance committee of S. L. Peeler, H. H. Fray, and D. B. Thomas were named in the Bill. The bonds could bear interest at 6%, or less, and would mature at the rate of \$2,000 on July 1, 1933, and \$2,000 on July 1 every year following until paid. Adequate records were required of both the Finance Committee, the County Judge, and the Trustee.
5. Private Acts of 1935, Chapter 372, allowed Benton County to borrow \$50,000 to be used exclusively for the construction of a public school building or buildings. The court could act by Resolution and could pay up to 5% interest, and establish any maturity schedule as would best suit the convenience of the county.
6. Private Acts of 1935 (Ex. Sess.), Chapter 28, allowed the County Court by Resolution to issue \$5,500 in 5% bonds to construct a public school building in the town of Holladay, and the court shall prescribe therein the form, the details, and the maturity schedule for the bonds. These funds were strictly prohibited from being used for any other purpose.
7. Private Acts of 1935 (Ex. Sess.), Chapter 39, stated that Benton County, acting in its corporate capacity and through its County Court, could issue \$7,500 in bonds, or interest bearing notes, to pay on the indebtedness still owing on the school buildings recently constructed in the town of Big Sandy, and to equip said structures. The interest rate could not exceed 5%, and the court could fix the maturity schedule and the form of the bonds by Resolution.

CHAPTER IV - BOUNDARIES

BOUNDARIES

CREATION OF COUNTY

PRIVATE ACTS OF 1835-36

CHAPTER 30

SECTION 1. That from and after the first day of January, 1836, the county of Humphreys shall be and the same is hereby declared divided, making the Tennessee river the dividing line of said county.

SECTION 2. That there shall be a new county laid off including all that part or section of country, west of the Tennessee river, formerly included in the county of Humphreys, to be called, known and designated in this State by the county of Benton, to have and possess all the rights and privileges, known to any other county in this state, by any general law or usage.

SECTION 3. That George Camp, sen., Green Flowers, Ephraim Perkins, Lewis Brewer, and John F. Johnson, be and they are hereby appointed commissioners for said county, whose duty it shall be to purchase and fix on some suitable situation within two miles of the centre of said county of Benton, for the purpose of locating a town, which shall be the county seat of said county, and called and known by the name of Cambden, and it shall be the duty of said commissioners or a majority of them to purchase said situation, and take a deed of conveyance to themselves and their successors in office for the use of the said county of Benton, for any number of acres not exceeding forty, and they shall lay off said town on the said situation so purchased, in lots of a convenient size, with a public square and such streets and alleys as they may deem most convenient and suitable for purchasers and a location of said town.

SECTION 4. That it shall be the duty of said commissioners or a majority of them, so soon as said town shall be laid off, and the lots surveyed, to advertise in some newspapers in this state, the sale of the lots of said town at least two months previous to the sale thereof, when it shall be the duty of said commissioners to offer said lots for sale on a credit of one or two years to the highest bidder, and take from the purchasers such security for the purchase money as they shall deem most expedient to secure the purchase money; which purchase money, when paid, the commissioners shall appropriate to the erection of public buildings, and give to the purchasers such deed or deeds of conveyance as will invest the purchasers or their assigns, with the fee simple to said lot or lots; PROVIDED, nothing herein contained, shall prevent said commissioners from taking bond and security for the purchase money, and making a deed of conveyance at the time of the sale.

SECTION 5. That said commissioners shall take all bonds and notes arising from the sale of said lots payable to themselves and their successors in office which notes may be assignable as other promissory notes are by the existing laws, and it shall be the duty of said commissioners to superintend the building of the court house and jail, and other necessary public buildings, and shall let out such buildings as the county court of said county shall order to be built, upon such terms and conditions as the said court shall direct, and shall take bond with sufficient securities from the person or persons to whom the same is let, payable to the themselves and their successors in office, in double the amount of their contract or contracts, conditioned for the faithful performance thereof;

and the proceeds of the sale of lots aforesaid and such tax as may be collected in pursuance of this act shall be a fund in the hands of said commissioners for the payment of the purchase money for the tract of land on which said town shall be located, and defraying the expenses of erecting public buildings; and when said buildings are completed, said commissioners shall by order of the county court pay over all surplus moneys to the county trustee for county purposes.

SECTION 6. That it shall be the duty of said commissioners, before they enter on any of the duties required of them by this act, to enter into bond and security, in the penalty of one thousand dollars each, payable to the chairman of the county court of Humphreys county and his successors in office, to faithfully and honestly discharge all the duties of a county commissioner for said county; and they shall moreover take an oath before some justice of the peace, to faithfully and honestly discharge all the duties enjoined on them by this act, which bonds shall be filed in the county court clerk's office, of the county of Benton, and suit may be brought on the same for a breach thereof, in the name of the chairman of the county court of Benton county.

SECTION 7. That it shall be the duty of the county and circuit courts, to hold their terms of said Court at the house of Samuel H. Burton on Cypress creek in said county, until a courthouse shall be erected; and all writs, process returns, recognizances, and other proceedings shall be made returnable at the house of the said Samuel H. Burton, until a majority of the County Court shall certify and order that the court house of said County is ready for the transaction of business when they shall be returned at the court house in the town of Cambden.

SECTION 8. That in case either or any of said commissioners shall die, resign, remove or refuse to act, it shall be the duty of the county court to supply such vacancy as they shall occur; and the said commissioners shall, from time to time, when required, to lay before the county court detailed statements of all the money, notes or other instruments received by them as commissioners, with a full statement of the disbursements and how the same has been applied and for what purposes.

SECTION 9. That the county court of said county shall have full power and authority to lay a tax on all taxable property in said county to the full amount of the state tax for the purposes of building said court house and jail, and the money, when collected, shall be paid over to said commissioners for the purposes aforesaid.

SECTION 10. That the county court of said county shall allow said commissioners from time to time such compensation for their services as they may deem sufficient.

SECTION 11. That all officers, civil and military, in said county shall continue to hold their offices and exercise all the powers and functions thereof until others are elected under the provisions of the amended constitution and the laws made in pursuance thereof; and the said county of Benton shall elect her officers, civil and military, under the amended constitution, at the same time and under the same rules and regulations prescribed by law for the election of officers in other counties in this state, and the citizens of the said county of Benton, in all elections for Governor, members of congress and members of the general assembly shall vote with the county of Humphreys until the next apportionment of members of the General Assembly, agreeably to the provisions of the fifth section of the tenth article of the amended constitution.

SECTION 12. That nothing in this act contained shall be so construed as to prevent the county of Humphreys from entering up judgements, or the sheriffs of said county from selling under such judgements, any lands or other property within the bounds of said county of Benton for taxes

and charges that are due from the citizens of said county of Benton, for the present or any preceding year.

Passed: December 19, 1835.

BOUNDARIES

PRIVATE ACTS OF 1835-36

CHAPTER 45

SECTION 1. That all that part of Perry county lying between Purdy's and Daugherty's line, be and same is hereby attached to the county of Benton, to wit:--Beginning on the Tennessee river, at the line that divides Purdy's and Daugherty's districts, and thence running with said line to the north east corner of Henderson county; thence with the Henderson county line to the Carroll county line, where the same intersects the county of Benton.

SECTION 2. That the citizens within the aforesaid boundary shall, in all respects, be entitled to all the privileges and rights that are extended to the county of Benton.

SECTION 3. That all taxes and other public dues from the citizens within the aforesaid boundary, shall be payable and collected by the proper officers of the county of Perry, in as full and ample a manner as if this act had not been passed; and the county courts of said county shall have full power and authority to render judgment for taxes and public dues, against the land and other property of citizens within the aforesaid boundary, in as full and ample a manner as if said citizens had not been detached from the county of Perry.

SECTION 4. That Hamilton Ledbetter, Adam Walker and John Meanes, be and they are hereby directed to hold an election at the precinct within the aforesaid bounds, first giving ten days notice, to receive the votes of the qualified voters within the aforesaid boundary, for and against being attached to the county of Benton; and they are hereby directed to compare the votes as taken before some justice of the peace for Perry county; and if a majority of the citizens shall vote for being attached to the county of Benton, they shall certify the same to the governor, the number of votes given for and against the same, and the governor shall immediately proclaim the fraction hereby proposed to be attached to the county of Benton, shall from twenty days after the date of such proclamation, be attached to the county of Benton; PROVIDED, that the governor shall not issue his proclamation until it shall be shewn [sic] by actual survey, that to attach the territory hereby proposed, will not reduce the county of Perry below its constitutional limits; PROVIDED, also, that the citizens residing within the aforesaid boundary, and voting against being detached from the county of Perry, shall not be required to pay any portion of the expense of making a survey of said county of Perry.

Passed: February 20, 1836.

BOUNDARIES

PRIVATE ACTS OF 1835-36

CHAPTER 70

SECTION 1. That all that portion of the county of Henry, contained within the following boundary, shall hereafter be and the same is hereby attached to the county of Benton, to wit:--Beginning on the Tennessee river, on the line that divides the county of Henry and Benton, and thence running down said river with its meanders, so far, to a point, that by running a line due west will include all the inhabitants on Lick creek to Sandy river; thence up the said river with its meanders, to where it intersects with the county line of Benton county.

SECTION 2. That D.P. Henderson, Nicholas Brewer and Charles J. Wheatley, be and they are hereby appointed commissioners to run and mark the boundary as herein prescribed; for which they shall receive a compensation to be allowed them by the county court of Benton county, and they shall make a complete plat of the territory hereby included in said county, and the same shall be spread on the records of the said county.

SECTION 3. That the citizens within the aforesaid boundary shall exercise all the rights and privileges of the citizens of the county of Benton, in electing their county officers for said county; PROVIDED, they shall vote for members of congress, governor, electors for president and vice president, and members of the general assembly, with the county of Henry, until the next enumeration, in pursuance of the fifth section and tenth article of the amended constitution.

SECTION 4. That all taxes and public dues from the citizens within the aforesaid boundary, due to the county of Henry, shall be collected in the same manner as heretofore, and they shall be liable for the same, in as full and ample a manner as if said citizens had never been detached from said county of Henry.

Passed: February 15th, 1836.

BOUNDARIES

PUBLIC ACTS OF 1883

CHAPTER 221

SECTION 1. That the county line between Benton and Decatur counties shall be and the same is hereby so changed that the line of Benton county shall run from its northeast corner south, up Tennessee River about one mile, to a slough; thence west with the Bark Road, on a dividing ridge, to H. C. Walker's; thence north with west boundary line of H.C. Walker's farm, across with the west boundary line of Alfred Tipitt's farm to the Benton line near Richard Odle's.

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

Passed: March 29, 1883.

BOUNDARIES

PRIVATE ACTS OF 1949

CHAPTER 599

SECTION 1. That the county line between Carroll and Benton Counties is hereby changed so as to take from the 16th Civil District of Carroll County and place in the 12th Civil District of Benton County the following described land:

A strip of land forty (40) feet wide extending twenty (20) feet on each side of a line beginning in the center of the road from Mt. Carmen Church, in Benton County, to McMackin's spur, in Carroll County, at the point where the county line between Carroll and Benton Counties crosses said road and running west with the center of said road to a point in said road ten (10) feet west of Big Sandy River Canal.

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

Passed: April 4, 1949.

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 Benton County.

1. Acts of 1843-44, Chapter 40, Section 2, provided that Thomas R. Jett and Burwell Beard of Benton County and John L. Houston and Jesse Taylor, of Perry County, be appointed commissioners to run and designate the dividing line between the two counties on the west side of the Tennessee River, and the said line, as it is run and marked, shall constitute the county line between the two.
2. Acts of 1845-46, Chapter 62, Section 3, appointed John L. Houston and William H. Storm, of Decatur County, and William F. Daugherty and the present county surveyor of Benton County to run the line between the two counties and to mark the same. They shall commence on the Tennessee River at the northeast corner of Decatur County and run westerly. They shall make reports to their respective county courts who shall compensate them as they think best.
3. Public Acts of 1867-68, Chapter 20, Section 4, changed the boundary lines between Benton and Carroll Counties as follows "beginning on the Big Sandy River where the said county line crosses the said river; thence running down the river, to the mouth of Bear Creek; thence up the said creek to the old county line, attaching all the territory within the thusly described area to Carroll County". This act was repealed by the one below.
4. Public Acts of 1868-69, Chapter 39, Section 3, repealed Public Acts of 1867-68, Chapter 20, Section 4, which moved a portion of Benton County into Carroll County, thus restoring the described premises to Benton County.
5. Public Acts of 1877, Chapter 58, changed the lines between Benton and Decatur Counties so as to include the lands and residence of Allen Styers in Decatur County.
6. Public Acts of 1881, Chapter 161, changed the boundaries between Benton County and Henry County as follows "beginning at the McCampbell Ford on the Big Sandy River, thence run a direct line eastward until it strikes the Tennessee River at what is known as Wynn's Ferry, taking in the residence of Mrs. Josiah Askew at or near the last named ferry; thence with the said Tennessee River northward as it meanders to the corner of Henry County".
7. Public Acts of 1883, Chapter 55, changed the lines between Benton County and Carroll County so as to include the dwelling house and lands of J. T. Dudley, which are generally described in the act, within the confines of Benton County.

8. Public Acts of 1885, Chapter 152, expressly repealed Public Acts of 1881, Chapter 161, above, in its entirety as it transferred land from Benton County to Henry County and restored all of the same to Benton County.
9. Public Acts of 1891, Chapter 51, moved all the lands belonging to D. A. Gossett out of Decatur County and into Benton County.
10. Public Acts of 1891, Chapter 200, provided that hereafter the Sandy River shall be the dividing line between Benton County and Henry County, from the south boundary line of the 23rd Civil District of Henry County up the said Sandy River to the point where the Carroll County line crosses the said river.
11. Acts of 1905, Chapter 20, transferred the residence and outbuildings of S. C. Walker from Benton County into Carroll County.
12. Private Acts of 1935, Chapter 730, detached the lands of J. C. Porter and J. M. Porter which are now in Humphreys County, containing some 241 acres, from that county and attached the same to Benton County, the lands perhaps better known as White Oak Island in the Tennessee River.
13. Private Acts of 1939, Chapter 600, changed the boundaries between Benton County and Decatur County so that the 4 acres and 52 poles of land belonging J. B. Odle be included wholly within Benton County.
14. Private Acts of 1951, Chapter 605, takes out of the 14th Civil District of Carroll County and places in the Second Civil District of Benton County the lands belonging the heirs of W. T. Miller, and to Brinkley, being described as "beginning at the concrete marker, designated as State No. 192, running rods to another stake; thence south 200 rods to the beginning corner".

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 Benton County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1911, Chapter 115, established a Board of Jury Commissioners for Hardin, Chester, Decatur, and Benton Counties, and presumably in Madison County, also. The Board would consist of three discreet residents who would be appointed by the Judges of the Court. If there should be more than one Judge, each may appoint, or they may join together and appoint one Board for all the Courts. The members must be of good moral character and not involved in any suit pending in the courts. Each member must be sworn before serving. The Board will make out a list of 37 jurors, or more, if the court so ordered, which list would be certified by the Board and kept by the Clerk. Ten days before court began the jurors would be summoned by the Sheriff, being subject to fines if they failed to appear. The members would be paid \$2.00 per day for up to 2 days for their services. Provisions were made to replace a Commissioner, to replenish the jury list if it were exhausted, and to summon special panels whenever the need arose. Jurors could be excused from serving only by the Judge. This act was repealed by Private Acts of 1921, Chapter 615, although this 1921 act involved Henderson County.

2. Private Acts of 1943, Chapter 134, created a Board of Jury Commissioners for Benton County to be appointed by the Circuit Judge and hold office at his pleasure. The Board of three members must be of good moral character, freeholders of the county, and have no litigation pending. Any vacancies must be filled in the same way. The Board would select its own Chairman, be sworn to secrecy, and be served by the Circuit Court Clerk who must also take an oath not to reveal the names of any jurors. From available public sources the Board was required to select a list of at least 200 people who would be listed in a book and verified by the Board. Their names would be also be placed on scrolls of paper and put into a box which would be locked and sealed. Twenty days before court at least 40 names would be drawn from the box by a child under ten years of age, placed in an envelope and presented to the Judge in open Court. The Circuit Court Clerk would deliver the list to the Sheriff who would summon the same to Court. No one was permitted to divulge the names of the prospective jurors. The names of the Grand Jurors would be drawn from these forty in open court, and provisions were included to produce a special panel of jurors when the need arose. Board members would receive \$5.00 per day up to \$25 per year for their services. This act was repealed by the one following.

3. Private Acts of 1955, Chapter 288, specifically repealed Private Acts of 1943, Chapter 134, above, in its entirety, and was properly ratified by the Quarterly County Court of Benton County.
4. Private Acts of 1955, Chapter 290, creates a three member Board of Jury Commissioners to be appointed by the Chancellor, the Circuit Judge, and the County Judge within thirty days after the passage of this act and within thirty days from the expiration of their terms thereafter. Members must be discreet, of good moral character, not attorneys, no suit pending, not county officials, or constable and they would serve three year terms. Vacancies would be filled by the other members of the Board. They must subscribe an oath and elect one of their members to be Chairman. The Circuit Court Clerk would be their clerk, being likewise sworn. The Board would select at least 200 names, as nearly equal from the civil districts as they could make them, which would be put in a book, verified, and also placed upon scrolls which would go into a box under seal and lock. Twenty days before court the Board would meet and a child under 10 years of age would draw 40 names from the box, who would compose the jury panel for that term. The Grand Jury might be drawn in open court but the Judge could appoint the foreman. Other provisions were similar to those previously set out.

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.

Benton County, under the provisions of § 16-2-506 of Tennessee Code Annotated, is part of the 24th 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 Benton 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. Public Acts of 1835-36, Chapter 4, divided Tennessee into three Chancery Districts each of which would have a Chancellor who would be appointed by the General Assembly for an eight year term. These divisions were named Eastern, Middle, and Western. Carroll and Benton Counties made up the Third District of the Western Chancery Division of the State.
2. Acts of 1837-38, Chapter 14, assigned Henry, Weakley, Obion, Dyer, Gibson, Carroll, Benton, Perry, Henderson, and Madison Counties into one chancery district. The court for this District would be held at Huntingdon, in Carroll County, on the first Monday in February and August.
3. Acts of 1851-52, Chapter 308, Section 2, stated that citizens of Benton County shall have the privilege of filing their Bills in Chancery at Paris or at Huntingdon as they may elect or desire to do.
4. Acts of 1851-52, Chapter 345, Section 3, was a duplicate of the provisions in the preceding item permitting the citizens of Benton County to file their Chancery suits at Paris or at Huntingdon.
5. Acts of 1853-54, Chapter 54, Section 3, created a new Sixth Chancery District made up of the counties of Carroll, Benton, Humphreys, Dickson, Hickman, Perry, Decatur, Henderson, McNairy, Hardin, Wayne, and Lawrence. A chancery court was established at Camden for the people of Benton County whose terms would begin on the fourth Monday of February and August of each year, and for whom the Chancellor of the District would appoint a Clerk and Master who must make bond before serving. All citizens may file their bills at Camden and have all causes pending elsewhere transferred to this court.

6. Acts of 1855-56, Chapter 112, Section 5, changed the starting dates of the terms of some of the Chancery Courts in the Sixth Chancery Division. The Court at Camden would begin on the fourth Monday in March and September.
7. Public Acts of 1857-58, Chapter 88, divided the State into Eastern, Middle, Western, Fourth, Fifth, and Sixth Divisions. Benton County was in the Sixth Chancery Division with the counties of Carroll, Henderson, McNairy, Hardin, Wayne, Lawrence, Hickman, Dickson, Humphreys, Decatur, and Perry. The terms of court would begin in Camden on the fourth Monday in March and September.
8. Public Acts of 1865-66, Chapter 20, Section 3, created a Ninth Chancery District composed of the counties of Henry, Weakley, Obion, Dyer, Gibson, Carroll, and Benton whose court term would start on the fourth Monday in March and September.
9. Public Acts of 1866-67, Chapter 25, Section 3, changed the terms of court for some of the counties in the Ninth Chancery Division. Benton County Chancery Court would start its term in Camden on the third Monday of February and August.
10. Public Acts of 1867-68, Chapter 88, Section 7, stated that the February term of the Chancery Court in Benton County would begin on the fourth Monday of the month instead of the third.
11. Public Acts of 1870, Chapter 32, divided Tennessee into twelve Chancery Districts. The Ninth District was made up of the counties of Benton, Hickman, Henderson, McNairy, Lawrence, Dickson, Humphreys, Decatur, Lewis, Perry, Hardin, and Wayne.
12. Public Acts of 1870, Chapter 47, scheduled the court terms for the Chancery Courts of all the counties. Benton County would begin the terms of the Chancery Court on the first Monday in January and July.
13. Public Acts of 1870-71, Chapter 10, changed some of the Chancery Court terms in the Ninth Chancery Division. Benton County would commence the terms of Chancery Court on the second Monday in January and July at Camden.
14. Public Acts of 1873, Chapter 5, again rescheduled the starting dates for the Chancery Courts of the Ninth Chancery Division. Benton County was changed to the third Monday in June and December at Camden.
15. Public Acts of 1879, Chapter 88, reorganized the starting dates for the terms of the Chancery Court in the Ninth Chancery Division but left Benton County with the third Monday in June and December.
16. Public Acts of 1881, Chapter 162, changed the court terms of the Chancery Courts in the Ninth Chancery Division but Benton continued to start the terms of Chancery Court on the third Monday in June and December.
17. Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the lower judicial structure of equity into eleven Chancery Divisions of which the Seventh contained the counties of Maury, Giles, Lawrence, Lewis, Wayne, Hickman, Hardin, Perry, Decatur, Dickson, and Benton whose court terms were scheduled to begin on the third Monday in June and December, as before.

18. Public Acts of 1887, Chapter 5, changed the starting dates of the Chancery Court terms in Benton County to the third Monday in March and the fourth Monday in September.
19. Public Acts of 1899, Chapter 427, rearranged the entire lower judicial structure of the state. There were ten Chancery Divisions of which the Eighth Division contained the counties of Decatur, Hardin, Chester, Benton, McNairy, Crockett, Henderson, Carroll, Henry, Madison, and Perry. Chancery Court terms would begin in Benton County on the fourth Monday of January and July.
20. Acts of 1903, Chapter 36, rescheduled the dates for the Chancery Court terms for the counties of the 8th Chancery Division switching Benton County to the third Monday in May and November.
21. Private Acts of 1921, Chapter 323, changed the Chancery Court terms in Benton County to the fourth Monday in March and September.
22. Private Acts of 1923, Chapter 300, rearranged the starting dates for the Benton County Chancery Court to the third Monday in May and November.
23. Public Act of 1931 (2nd Ex. Sess.), Chapter 38, reorganized the entire lower judicial system of the State. Of the fourteen Chancery Districts created, the 8th Chancery Division was composed of the counties of Carroll, Henry, McNairy, Crockett, Hardeman, Decatur, Hardin, Chester, and Benton, where the court terms would begin on the third Monday in May and November. All the remaining legislation for the Chancery Court in Benton County would come by the way of public act.

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 regulated by 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 Benton County.

1. Private Acts of 1911, Chapter 178, stated that the salary of the Clerk and Master of Benton County, using the 1910 Federal Census figures, shall be \$600 per year, provided that a sworn, itemized statement be filed on January 1 of each year showing the exact amount of fees collected by this office. If the fees are less than the salary, the county shall pay the difference on a warrant of the County Judge out of the regular county funds. If the fees exceed the salary, the Clerk and Master may retain the excess for himself.
2. Private Acts of 1919, Chapter 743, declared that the Clerk and Master of Benton county would be paid a salary of \$1,000 per year, provided, a sworn, itemized statement showing the amount of fees collected by the office shall be filed with the County Judge, or Chairman. If the fees are less, the county will make up the difference out of the county treasury. If the fees exceed the salary, the excess shall be paid into the treasury.
3. Private Acts of 1923, Chapter 534, was another act providing that the compensation of the Clerk and Master of Benton County be \$1,000 per year under the conditions stated above, except that in this act the Clerk and Master could retain the fees which were in excess of the salary.
4. Private Acts of 1943, Chapter 369, amends Private Acts of 1935, Chapter 783, by increasing the salary of the Clerk and Master to \$1,200 from \$1,000, and by changing the census figures from the year 1910 to the year 1930. This act still would not apply to Benton County.
5. Private Acts of 1949, Chapter 396, applied to Benton County and set the yearly salary of the Clerk and Master at \$1,800 payable monthly out of the regular county funds. The Clerk and Master was required to file a quarterly report showing all the fees collected by the office for that quarter and pay the same into the hands of the County Trustee, except those received in the capacity of Trustee, Receiver, or Special Commissioner which the Clerk and Master might keep. The bonds and incidental costs of the office shall be paid by the county.

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.

Benton County, by general law found in § 16-2-506 of Tennessee Code Annotated, is part of the 24th 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 Benton County but now have no effect, having been repealed, superseded, or having failed to win local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Public Acts of 1835-36, Chapter 5, provided that the circuit courts of the various counties would be held three times a year. The State was divided into eleven Judicial Circuits of which Henry, Carroll, Weakley, Obion, Dyer, Gibson and Benton Counties composed the Ninth Judicial Circuit. The circuit court terms in Benton County were scheduled to begin the second Monday in April, August, and December. The Circuit Courts would be held at the house of Samuel H. Burton until the courthouse was ready.
2. Private Acts of 1835-36, Chapter 30, stated that the County and Circuit Courts would meet at the house of Samuel H. Burton in Benton County until the building of a courthouse.
3. Private Acts of 1835-36, Chapter 68, Section 4, provided that all appeals and appeals in the nature of a writ of error which originate in Benton County shall be taken to the Supreme Court at Jackson in Madison County.
4. Acts of 1837-38, Chapter 3, Section 5, assigned Benton County to the 14th Judicial Circuit, newly created, along with the counties of Wayne, Lawrence, Hardin, Carroll, Perry, and Hickman. Circuit Court terms would begin on the fourth Monday in April, August, and December.
5. Acts of 1837-38, Chapter 116, Section 10, rescheduled circuit court terms for most of the counties in the 14th Judicial Circuit, named above. Benton was scheduled for the first Monday in January, May, and September.
6. Acts of 1839-40, Chapter 108, Section 2, provided that the next term of the circuit court in Benton County would begin on the second Monday in May next. All suits would be continued until that time and all process would be made to conform to that date.

7. Acts of 1839-40, Chapter 140, rescheduled the starting dates for the circuit court terms in the counties composing the 14th Judicial Circuit. The courts would open in Camden in Benton County on the second Monday in January, May and September.
8. Acts of 1845-46, Chapter 21, Section 6, added Carroll County and Benton County to the 9th Judicial Circuit.
9. Acts of 1847-48, Chapter 33, stated that from and after next February 1, the Circuit Court of Benton County would commence its terms on the first Monday of January, May, and September.
10. Acts of 1847-48, Chapter 198, Section 6, repealed that portion of Acts of 1845-46, Chapter 21, above, as it involved Carroll and Benton Counties.
11. Public Acts of 1857-58, Chapter 21, changed the term of court for several counties including Benton whose circuit court would commence the terms on the second Monday in January, May, and September.
12. Public Acts of 1857-58, Chapter 93, changed the schedule of court terms for the Circuit Courts of the Ninth Judicial Circuit but Benton County is not mentioned, probably because the Act which placed Carroll and Benton Counties in that circuit was later repealed.
13. Public Acts of 1857-58, Chapter 98, reorganized the lower judicial structure of the circuit courts into sixteen judicial circuits. The 13th circuit was composed of Benton, Henry, Humphreys, Weakley, and Carroll Counties.
14. Public Acts of 1865-66, Chapter 10, rescheduled the dates for opening the terms of the Circuit Court in the 13th Judicial Circuit which was composed of Benton, Henry, Humphreys, Weakley, and Carroll Counties. Benton's court terms would begin on the first Monday in March, July, and November.
15. Public Acts of 1870, Chapter 31, organized Tennessee into fifteen regular and one special judicial circuits. The 12th Judicial Circuit contained the counties of Benton, Henry, Weakley, Carroll, Etheridge, Obion, Lake, and the special court held at Union City.
16. Public Acts of 1870, Chapter 46, established court terms for the Circuit Courts of every county in the State. Benton County would start the Circuit Courts on the third Monday of January, May, and September.
17. Acts of 1885 (Ex. Sess.), Chapter 20, divided the lower judicial system of Tennessee into fourteen regular and one special judicial circuit. The 12th Judicial Circuit contained the counties of Obion, Henry, Carroll, Weakley, Gibson, Crockett, Haywood, and Benton where the circuit court would begin on the third Monday in January, May, and September.
18. Public Acts of 1887, Chapter 94, changed the opening dates of the Circuit Court terms in Benton County to the second Monday in April, August, and December.
19. Public Acts of 1895, Chapter 46, created a criminal court division for the counties of the 11th Judicial Circuit made up of Madison, Chester, McNairy, Henderson, Decatur, Perry,

and Benton Counties. There would be three sessions of the Criminal Court each year in each county at the county seat and the court was set to begin in Benton on the third Monday in January, May, and September. These newly created courts would possess the same criminal jurisdiction as the circuit courts. The Circuit Court Clerk would transfer all criminal cases immediately and the same forms of legal proceedings and bonds were to be used here as were utilized in the circuit courts. The Governor would appoint a Judge to serve until September 1, 1896, when a Judge would be elected by the people. The Attorney General for the 11th Judicial Circuit would prosecute for the State.

20. Public Acts of 1895, Chapter 124, established different court dates for the criminal courts of the 11th Circuit. This Court would open in Camden in Benton County on the third Monday in January, May, and September, as it formerly did.
21. Public Acts of 1899, Chapter 155, abolished the criminal courts in the 11th Judicial Circuit, specifically repealing Public Acts of 1895, Chapter 46, above, and Public Acts of 1895, Chapter 124, above, and restored all the criminal jurisdiction to the circuit courts of these counties where it formerly rested. These courts would exercise all rights, jurisdiction, and powers as they formerly had.
22. Public Acts of 1899, Chapter 409, Section 10, stated that the criminal jurisdiction of the courts in the counties of Benton, Henderson, Decatur, Perry, Madison, Chester, and McNairy was returned to the circuit court as it formerly was which was to be exercised by the circuit court judges as fully as before, except in Madison County which would continue to hold a separate criminal court. Section 11 of this Act made Benton County a part of the 12th Judicial Circuit and the terms of the Circuit Court would begin on the first Monday in April, August, and December.
23. Public Acts of 1899, Chapter 427, rearranged the entire lower judicial system of the State. There were fourteen Judicial Circuits of which the 13th was made up of the counties of Crockett, Haywood, Carroll, Henry, Gibson, and Benton whose circuit court would open its term on the second Monday in February, June and October.
24. Acts of 1905, Chapter 57, attached Benton County to the 14th Judicial Circuit from the 13th Judicial Circuit by amending Public Acts of 1899, Chapter 427, to that effect.
25. Acts of 1905, Chapter 304, rescheduled circuit court terms for most of the counties in the 14th Judicial Circuit which listed the counties of Obion, Dyer, Lake, Weakley, and Benton. Benton would start the circuit court terms on the fourth Monday of January, May and September.
26. Acts of 1907, Chapter 485, again rescheduled the starting dates for the circuit courts in the 14th Judicial Circuit. Benton County would take up the docket of the Circuit Court beginning on the first Monday in February, June and October. All process must be made to conform to those dates.
27. Private Acts of 1923, Chapter 135, changed the time of holding the Circuit Court of Benton County to the fourth Monday in January, May and September. Furthermore, the act stated that all process issued from the Circuit Court of Benton County were to be returned on the fourth Monday in January, May and September instead of the first Monday in February, June

and October. Also, all persons indicted in the Circuit Court were to appear on the fourth Monday in January, May and September, instead of the first Monday in February, June and October.

28. Private Acts of 1931, Chapter 343, stated that in Benton County, using the 1930 Federal Census figures, in forming the Grand Jury, the Judge of the Circuit, or Criminal Court, shall direct the name of jurors duly appointed as the law now provides, and attending court, to be written on scrolls and placed in a box, and twelve names be drawn by a child under ten years of age. These shall be constituted the Grand Jury whose Foreman the Judge may appoint. The foreman shall be paid \$4.00 per day for each day he presides while the Grand Jury is in session, but shall receive no other compensation. The Judge may appoint another, if, for any reason, this one cannot serve.
29. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, created twenty Judicial Circuits when it reorganized the lower court system of the State. The 14th Judicial Circuit was composed of the counties of Obion, Benton, Dyer, Lake, and Weakley. Court terms would begin in Benton County on the first Monday of February, June and October. From this point on all changes in the judicial system would be by public act.
30. Private Acts of 1939, Chapter 320, amended Private Acts of 1931, Chapter 343, above, by inserting an entirely new Section 2. The names drawn from the hat together with the foreman shall constitute the Grand Jury. This Act names Fred H. Saunders as the Foreman of the Grand Jury who would serve for two years. Subsequent appointments shall be made by the judge. Qualifications of a foreman are repeated here, who must be at least 25 years of age, a good lawful man and a freeholder of the county wherein he serves.
31. Public Acts of 1965, Chapter 204, Section 5, created a new 22nd Judicial Circuit comprising the counties of Carroll, Benton, Decatur, and Hardin. Benton County's Circuit Court terms were scheduled to begin on the fourth Monday in January, May, and September.

COURT SYSTEM

CIRCUIT COURT

CLERK

PRIVATE ACTS OF 1961

CHAPTER 49

SECTION 1. That the Circuit Court Clerk of Benton County, Tennessee shall be allowed the sum of eighteen hundred dollars (\$1800.00) per annum for his duties as Clerk of the Court of General Session of said county. Such sum shall be supplementary of and in addition to the amount allowed such clerk under the minimum state salary schedule as provided in Section 8-2405 of the Tennessee Code Annotated for Circuit Court Clerks. Such additional sum for his duties as Clerk of the Court of General Sessions shall be paid by warrant of the Trustee from funds paid into the county from fines and costs collected by and through the said Court of General Sessions at the time and in the manner payment is made such clerk for his duties as Circuit Court Clerk under the provisions of the above said minimum salary act.

Provisions for payment of such additional amount is made pursuant to Section 16 of Chapter 109 of Public Acts of 1959 creating such court of General Sessions.

SECTION 2. That this Act shall have no effect unless the same shall be approved by a two-thirds vote of the Quarterly County Court of Benton County on or before the next regular meeting of said Quarterly County Court occurring more than thirty days after the approval of this Act by the Governor. The action of the Quarterly County Court hereon shall be proclaimed by the presiding officer thereof and shall be certified by him to the Secretary of State.

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

Passed: February 16, 1961.

COMPILER'S NOTE: The salary of the circuit court clerk is determined in accordance with T.C.A. § 8-24-102.

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 Benton County Circuit Court Clerk. They were repealed, superseded, or never received local approval.

1. Acts of 1903, Chapter 255, was a statewide salary act which fixed the compensation of the Circuit Court Clerks only in all the counties according to the population classification. The salary in counties of less than 15,000 population was \$500 per year, provided the annual, sworn, itemized statement were filed by the Clerk.
2. Private Acts of 1923, Chapter 410, fixed the annual salary of the Circuit Court Clerk in Benton County, using the 1920 Federal Census figures, at \$800, provided a sworn, itemized statement showing all the fees collected by the office was filed with the office of the County Judge, or Chairman. If the fees were less than the above salary, the county would supply the difference out of its regular funds, but, if the fees exceeded the salary, the clerk would retain the excess.
3. Private Acts of 1929, Chapter 894, amended Private Acts of 1923, Chapter 410, above, by increasing the annual salary of the Circuit Court Clerk from \$800 to \$1,000, and changed the date set for the filing of the clerk's annual settlement statement from January 1 to September 1 of each year, and repeals all laws in conflict herewith.
4. Private Acts of 1951, Chapter 660, provided that the Circuit Court Clerk of Benton County shall receive a minimum salary of \$1,800 per year. The Clerk at the end of each year shall file with the County Judge an itemized list of all fees received by him during that year, and the County Judge shall pay the difference, if any, between the fees and the above salary.
5. Public Acts of 1963, Chapter 313, allowed the Judge of the Fourteenth Judicial Circuit to appoint a secretary. The compensation for the secretary was set for \$2,400 per annum.

COURT SYSTEM

CRIMINAL COURT

In some counties of Tennessee, a separate criminal court has been established which has the criminal law jurisdiction of the circuit courts. The criminal court has appellate jurisdiction over criminal law matters decided in the general sessions courts.

The criminal court of Benton County, by general law found in § 16-2-506 of Tennessee Code Annotated, is part of the 24th judicial district.

For the general law pertaining to criminal courts, see title 16, chapter 10 of Tennessee Code Annotated. For the general law pertaining to criminal court clerks, see title 18, chapter 4 of Tennessee Code Annotated.

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, Benton County is in the 24th 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 Benton County are no longer in effect but are listed here for historical purposes.

1. Public Acts of 1899, Chapter 199, Section 5, stated that the Attorney General of the Eleventh Judicial Circuit shall attend upon and perform the duties of that office, as they prescribed by law, in the circuits courts of those counties now composing the Circuit, namely: Madison, Chester, McNairy, Henderson, Decatur, Perry, and Benton.
2. Public Acts of 1899, Chapter 311, amended Public Acts of 1899, Chapter 199, above, by striking out Section Five, and inserting a new Section 5 which provided that the Attorney-General of the 11th Judicial Circuit shall attend and perform the lawful duties of that office in Henderson, McNairy, Chester, Perry, Decatur and Madison Counties, and the Attorney General of the 12th Judicial Circuit shall attend and perform the duties in Benton County.
3. Public Acts of 1967, chapter 65, created the office of Assistant District Attorney General for the Twenty-second Judicial Circuit.
4. Public Acts of 1976, Chapter 560, created an additional office of Assistant District Attorney General for the Twenty-second Judicial Circuit.

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 minimum salary of the general sessions judge is set by T.C.A. § 16-15-5003. The compensation received by the general sessions court clerk is determined in accordance with T.C.A. § 8-24-102.

COURT SYSTEM

JUVENILE COURT

PRIVATE ACTS OF 1974

CHAPTER 282

SECTION 1. The General Session Court of Benton County, Tennessee shall constitute and be the Juvenile Court of Benton County, Tennessee and shall be, and is hereby vested with, and shall exercise, in addition to its existing duties, responsibilities, and jurisdiction, all of the jurisdiction and authority conferred by Title 37, Chapter 2, Tennessee Code Annotated upon the juvenile courts of this state. The juvenile jurisdiction previously conferred upon the County Judge of Benton County, Tennessee is hereby divested from the office of County Judge and transferred to and vested in the General Sessions Court of Benton County, Tennessee as authorized under Title 37, Chapter 2, Tennessee Code Annotated.

SECTION 2. In addition to the annual salary established by law for the judge of the General Sessions Court of Benton County, such judge is hereby granted an annual salary supplement in the amount of three thousand six hundred dollars (\$3,600), to be paid in equal monthly installments, as compensation for the additional duties and responsibilities imposed upon him as juvenile court judge of Benton County.

As amended by: Private Acts of 1976, Chapter 240.

SECTION 3. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Benton County on or before September 1, 1974. Its approval or nonapproval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 4. 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 from and after September 1, 1974.

Passed: March 12, 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.

The following act is no longer in effect but is listed here for historical purposes.

1. Public Acts of 1939, Chapter 71, created the position of Stenographer for the Chancellor of the 8th Chancery Division to which Benton County was assigned.

CHAPTER VI - EDUCATION/SCHOOLS

EDUCATION - SCHOOLS

BOARD OF EDUCATION

PRIVATE ACTS OF 2002

CHAPTER 87

SECTION 1. Chapter 117 of the Private Acts of 1953, and all acts amendatory thereto, are hereby repealed.

SECTION 2. Benton County shall be divided into six (6) school districts of substantially equal population, which shall be coextensive with the county legislative body districts established by resolution of the county legislative body from time to time.

SECTION 3. The Benton County Board of Education (the "board") shall consist of twelve (12) members, with two (2) members of the board being elected by the qualified voters in each school district on a non-partisan basis. Board members shall be elected to either Seat A or Seat B in each district. Board members shall be elected to staggered four (4) year terms so that every two (2) years the terms of one-half (½) the board members will expire, with the terms of board members holding Seat A expiring at the same time and the terms of board members holding Seat B expiring at the same time. Persons elected in the regular August general elections shall take office on September 1 following the election and shall serve until their successors are duly elected and qualified.

SECTION 4. To establish staggered terms as provided in Section 3, all incumbent board members shall remain on the board until the expiration of their current terms. Board members currently in office shall be assigned to Seat A or Seat B as follows:

District 1

Seat A	Mike Draper
Seat B	Barry Carter

District 2

Seat A	William McDaniel
Seat B	Mark Hargis

District 3

Seat A	Mike Winters
Seat B	Tim Hyatt

District 4

Seat A	James Woodall
Seat B	Bobby Arnold

District 5
Seat A Brent Hedge
Seat B Joey Cooper

District 6
Seat A Vernon Wade
Seat B Ruby Evans

At the regular August 2002 elections, board members in Seat A shall be elected to four (4) year terms in Districts 1, 2, 3, 4, and 6, and a board member shall be elected in Seat B to a two (2) year term in District 2. At the regular August 2004 elections, board members in Seat B shall be elected to four (4) year terms in Districts 1, 2, 3, 4, 5, and 6, and a board member shall be elected in Seat A to a two (2) year term in District 5. Thereafter, all board members shall be elected to four (4) year term as each member's term expires.

SECTION 5. The Benton County Board of education shall have the same powers, duties, privileges and qualifications as a board of education established pursuant to Tennessee Code Annotated, Title 49.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

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

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

Passed: February 14, 2002.

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. Public Acts of 1992, Chapter 535, the Education Improvement Act of 1991, substantially revised many aspects of the education statutes. County boards of education are mandated to be popularly elected, but the time for implementation can vary from county to county. The county legislative bodies, from July 1, 1992, were given authority to establish districts for county board of education members by resolution instead of having to rely on private acts for reapportionment. The new education general law provides for board members to be elected to staggered four-year terms.

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 Benton County but are no longer operative.

1. Acts of 1907, Chapter 236, was a statewide act establishing a Board of Education for every county in the State, except those expressly exempting themselves, and abolishing the office of District Directors of Education. The County Court would divide the county into five school districts, composed of whole civil districts from each of which one member of the Board would be elected, and the County Superintendent would be the Secretary. The County Courts would appoint the initial members of the Board to serve until their successors were elected by popular vote in August, 1908. The duties of the Chairman, Secretary, and the powers, duties, and authority of the Board are all specifically mentioned. Each civil district would elect three people every two years to serve as an "Advisory Board", whose duties are also enumerated including the taking of a scholastic census. This Act was subjected to the courts in Whitthorne v. Turner, 155 Tenn. 303, 293 S.W. 147 (1927).
2. Acts of 1909, Chapter 302, amended the statewide education Act of 1873 by creating Boards of Education in Giles, DeKalb, Rutherford, Hickman, Benton, Decatur, Coffee, Hardin, McNairy, and Bedford counties, which would be composed of one member from each civil district, the Judge or Chairman of the County Court, and the Superintendent of schools, who would be the ex-officio Chairman of the Board. These would take office on July 1, 1909. The Board would elect one of their number to serve as Secretary for two years. The duties of the Chairman, the Secretary, and the board are expressly listed in the Act. Each member of the Board would take the scholastic census in his civil district. All involved were required to keep accurate records.
3. Private Acts of 1925, Chapter 642, has only a general repealing clause which might abrogate the 1909 Act above. This Act applies only to Decatur and Benton Counties. This Act creates a seven member Board of Education, one of which would be elected on the first Monday of July of each year by the Quarterly County Court for a term of seven years.

Current Board members would remain until their terms expired. The powers, requirements, and duties of the Board would be the same as the State law provided.

4. Private Acts of 1927, Chapter 149, provided for the popular election of members of the County Board of Education for terms of two years. The first election under this act occurred in August 1928 and the terms of office under this act began on first Monday in September, 1928. The constitutionality of this act was upheld in Holland v. Parker, 159 Tenn. 307, 17 S.W.2d 926 (1929).
5. Private Acts of 1939, Chapter 387, amended Private Acts of 1927, Chapter 149, above, to abolish the County Board of Education.
6. Private Acts of 1939, Chapter 388, created a Board of School Commissioners for Benton County in which was vested "the exclusive supervision and control of all public schools, both elementary and high schools, and all other maintained in whole or in part by public school funds, who shall elect all teachers, and fix their salaries, and make all contracts for such services." The employment and management of all non-academic personnel were likewise place in their hands. The Board would be made up of one member from each civil district except the Fifth Civil District which would have two. The Board would have and exercise all powers and responsibilities conferred upon the Boards of Education by state law. The Act named the members of the first Board who would serve until September 1, 1940, when their elected successors would take office. They were in the order named from each civil district, W.D. Abernathy, Floyd Stokes, W. A. Johnson, Enloe Mitchell, Clark Davis and Barney Stigall from District Five, Carlos Floyd, Cardie Blanks, Edgar Brewer, Harvey Dortch, Mack Hollingsworth, Houston Hatley, Bob Wright, W. T. Henry, Chairman, B. D. Furr, John Summers, and Travis Hall. They would select a Chairman after being elected and sworn, and meet quarterly in June, September, December, and March, or at such other times as may be called. The Superintendent would be ex-officio Secretary and his duties were enumerated. The Board had the authority to enter into contracts and must approve all others over \$100.00. The members of the Board would receive \$3.00 per day and the Chairman \$4.00 per day up to 15 days a year. This Act only had a general repealing clause but Private Acts of 1925, Chapter 642, above, was nullified by this law. The validity of this act was upheld in 1940 by the Supreme Court in Henry v. Abernathy which decision also took note of Private Acts of 1931, Chapter 59.
7. Private Acts of 1941, Chapter 469, amended Private Acts of 1939, Chapter 388, above, by rewriting Section 13 so that the compensation to be paid to the Chairman and the members of the Board of School Commissioners would be paid out of the school funds and not the regular county treasury as was the case before.
8. Private Acts of 1947, Chapter 437, also amended Private Acts of 1939, Chapter 388, by changing the population figures in the caption and Section One to conform to the 1940 Census figures. Section 13 was further amended by increasing the compensation of the members of the Board of School Commissioners from \$3.00 and \$4.00 per day to \$5.00 per day and by permitting the Chairman to draw an additional day's pay for every school week because of his clerical duties rather than be limited to the maximum of 15 days as provided in the original act.

9. Private Acts of 1951, Chapter 679, amended Private Acts of 1939, Chapter 388, above, by changing Section 2 so as to reduce the number of members on the Board of School Commissioners to seven, and specifying in each school district the civil districts which were included in that school district. The members, one from each school district, would be elected by the Quarterly County Court and serve two year terms.
10. Private Acts of 1953, Chapter 117, provided that one member of the Board of School Commissioners be elected by popular vote from each civil district in the county except that the district containing the county seat will elect two members to serve a term of two years. The act provided for a called election to elect members to serve until their successors were elected in the August 1954 regular election. The Quarterly County Court was given authority to determine the compensation of the school commissioners for attending regular and special meetings. Members of the Board were to receive the same per diem and mileage as justices of the peace. This act was repealed by Private Acts of 2002, Chapter 87, which is reproduced herein.
11. Private Acts of 1970, Chapter 312, would have provided, subject to the affirmative outcome of a public referendum for that purpose, for a School Board composed of one person from each of the civil districts, or magisterial districts. The Act provided for staggered terms so that a portion of the School Board would be renewed every so often. The Board would meet on the first Monday in September, and quarterly after thereafter and be paid the same per diem as the members of the Quarterly County Court. This Act was rejected by the Quarterly Court of Benton County and therefore never became a law.

EDUCATION - SCHOOLS

SCHOOL BUS DRIVERS

PRIVATE ACTS OF 1941

CHAPTER 229

SECTION 1. That the County School Authorities in all counties of this State having a population of not less than 11,970, nor more than 11,985 according to the Federal Census of 1940, or any subsequent Federal Census, shall have the right and authority to establish a tenure for drivers of school buses in such counties; and they are hereby given the right and authority to contract with drivers of school buses to drive school buses in such counties, for periods of five (5) years at a time, or any fractional part thereof, at their discretion, a year being defined as the school year or the length of the school term.

SECTION 2. That drivers of school buses employed or contracted with to drive school buses under this Act, be and they shall be required to conform to all the laws of the State of Tennessee, and abide by and be subject to all the rules and regulations which have been or which may hereafter be adopted by the State Board of Education, including but not limited to the type of bus to be used in transporting pupils to and from schools and with respect to personal qualifications.

SECTION 3. That the County School Authorities in all Counties in the State to which this Act applies, may dismiss from service any driver of a school bus employed or contracted with under this Act for improper conduct, inefficient service, neglect of duty, violation of law, or violation of any of the rules and regulations of the State Board of Education, and the right to so dismiss any driver shall be reserved in the contract with such driver, provided that the County School Authorities shall be the judges in all cases coming before them or to their attention under this Act, and provided further that before any driver shall be dismissed from service for any cause, he shall be given at least five (5) days' written notice, mailed to his last known address or served on him personally, notifying him to appear before said County School Authorities at the time and place named in said notice, and show cause, if any he has, why he should not be dismissed from service on charges that have been preferred against him; and he shall be given an opportunity to be present and make defense to said charges, provided further that it is the intention of this act to make the decision of the County School Authorities in all cases coming before them final; and the driver of any school bus shall be made aware of this fact before being employed.

SECTION 4. That if any section or part or parts of any section of this Act shall be declared unconstitutional, the same shall not affect the constitutionality or validity of the remaining portions of this Act, but the same shall remain in full force and effect as if the unconstitutional or invalid part had been omitted.

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

Passed: February 10, 1941.

EDUCATION - SCHOOLS

SUPERINTENDENT OR DIRECTOR OF SCHOOLS

Under the Education Improvement Act of 1991, the office of superintendent of public instruction (county superintendent of education) was phased out by 2000. 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 may be employed under a written contract of up to four years duration. The duties of the superintendent or director of schools are enumerated in T.C.A. § 49-2-301(f).

The acts referenced below once affected the office of superintendent of education in Benton County, but are no longer operative. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1927, Chapter 149, provided for the popular election of the Superintendent of Public Schools for a term of two years. The first election under this act occurred in August 1928 and the term began September 1, 1928. The constitutionality of this act was upheld in Holland v. Parker, 159 Tenn. 307, 17 S.W.2d 926 (1929).
2. Private Acts of 1929, Chapter 525, enacted some standards and qualifications for the Superintendent of Schools in Benton County to meet. This act required the Superintendent to be a college graduate and have at least 36 months of experience as a teacher in the school systems of the State, a person of literary attainment, and skilled in school administration practices. This act was repealed by the one following. This act was the basis of litigation in State, ex rel, Clement v. Dodson, 169 Tenn. 178, 83 S.W.2d 558 (1935), in which the Tennessee Supreme Court refused to overturn the actions of the State Board of Education in issuing a certificate of qualification to the person elected Superintendent of Public Instruction in Benton County who was alleged not to have met the qualifications listed in the private act. The Court said it would not review the action of the state board unless it acted arbitrarily, corruptly or fraudulently.
3. Private Acts of 1935, Chapter 3, expressly and entirely repealed Private Acts of 1929, Chapter 525, above.

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 Benton 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. Public Acts of 1895, Chapter 111, authorized the Quarterly County Court of Benton County to sell the old Benton Male and Female Academy on such terms as the court might consider in the best interests of the county and the most appropriate for educational purposes, together with the lot on which it now stands in Camden, the proceeds of which sale shall be turned over to the County Trustee and by him paid out as other school funds are paid.
2. Private Acts of 1921, Chapter 823, created a special school district in the Tenth Civil District of Benton County, embracing the town of Eva, which area was described by metes and bounds, and which would be called the "Eva Special School District." The first Board would have five members, naming Lindsey Milton, W. R. Homer, Crayton Holland, W. M. Pafford, and J. D. Hollingsworth as the original members who would select from their number a Chairman, a Secretary, and a Treasurer. They would serve until the August election in 1921 would produce their successors to take office September 1, 1921. Such powers as were necessary and incidental to effectuate the purposes of this act were bestowed upon the Board plus those outlined in this law. A special tax of not less than ten cents nor more than twenty cents per \$100.00 property valuation would be levied, and a poll tax of \$1.00 on every male between the ages of 21 and 50 would constitute a supplemental fund for keeping the schools open hopefully at least eight months of the year to which all children could go without cost. Members of the Board would serve without compensation. This act was repealed by Private Acts of 1937 (3rd Ex. Sess.), Chapter 34.
3. Private Acts of 1923, Chapter 399, created a special school district in part of the 8th Civil District of Benton County, which area was described in detail, and which would be called the Big Sandy Special School District. There would be a five man Board of Directors to which the act named A. K. Crawford, W. E. Dowdy, T. C. Craney, C. N. Moody, and J. H. Adams together with W. T. Pafford, a member of the County School Board. Regular members would be elected for two year terms. The powers and duties of the Board were specifically listed in eleven paragraphs. There would be a twenty cent per \$100 property valuation tax levied plus a \$1.00 poll tax on all males between the ages of 21 and 50 which would be a supplement to their proportionate share of regular school funds from the Trustee, all of which would be used to keep the schools open nine months. All children living in the district could attend the school free of charge. The Board would get no compensation except the Secretary would be paid for getting up the scholastic census. Some criteria for hiring

teachers and principals were established. This act as amended, was repealed by Private Acts of 1939, Chapter 157.

4. Private Acts of 1927, Chapter 423, amended Private Acts of 1923, Chapter 399, which created the Big Sandy Special School District by repealing Section 5, 6, 7, 8, and 10, and line 6 in Section 9, which in effect provided that all the schools in the District shall be under the control and management of the County Board of Education. A tax of twenty cents per \$100.00 property valuation was levied on all taxable property in order to keep the schools open for nine months, and certain duties were imposed upon county officials with reference to collecting and disbursing the tax.
5. Private Acts of 1927, Chapter 807, created a special school district embracing a part of the Second Civil District in Benton County as the same was generally described, which would be called the Holladay School District. All the provisions of this act were subject to the successful outcome of a referendum to be held accordingly. There would be a five man Board of Directors to which the act named D. B. Gossett, H. M. Harris, Ross Hatley, L. M. Williams, and J. R. Holladay, who would serve until the August election in 1928, when their successors would be elected. This Board would supervise the disbursement of funds for the school observing the criteria established within the Act. A twenty-two cent tax on each \$100 of property valuation would be levied plus a \$1.00 poll tax on all males between 21 and 50 years of age. All children living in the described area were declared eligible to attend the school free.
6. Private Acts of 1931, Chapter 59, divided Benton County into seven public school districts composed of whole civil districts as follows. The first School District was the 5th and 15th Civil Districts; the Second School District was the 10th and 7th Civil Districts; the third School District was the 8th, 9th and 16th Civil Districts; the Fourth School District was the 4th, 6th and 12th Civil Districts; the Fifth School District was the 2nd and 14th Civil Districts; the Sixth School District was the 7th and 13th Civil Districts; and the Seventh School District was the 3rd and 11th Civil Districts. At the regular August election the voters of each school district shall elect one member to the County Board of Education to serve a two year term, and these shall compose the Board of Education. This act was specifically repealed by Private Acts of 1939, Chapter 386.
7. Private Acts of 1931, Chapter 61, abolished the office of School Attendance Officer in Benton County, using the 1930 Federal Census figures. The compulsory school attendance laws of the State shall be enforced by the County Superintendent of Public Instruction, and, for that purpose, the Sheriff and the Constables shall serve and execute all warrants, or other process, issued in such cases, for which they shall be entitled to receive such fees and other compensation as the law provides for similar services.
8. Private Acts of 1937 (3rd Ex. Sess.), Chapter 34, expressly repealed Private Acts of 1921, Chapter 823, which created a special school district out of a portion of the Tenth Civil District, called the "Eva Special School District".
9. Private Acts of 1939, Chapter 157, specifically repealed Private Acts of 1923, Chapter 399, which created the Big Sandy Special School District in Benton County, in its entirety.

10. Private Acts of 1939, Chapter 386, expressly and entirely repealed Private Acts of 1931, Chapter 59, which created seven public school districts in Benton County.
11. Private Acts of 1945, Chapter 444, provided that all the teachers in Benton County, using the 1940 Federal Census figures, who held elementary or high school certificates issued by the State Commissioner of Education prior to July 1, 1913, and who have had at least thirty years experience in teaching in the public schools in succession, are hereby granted permanent certificates to teach such subjects as they have been successfully teaching in schools of the county to which this act applies.

CHAPTER VII - ELECTIONS

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, the county election commission, the 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 Benton County, but are no longer operative regarding elections. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1923, Chapter 275, abolished the 16 Civil Districts into which Benton County was then divided and created six Civil Districts, made up of the old Civil Districts. The First Civil District had the old 1st, 2nd, and 13th Civil Districts; the Second Civil District had the old 3rd, 11th, and 15th Civil Districts; the Third Civil District had the old 4th, 12th, and 14th Civil Districts; the Fourth Civil District had the old 7th and 10th Civil Districts; the Fifth Civil District had the old 5th and 6th Civil Districts; and the Sixth Civil District had the old 8th, 9th, and 16th Civil Districts. These new districts would remain as herein constituted until changed by the General Assembly.
2. Private Acts of 1925, Chapter 315, amended Private Acts of 1923, Chapter 275, above, by adding a Seventh Civil District to the Six fashioned by that law. This Act was for all apparent purposes repealed by the one below.
3. Private Acts of 1925, Chapter 497, repealed specifically and entirely Private Acts of 1923, Chapter 275, above, and restored the 16 Civil Districts of Benton County which were in existence prior to the passage of that Act. Each Justice of the Peace who formerly represented the Districts should continue to do so and those who found themselves lacking their quota of Justices should immediately hold elections for them.

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 Benton County in the 24th state senatorial district (along with Decatur, Henderson, Henry, Lake, Obion, Perry, Stewart and Weakley counties), while T.C.A. § 3-1-103 places it in the 75th representative district (along with Henry and Stewart counties). Benton County is part of the 8th U.S. congressional district, under the provisions of T.C.A. § 2-16-103.

The following is a listing of acts for Benton 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, divided Tennessee into 25 State Senatorial Districts of which the 19th was composed of the counties of Dickson, Stewart, Humphreys, and Benton. The polls would be counted at Simmons Old Store in Dickson County. Humphreys County and Benton County would elect one Representative between them and these polls were to be counted at Reynoldsburgh in Humphreys County.
2. Acts of 1842 (Ex. Sess.), Chapter 7, delineated eleven U.S. Congressional Districts for the State. The Ninth District had in it the counties of Robertson, Montgomery, Stewart, Dickson, Humphreys, Benton, and Henry.
3. Public Acts of 1865, Chapter 34, was the first post Civil War Act to attempt to provide for representation for Tennessee in the U.S. Congress. The Act set up eight districts across the State which reflected the decimation of the Civil War. The Seventh District contained the counties of Benton, Henry, Weakley, Obion, Dyer, Gibson, Lauderdale, Anderson and Carroll.
4. Public Acts of 1867-68, Chapter 7, stated that the votes polled in Humphreys and Benton Counties for Representative in the lower State House shall hereafter be compared at Johnsonville on the Monday next following the election.
5. Acts of 1872 (Ex. Sess.), Chapter 7, apportioned the State for representation in the United States Congress according to the 1870 Federal Census count. There were still eight districts of which the Seventh District consisted of the counties of Montgomery, Houston, Stewart, Humphreys, Benton, Henry, Carroll, Henderson, Decatur, Perry, Hardin, and McNairy.

6. Public Acts of 1873, Chapter 27, in an apparent adjustment of representation to the U.S. Congress, delineated Tennessee into ten U.S. Congressional Districts. The Eighth District contained Henry, Benton, Carroll, Perry, Decatur, Hardin, McNairy, Henderson, and Madison Counties.
7. Acts of 1881 (Ex. Sess.), Chapter 6, reapportioned Tennessee for the General Assembly, probably based on the 1880 census taking, into Senatorial and Representative Districts. Benton County would select one Representative alone and was a part of the 26th Senatorial District with Carroll and Decatur Counties.
8. Public Acts of 1882 (2nd Ex. Sess.), Chapter 27, divided the State into ten U.S. Congressional Districts of which Henry, Benton, Perry, Decatur, Hardin, McNairy, Henderson, Madison, and Carroll Counties were assigned to the 8th U.S. Congressional District.
9. Acts of 1891 (Ex. Sess.), Chapter 10, reapportioned the whole State. Henry, Benton, and Decatur County would elect one Representative and Benton, Humphreys, Decatur, and Hardin Counties would share one State Senator for the 24th Senatorial District.
10. Public Acts of 1901, Chapter 122, was the Act apportioning the State in accord with the 1900 Federal Census, starting the twentieth century. Benton and Decatur County would elect one Representative together and Hardeman, McNairy, Hardin, Decatur, and Benton Counties would make up the 26th State Senatorial District.
11. Private Acts of 1949, Chapter 876, exempted Benton County, by using the 1940 Federal population figures, from the demands and operations of Section 1996, Code of Tennessee.

CHAPTER VIII - HEALTH

HEALTH

GENERAL HOSPITAL

PRIVATE ACTS OF 1968

CHAPTER 319

SECTION 1. That a non-profit Hospital District, to be known as Benton County General Hospital, is hereby created and established for and in behalf of Benton County.

SECTION 2. That said Hospital District shall comprise and consist of the following described tracts or parcels of land together with all buildings and other improvements thereon, and all appurtenances thereunto belonging, located in the 5th Civil District of Benton County, Tennessee, and more particularly described as follows:

FIRST TRACT: Beginning at an iron stake in the west margin of Hummingbird Circle, this being the Southeast corner of a lot formerly owned by Willeford, presently owned by Kamko Inc. and the Northeast corner of the herein described tract; thence along and with a woven wire fence, the south boundary of Kamko Inc. South 86° 44' West, 194 feet to an iron stake, in fence; thence South 13° 44' West, 461 feet to an iron stake in the north boundary of the hospital property, proper; thence North 66° West 500.4' to an iron stake in the east boundary of George Hicks' property; thence along and with fence in Hicks' east boundary and Ballard's East boundary South 28° 5' West 684.8 feet to an iron stake in the center of a small creek; thence South 63° 15' East along and with the north boundary of Reuben Watson's remaining land 730 feet to an iron stake; thence North 13° 44' East 729.8 feet to an iron stake; thence North 13° 44' East along the east right-of-way line of 50-foot dedication for roadway to proposed hospital site, parallel to and 50 feet east of the west right-of-way line 433.07 feet to an iron stake; thence North 86° 44' East, south of parallel to the north line 154.16 feet to an iron stake; thence North 50 feet to the point of beginning, containing 11.0 acres.

SECOND TRACT: Beginning at a twin sweetgum tree, a fence corner in the east boundary of the Camden Cemetery property, then runs South 86° 30' East 65 feet to a point in a small branch, said point being in north boundary of the Benton County Hospital Property; thence South 3° 30' West 88 feet; then South 26° West 62 feet to a 6-inch maple tree in center of branch; then leaving said branch and hospital boundary South 81° West 530 feet to a point in the east right-of-way line of GENESCO Road; then North 25° West 80 feet with said road right-of-way line 80 feet to a point; then runs North 81° East 80 feet to a point in the west line of Camden Cemetery Property; then runs South 12° East 30 feet to the southwest corner of cemetery property; then runs North 81° East 432 feet with south line of cemetery property to a stake, the southeast corner of cemetery; then runs North 3° 30' East 107 feet to beginning, containing 7/8 acre, more or less.

SECTION 3. That said Hospital District shall be operated and controlled by a Board of Trustees composed of five members, provided that not more than two of the five members of said Board of Trustees may be members of the Benton County Commission, the members to be elected in the manner and for the terms hereinafter provided. The County Executive of Benton County shall be ex-officio a member of the Benton County General Hospital Board of Trustees. The members of the Board of Trustees shall meet as soon as possible after their term of office begins for the purpose of (1) electing one of their members to serve as Chairman, (2) the selection of a person to

serve as Hospital Administrator, who shall be Chief Executive of the Hospital District and Secretary-Treasurer of the Board of Trustees, who shall execute bond for the faithful performance of his duties as Secretary-Treasurer, in an amount to be fixed and determined by said Board. As soon as practicable the Board shall promulgate and record on permanent record the rules under which it will operate. The proceedings of all meetings shall be recorded in an official minute book which shall be a public record.

As amended by: Private Acts of 1981, Chapter 30.

SECTION 4. That the initial members of the Board of Trustees shall be James T. Cowell, who shall serve for a term of one year; Richard A. Hargis, Jr., who shall serve for a term of two years; Taylor Wheatley, who shall serve for a term of three years; Fred Cuff, who shall serve for a term of four years; and Frank L. Hollis, who shall serve for a term of five years.

From and after July 1, 1981, the terms of office of the board of trustees shall be two (2) years. No member of the board of trustees shall serve more than two (2) consecutive terms. After a member of the board has rotated off the board, such member may not be re-appointed for a period of one (1) year.

The members of the Board of Trustees shall be paid the same per diem and mileage for attendance at regular meetings of the Board of Trustees as is paid to members of the County Commission of said County for attendance on sessions of said County Commission, not to exceed twelve (12) meetings annually, and shall receive \$5.00 for attendance on other meetings for each meeting of the Board of Trustees.

At the expiration of the term of office of each member of the board, the county commission at its next regular session shall nominate a successor to the board of trustees to fill the vacancy on the board. The election of a successor shall be held at the subsequent meeting of the county commission immediately following the meeting at which nominations were made. The election of a successor shall be for a term of two (2) years. Should a vacancy occur on the board for any reason during the unexpired term of any member, then and in that event, such vacancy shall be filled by the county commission as above provided for, for the remainder of such unexpired term.

Members of said Board shall be citizens of Benton County, Tennessee. No person shall be a member of the Board if he is (1) an employee of the Board (2) a physician or registered nurse (3) the holder of a full time remunerative position in the County government or any municipal government or a position with the Department of Public Health or Department of Public Welfare or the U. S. Public Health Service.

As amended by: Private Acts of 1981, Chapter 30.

SECTION 5. That the said Board of Trustees shall hold regular monthly meetings on a date which it shall establish and such other meetings as may be required. The Board of Trustee shall have the responsibility and the authority to control the property and facilities of the Hospital District; to purchase real estate with approval of the County Commission; to sell, with the approval and authorization of the County Commission, any portion of the real estate which the District owns and which is considered surplus to its needs in the performance of its missions; and to execute deeds therefor when authorized so to do by the County Commission; to receive all monies for hospital purposes, including tax receipts from the County Trustee's office, and to disburse all such monies in cash or by check; to establish rules and regulations governing the property of the District, its uses

and management; to erect buildings; to employ, define the duties of, fix compensation of, and discharge employees of the District; and otherwise, to act for and in behalf of Benton County, Tennessee, in the discharge of its mission, as set forth in Section 6 of this Act as follows.

The board of trustees shall also have the responsibility and authority to make contracts for goods and services.

The board shall seek bids on all contracts for goods and services whenever it shall appear to the board that such contract can reasonably be expected to require the expenditure of a sum or sums of money in excess of five thousand dollars (\$5,000.00). The necessity of taking bids shall not apply to surgical and medical supplies, medical equipment and medical services.

The Board of Trustees shall also have the responsibility and authority to sell or otherwise transfer, with the approval and authorization of the Benton County Commission, all or any part of the property and facilities of the Hospital District.

As amended by: Private Acts of 1981, Chapter 30
Private Acts of 1985, Chapter 6.

SECTION 6. That the mission of the Hospital District shall be to manage the property of the Hospital District and to provide hospital service of the highest quality consistent with generally recognized standards of hospital service, and with physical facilities and finances provided, and within the limitations imposed by the budget. Such services shall be rendered to any person who makes satisfactory arrangements for his services and who is certified for entrance by a practicing physician; and to any person regardless of financial arrangements, if (1) in the opinion of the staff physicians of the hospital, the physical well-being of the person is seriously eminently endangered by delay in providing the service, or (2) it is determined that after due investigative procedure of the Board of Trustees or a delegated representative that such person, if a resident of Benton County, is without means whatsoever to pay for such services.

As amended by: Private Acts of 1981, Chapter 30.

SECTION 7. That the board shall present to the county commission a copy of the hospital budget as soon after its adoption as practical. The Board shall make an informal financial statement in writing to each regular meeting of the County Commission covering the previous three-months operations, which statement shall, among other things, include the names, addresses, amounts of accounts involved, and all non-paying cases, and said statement shall further show the aggregate amount of accounts owing by persons who have been discharged as patients from said hospital.

The books of the Hospital District shall be audited annually by a certified public accountant selected by the Board with approval of the County Executive; and said auditor's report shall be made to the Board and to the County Executive and the County Commission at its first meeting following completion of said audit. All such financial statements, formal and informal, shall become a part of the minutes of the County Commission.

As amended by: Private Acts of 1981, Chapter 30.

SECTION 8. That the County Commission of Benton County, Tennessee, is hereby authorized to appropriate to the Hospital District from the general funds of the County such sums as may be required to commence the operations of said District, including all sums heretofore

budgeted therein for hospital purposes, and also all sums derived from the sale of hospital bonds either sold or to be sold as heretofore authorized by the County Commission, and now in the hands of the Trustee or that may come into the hands of the Trustee, to commence the operation of said District. Thereafter to appropriate such sums collected from the levy of taxes for said Hospital District purposes as may be required in the operation and maintenance of said District.

As amended by: Private Acts of 1981, Chapter 30.

SECTION 9. That if any Section or part of Section of this Act proves to be invalid or unconstitutional, the same not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Act, unless it clearly appears that such other Section or part of Section is wholly or necessarily dependent for its operation upon the Section or part of Section held to be unconstitutional or invalid.

SECTION 10. That this Act shall have no effect unless the same shall have been approved by two-thirds vote of the County Commission of Benton County, Tennessee, its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or reverse and shall be certified by him to the Secretary of State.

As amended by: Private Acts of 1981, Chapter 30.

SECTION 11. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 26, 1968.

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.

The following summary is included herein for reference purposes.

1. Private Acts of 1985, Chapter 104, was to amend Chapter 319 of the Private Acts of 1968 by giving the Board of Trustees the power to terminate the Benton County General Hospital, the hospital district and the Board of Trustees of such district. If the Board decided to terminate the Benton County General Hospital, then the real property and tangible and intangible personal property would be sold. The act, however, failed to gain local approval.

CHAPTER IX - HIGHWAYS AND ROADS

HIGHWAYS - ROADS

ROAD LAW

PRIVATE ACTS OF 1943

CHAPTER 250

SECTION 1. That in counties of this State having a population of not less than 11,900, nor more than 12,000, by the Federal Census, for the nor more than 12,000, by the Federal Census [sic] of 1940 or any subsequent Federal Census, for the therein [sic] such County shall constitute one entire district to be in charge of a road supervisor, who shall be the principal executive official thereof; at the August Election, 1944, and biennially thereafter, there shall be elected by the qualified voters of counties to which this Act applies some capable experienced man as supervisor of roads, who shall hold office for a period of four (4) years from September 1 next following his election and until his successor shall be elected and qualified. Before assuming office, such road supervisor shall take an oath to fairly and faithfully discharge the duties of his office and shall execute a bond in a sum not to exceed \$10,000.00, the amount thereof to be fixed by the County Judge and such bond to be approved by the County Judge. Such road supervisor shall be paid a salary of six thousand dollars (\$6000.00) per annum, and in addition to said salary, such road supervisor shall receive by separate warrant the sum of \$50.00 per month to cover all his personal expense incident to his official duties, payable in equal monthly installments out of the county highway fund in the hands of the County Trustee. In addition thereto, he shall be allowed to expend not exceeding \$1800.00 per annum for a secretary and bookkeeper, such sum to be paid in equal monthly installments to the person so designated by him as secretary-bookkeeper and also to be paid out of the county highway funds. Until September 1, 1944, the Governor of the State is hereby authorized to appoint some capable qualified person to act as such supervisor of roads.

The bond of the road supervisor shall be executed by a corporate surety, authorized to do business in the State of Tennessee, and the premiums for the said surety bond shall be paid by the county.

As amended by: Private Acts of 1949, Chapter 259
 Private Acts of 1959, Chapter 130
 Private Acts of 1961, Chapter 245
 Private Acts of 1963, Chapter 250
 Private Acts of 1973, Chapter 8.

SECTION 2. That it shall be the duty of the supervisor in counties to which this Act applies, to efficiently construct, maintain and operate the road system in such counties; and it shall be his duty as early as weather conditions permit and funds available will allow, to begin the work of maintenance and repair of the roads in his county and to continue the same as long as necessary and permitted by available funds. Such road supervisor shall have full and complete authority to employ such labor and skilled mechanics as he may need but the compensation payable by him for such shall not exceed the compensation paid by the State Highway Department in such county for similar services. Such supervisor shall keep a time book of the hours of labor worked by each person so employed by him and for the purpose of paying such person for labor, and other necessary

expenditures, may issue warrants drawn upon the road funds of said county, which warrant shall be drawn on the County Trustee; but no such warrant shall be valid unless countersigned by the County Judge of counties to which this Act applies nor unless accompanied by certificate from such road supervisor that the payee named in the warrant, where the same be issued for labor, has actually performed the number of hours set forth at the appropriate rate per hour. Any road supervisor who issues a fraudulent warrant shall be guilty of a misdemeanor and upon conviction, shall be fined not less than \$10.00, nor more than \$50.00, and imprisoned for not less than sixty days nor more than six months in the county jail. The road supervisor, with the approval of the County Judge, shall have the power and authority to make emergency purchases of supplies, materials, repair parts for road machinery or equipment and the like, provided any such emergency purchase does not exceed the sum of \$500.00. The road supervisor shall, at least 10 days prior to each regular meeting of the Quarterly County Court, make and file with the County Court Clerk a list showing all supplies, gas, oil, tires, materials, repair parts, equipment, machinery and the like that he thinks it necessary or desirable to purchase within the next 3 months and the estimated cost thereof; and the County Judge, with the approval of the Quarterly County Court, shall appoint a committee consisting of 3 members of the County Court who, along with the road supervisor and the County Judge, shall have and are hereby given the power and authority to, after the taking of bids, enter into contracts in the name of the County for the purchase of said supplies, gas, oil, tires, materials, repair parts, equipment, machinery and the like as they deem it necessary or desirable to purchase. No contract for the purchase of supplies, gas, oil, tires, materials, repair parts, equipment, machinery and the like shall be binding upon the County unless the same is made in accordance with the provisions of this Act and signed by the road supervisor and the County Judge in the case of emergency purchases in amounts under \$500.00, and signed by the road supervisor, the County Judge and said 3 members of the County Court in the case of purchases other than emergency purchases. The road supervisor herein named shall at least ten days prior to the next meeting of the Quarterly County Court of counties to which this Act applies make and file with the County Court [sic] Clerk a full and complete report of all disbursements made by him since the date of the last report. Each report so made shall contain all disbursements up to the first of the calendar month in which such report be made; and such report when filed with the County Court Clerk shall be preserved by him as a part of the records of his office, shall be spread upon the minutes of the court if the Quarterly County Court so elect and shall be available for inspection by any interested citizen.

As amended by: Private Acts of 1959, Chapter 130.

SECTION 3. That all applications to open, discontinue and change roads shall be made to the road supervisor and in addition thereto, such supervisor and the approval of the Quarterly County Court shall have power to do the same upon his own initiative and by the approval of the Quarterly County Court. For the purpose of more effectively making practicable such changes in the roads, the county, acting through the supervisor, shall have and possess the power of eminent domain which shall be exercised in the following manner:

Whenever the Road Supervisor and by the approval of the Quarterly County Court shall be of the opinion that a change or alteration in the present system of roads shall be necessary, he shall give notice to the landowner affected of the location of such proposed change and of the [sic] date upon which a jury of view will be summoned to view the proposed change and to award damages. He shall likewise file a copy of such notice in writing with the Sheriff of counties to which this Act applies and thereupon the Sheriff shall appoint a jury of view of five members to go upon and examine the premises and to assess the damages occasioned to the landowner by such change. The award of such jury of view shall be made in writing and filed with the County Court Clerk and all

damages and costs awarded under this Act shall be and become a charge against [sic] the general funds of counties to which this Act applies. Any person aggrieved by the action of the jury of view herein provided may within ten days after the filing of said report by the jury of view with the County Court Clerk, appeal therefrom to the next term of the County Court of said County by giving security or executing the pauper's oath as required by law; and from the action of the Quarterly County Court an appeal lies to the next term of the Circuit Court of said county, either party being entitled to get a jury upon his or her application at the hearing in such Circuit Court.

In addition to the right to condemn land for the purpose of changes in existing roads, such county is given the power of eminent domain with respect to borrow pits, gravel pits, sand banks and other material deemed necessary as essential in the construction of roads. The procedure in case of condemnation thereof shall be the same as that provided above; but nothing herein shall deny to such county the right to proceed to condemn such property under the procedure now provided by the general statutes of Tennessee for the exercise of eminent domain of public corporations, the procedure herein provided being merely alternative rather than exclusive. The road supervisor herein named shall have and exercise full and complete control over all bridges forming a part of the county highway system and such bridges shall be treated as a part of the road system for the purposes of this Act.

SECTION 4. That the Legislature hereby declares that the provision [sic] of this Act are severable and if any part thereof be unconstitutional, the Legislature expressly declares that it would have enacted this Act with such unconstitutional section elided therefrom; and that all laws and parts of laws in conflict herewith, be and the same are hereby repealed.

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

Passed: February 2, 1943.

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 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 now 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 Benton County, but which are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1849-50, Chapter 210, authorized the Trustees of Benton, Henry, and Carroll Counties to draw out of the Branch of the Bank of Tennessee at Trenton, the unexpended

balance of the funds appropriated to improve the navigation of the Big Sandy River, the same being divided into three equal shares and given to each county. The County Court was allowed to spend these funds on bridges and causeways, if desired. The money could also be lawfully invested in the stock of the Huntingdon and Tennessee Turnpike Company, if the County Courts so wished to do.

2. Public Acts of 1901, Chapter 136, was a statewide road law which applied to all counties under 70,000 in population, as established by the 1900 Federal Census. This act served as a pattern for many county road laws which followed. The act required the County Court of each County to elect one Road Commissioner from each Road District, which were co-extensive with the civil districts of the county for two year terms, who would be in charge of the roads, bridges, causeways, and overseers in that district, and whose duties were generally specified in the act. The County Courts shall assign road hands, specify the number of days they should work on the roads each year, and the amount to be paid by them if they didn't work, which would run between 5 and 8 days. The Courts could levy a special road tax of two cents per \$100 property valuation, two-thirds of which could be worked out on the roads and two-thirds of the same must be spent in the district from whence it came. Certain records were directed to be kept and reports were to be made. The duties of the Commissioners were outlined generally. Male residents between 21 and 45 years of age were subject to compulsory road labor after being properly notified. Roads must be classified into four classes according to width and some basic specifications were pronounced for laying out and building roads. Petitions to open, close, or change roads would be filed with, considered by, and disposed of by the Commission. Workhouse prisoners could be worked on the roads if certain conditions were met and arrangements were made with the Sheriff. This act was tested in the courts by the case of Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1905).
3. Acts of 1905, Chapter 478, amended Public Acts of 1901, Chapter 136, in several minor particulars but principally in the procedures established for considering and disposing of petitions filed with the Road Commission to open, close, or change roads.
4. Private Acts of 1919, Chapter 435, created a 3 member Board of County Highway Commissioners, elected to staggered two year terms by the County Court. The County Judge or Chairman, would be an ex-officio member of the Commission whose members must be sworn and bonded. A Chairman and a Secretary would be chosen from the members. A list of 19 duties of the Commission, and their power and authority, is compiled in Section 5 of the act, ranging over the whole spectrum of highway operations and maintenance. The County Court was empowered to designate the public roads of the county, which were to be classified within a minimum width of 14 feet and a maximum of 24 feet. The Commission will set aside out of the highway funds a sum sufficient to prosecute all the above work, and they could contract with farmers along the road for work payable out of these same funds. The Commission may enter upon private lands to obtain rights of way and materials either by contract or by condemnation. Commissioners would be paid \$3.00 per day for their services, including their inspections but were limited to \$90 per plus, their necessary travel expenses. Supervisors could be appointed by the commissioners for roads of three to eight miles in length who would be directly responsible for those roads. Obstruction of roads was prohibited under penalty of fine and imprisonment. The County Court was allowed to levy a special highway tax of from 50 cents to \$1.00 per \$100 property valuation which would not interfere with or supersede any other road tax then in force. Blanket authority to issue

bonds was also vested in the commission the proceeds of all of which would be used to accomplish road objectives.

5. Private Acts of 1919, Chapter 451, is contained in some works on private acts as relating to Benton County but this act applies only to Wayne County. The population figures quoted were "no less than 12,050 and no more than 12,070". The 1910 Federal Census gave Benton County a population of 12,452.
6. Private Acts of 1921, Chapter 690, is also shown as applying to Benton County, but it amends the act above, and consequently does not apply to Benton County.
7. Private Acts of 1923, Chapter 532, was the next road law for Benton County but contained only a general repealing clause. After defining several terms as used in the act, it creates a County Highway Commission, naming C. N. Matlock, S. L. Bawcum, N. P. Lashlee, Bob Smith, and J. F. Dowdy to the commission, who shall hold office until the August, 1924, general elections produce their successors. The duties of their offices were specified and their term of office set at two years. The Supervisor of Roads would be the Chairman of the Commission, who could employ a Secretary, and the duties of both were spelled out in the act. The Road Districts would be the same as the civil districts, for each of which an overseer or foreman would be appointed to discharge certain specified duties. All males, not residents of cities, between the ages of 21 and 50 shall work five, 8 hour days or pay commutation fees. Fines were provided for those who failed to comply. Purchasing procedures were established which required bids to be solicited and records to be kept. Prisoners, and convicts, could be worked if certain conditions were met. The Chairman of the commission would be paid \$1,000 a year, and the members would be paid \$3.50 per meeting. This act was repealed by Private Acts of 1929, Chapter 868.
8. Private Acts of 1927, Chapter 746, amended Private Acts of 1923, Chapter 532, above, in Section 3 by reducing the membership of the County Highway Commission from five to three members and specifying certain qualifications to be met. Section 4, was amended by adding a provision that the commission would pay their office expenses and then use any money coming into their hands, or appropriated for their use, to run and operate a tractor and grader on roads under their supervision from February 1 to September 1, of each year, said tractor and grader not to be used at any other time. Section 6 was changed to increase the annual salary of the Secretary to the Commission to \$600 payable monthly. Section 8 was revised so that people with teams and wagons, between ages of 21 and 50, must furnish them for road work and use them as the commission, or overseer directed. The salary of the Chairman was increased from \$1,000 to \$1,500 annually, and his bond from \$5,000 to \$7,000. This act was also specifically repealed by Private Acts of 1929, Chapter 868, below.
9. Private Acts of 1929, Chapter 868, specifically repealed Private Acts of 1923, Chapter 532, and Private Acts of 1927, Chapter 746, and then wrote a new road law for Benton County. A board of Road Commissioners was created consisting of one member from each Road District which were the same as the 16 Civil Districts, plus the County Judge, who would be the ex-officio Chairman of the Board and in charge of the spending of all money at a compensation of at least \$25 per month for his services. R. G. Farmer, W. B. Warrick, and R. H. Crockett the present Road Commission would be members also of the new one until their terms of office expired. Farmer was appointed as County Supervisor, and the other Supervisors for the Districts were to be appointed by the County Court for two year terms,

if the established qualifications were met. The County Supervisor would be paid from \$100 to \$150 a month as the County Court determined, and must execute a \$5,000 bond. The District Commissioners were in charge of their Districts, and would appoint overseers who would be fined, if they did not serve. Overseers would work six days labor, as other males would, and then could work not more than ten additional days at \$2.50 a day and five cents per mile travel allowance. Purchasing regulations were adopted to which all must adhere, but work could be contracted, if desired, which must take place between April and October. The special road tax levy could range between fifteen and thirty cents per \$100 property valuation. All males between the ages of 21 and 50 must work six, eight hour days, or pay 50 cents a day commutation. Wagons and teams must be furnished by those who had them but drivers could be found elsewhere, if necessary. A privilege tax of \$3.00 for a car, and \$5.00 for a truck, was levied. The County Court Clerk would collect the privilege tax and give each purchaser a metal tag when the tax was paid. See Frazier v. Lindsey, 162 Tenn. 230, 36 S.W.2d 437 (1931).

10. Private Acts of 1931, Chapter 200, evidently superseded the 1929 act, Item 10, above, as the new Road Law for Benton County although it contained only a general repealer. This act created a 3 member County Highway Commission naming R. L. Farmer, B. C. Bell, and J. Carley Martin as such until the general election in August, 1932, when their successors would be elected for two year terms. Farmer was to be the chairman of the Commission and the County Road Supervisor. Twelve roads were named in this the act as the ones to be worked first, the intention being to get at least one road through each Civil District. The Commission would select the roads to be worked, appropriate the money for the same, and the Supervisor was not to exceed that amount. The Chairman would be the Road Supervisor and be in charge of all county road programs keeping accurate records of all details as required. The Commission would appoint an overseer who would be responsible for road work in his district, the same being coextensive with the Civil Districts. All males between ages of 21 and 45, outside of cities, must work five, eight hour days, or pay 75 cents per day for each day not worked, or a \$3.00 lump sum. The Chairman would be paid \$1,500 per year at the rate of \$125 a month and the members would get \$3.50 a day. All the other provisions of this act were similar to those preceding it. This act was repealed by the following one.
11. Private Acts of 1931, Chapter 315, expressly repealed Private Acts of 1931, Chapter 200, almost by the time it became effective which would probably restore Private Acts of 1929, Chapter 868, as the Benton County Road Law.
12. Private Acts of 1933, Chapter 314, expressly repealed Private Acts of 1929, Chapter 868, which presumably was the road law for Benton County, in its entirety.
13. Private Acts of 1935, Chapter 710, provided that the Tennessee Department of Highways and Public Works shall have and exercise full control, direction, and supervision of all funds received by Benton County for road purposes from the State of Tennessee whether the funds come from auto registration fees, gasoline taxes, or any other source. The Department shall receive these funds directly from the State and expend them upon the roads of the County, rendering a monthly statement to the County Judge, or Chairman, for all receipts and disbursements. This Act was held unconstitutional by the Supreme Court in Benton County v. Plunk, 170 Tenn. 253, 94 S.W.2d 389 (1936), because it was considered to be class legislation.

14. Private Acts of 1949, Chapter 259, amended Chapter 250, Private Acts of 1943, Section One, by increasing the annual salary of the Road Supervisor from \$1,800 to \$2,400 and, further, by raising the annual salary of the Secretary-Bookkeeper, authorized in the same Section, from \$900 to \$1,200.
15. Private Acts of 1959, Chapter 129, would have amended Private Acts of 1943, Chapter 250, Section 3, by adding a paragraph which directed the Road Supervisor to use State Aid Funds for the acquisition of rights-of-way for county roads and bridges for the purposes of maintaining county roads and bridges as referred to the Section 54-401, Tennessee Code Annotated. This Act was rejected and disapproved by the Quarterly County Court of Benton County and, consequently, never became an effective law under the Home Rule Amendment to the State Constitution.
16. Private Acts of 1959, Chapter 130, amended Private Acts of 1943, Chapter 250, Section One, by raising the salary of the Road Supervisor from \$2,400 to \$3,600 per year, and by increasing the amount of his bond from \$5,000 to \$10,000 with the proviso that the bond be made by some corporate surety authorized to do business in the State of Tennessee, and provided further, that the county pay the premium. Section 2 was amended by striking one sentence which prohibited the Road Supervisor from purchasing machinery, or materials, over \$500 unless such purchases were first approved by the County Court and inserting the provisions on purchasing which appear in the published act.
17. Private Acts of 1961, Chapter 245, amended Private Acts of 1943, Chapter 250, Section One, by adding a provision which would pay the Road Supervisor, in addition to his annual salary of \$3,600, \$50 per month to cover all his personal expenses incident to his official duties. This amendment is incorporated into the published act.
18. Private Acts of 1963, Chapter 250, amended Private Acts of 1943, Chapter 250, Section One, by increasing the salary of the Secretary- Bookkeeper as provided for in that Section, from \$1,200 to \$1,800, as shown in the act, this law being properly ratified by the Benton County Quarterly County Court.
19. Private Acts of 1967-68, Chapter 312, would have amended Private Acts of 1943, Chapter 250, Section One, by increasing the term for which the Road Supervisor would be elected from two years to four years but this act was rejected and disapproved at the local level which nullified its effectiveness.
20. Private Acts of 1967-68, Chapter 313, also amended Private Acts of 1943, Chapter 250, Section One, by increasing the salary of the Road Supervisor from \$3,600 to \$7,200 annually. This act was also rejected by the Benton County Quarterly Court and never did become a law.
21. Private Acts of 1973, Chapter 8, amended Private Acts of 1943, Chapter 250, Section One, by raising the annual salary of the Road Supervisor from \$3,600 to \$6,000.
22. Private Acts of 1973, Chapter 26, would have amended Private Acts of 1943, Chapter 250, Section One, by deleting the last sentence and inserting in its place a provision which would permit the Road Supervisor to employ a Secretary-Bookkeeper and to set a suitable salary for such person himself which salary would be paid to the employed person out of the county

highway funds, and by amending Section Two by increasing the limitation placed on purchases without approval from the County Court from \$500 to \$1,000. This act was rejected and disapproved by the Benton County Quarterly Court, thus being nullified and made void.

23. Private Acts of 1974, Chapter 177, would have amended Private Acts of 1943, Chapter 250, Section One, by increasing the term of the Road Supervisor from two years to four years, by increasing the Road Supervisor's annual salary from \$6,000 to \$11,000, and his bond from \$10,000 to \$100,000. The provision for the employment of a Secretary-Bookkeeper was changed by removing the \$1,800 limitation on the yearly salary and by requiring that the Secretary-Bookkeeper be paid an amount at least equal to minimum hourly wage being paid to truck drivers and the salary of this position would be increased when the truck drivers salary was elevated in the same amount and at the same time. This act was rejected and rendered null and void by the Quarterly County Court of Benton County.

CHAPTER X - LAW ENFORCEMENT

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.

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.

The act once affecting Benton County, which related to the militia and to other law enforcement agencies other than the sheriff, is mentioned below.

1. Acts of 1837-38, Chapter 157, Section 3, sets a schedule for county drills for all the county militia's by amending the Militia Law of the State. Benton County was assigned to the 18th Brigade with Henry and Carroll County and musters would be conducted on the first Thursday and Friday after the first Friday and Saturday in September of each year.

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 Benton County Sheriff's Office.

1. Private Acts of 1929, Chapter 283, provided that the Sheriff of Benton County, using the population figures of the 1920 Federal Census, in addition to all the other fees of his office, shall be paid a salary of \$800 per year out of the regular county funds, upon the warrant of the County Judge, or Chairman, at the rate of \$66.67 a month. It was made the duty of the County Judge to initiate this warrant every month.
2. Private Acts of 1969, Chapter 114, stated that in all counties having a population of not less than ten thousand six hundred (10,600) nor more than ten thousand seven hundred (10,700) according to the Federal Census of 1960, the county sheriff shall be entitled to and receive the sum of Eight Thousand Five Hundred Dollars (\$8,500.00) per year payable in twelve equal installments in accordance with Section 8-2404, Tennessee Code Annotated.

CHAPTER XI - TAXATION

TAXATION

ASSESSOR OF PROPERTY

EXPENSE ACCOUNT

PRIVATE ACTS OF 1961

CHAPTER 390

SECTION 1. That this Act shall apply to all counties having a population of not less than 10,600 nor more than 10,700 inhabitants, according to the Federal Census of 1960 or any subsequent Federal Census.

SECTION 2. That in all cases in Counties coming under the provision of this Act that a sum not to exceed Twelve Hundred Dollars (\$1200.00) in a fiscal year, the exact amount of which is to be determined by the Quarterly Court of such County, is authorized to be expended by a warrant drawn on the general funds of such County for the payment of the expenses of the Tax Assessor incurred in the discharge of his duties as such official, and for payment, also, of a salary for a Deputy Tax Assessor.

SECTION 3. That the money appropriated for salary shall be paid direct to the deputy Tax Assessor by the fiscal agent, or County Judge, and the money appropriated for expenses shall be paid in the same manner directly to the Tax Assessor, but in no case shall the total exceed \$1200.00 annually.

SECTION 4. That this Act shall be void and of no effect unless within three months of the final legislative action thereon the same shall be approved and ratified by two-thirds majority of the Quarterly County Court.

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

Passed: March 16, 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 minimum 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 Benton County Assessor.

1. Private Acts of 1911, Chapter 411, amended Acts of 1907, Chapter 602, by setting the annual salary of the Assessor of Property for several individual Counties among which was Benton County. The annual salary of the Tax Assessor for Benton County was set at \$400 per year, payable out of the regular county funds.
2. Private Acts of 1913, Chapter 345, established the annual salary of the Tax Assessor of Benton County at \$600 using the 1910 Federal Census figures. All conflicting Acts were repealed, this Act would become effective in 1913, and no conditions for paying the increased salary were mentioned.
3. Private Acts of 1929, Chapter 866, provided that the Tax Assessor of Benton County, identified by the use of 1920 Federal Census population figures, shall be paid a salary of \$800 a year payable quarterly out of the regular funds of the county on the warrant of the County Judge.
4. Private Acts of 1945, Chapter 507, fixed the annual salary of the Tax Assessor of Benton County at \$1,200 to be paid at rate of \$100 a month on the last day of each month out of the County treasury on the warrant of the County Judge, or Chairman.
5. Private Acts of 1953, Chapter 281, fixed the salary of the Tax Assessor of Benton County at \$1,800 a year payable \$150 a month out of the county treasury on the warrant of the County Judge, or Chairman.

TAXATION

CEMETERIES

PRIVATE ACTS OF 1953

CHAPTER 280

SECTION 1. That in counties of the State of Tennessee having populations of not less than 11,490 nor more than 11,500, the Quarterly County Courts of such counties are hereby authorized and empowered to levy a special tax for the purpose of the upkeep, maintenance, and improvement of cemeteries located within said counties.

SECTION 2. That it shall be within the discretion of the Quarterly County Court to set the amount of such tax.

SECTION 3. That the funds derived from said tax shall be collected and distributed in the same manner as the other funds of the County, however, said fund so collected shall be designated as the Cemetery Fund.

SECTION 4. That the Quarterly County Courts of such counties are hereby authorized to appoint committees composed of three members of the County Court to serve for a period of one year, to administer the fund on behalf of the Quarterly County Court and to designate for what and where such expenditures shall be made.

SECTION 5. That the Quarterly County Courts are authorized to levy such tax annually.

SECTION 6. That this Act shall take effect from and after its passage, the public welfare requiring it.

SECTION 7. That all laws and parts in conflict herewith are hereby repealed.

Passed: March 26, 1953.

TAXATION

HOTEL/MOTEL TAX

PRIVATE ACTS OF 1994

CHAPTER 189

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 County Clerk of Benton County, Tennessee.

(3) "County" means Benton 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.

SECTION 2. The legislative body of Benton County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

SECTION 3. The proceeds 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 Benton 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, lodgings, spaces or accommodations in hotels within the county to the county 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 for remitting the tax levied by this act the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the clerk in the form of a deduction in submitting the 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, shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the clerk by the operator with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the clerk and approved by the county legislative body prior to use. The clerk shall audit each operator in the county at least once a year and shall report on the audits made on a quarterly basis to the county legislative body.

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

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

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

SECTION 9. It is 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 necessary to determine the amount of tax due and payable to the county. The clerk has the right to inspect such records at all reasonable times.

SECTION 10. The clerk in administering and enforcing the provisions of this act has 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 services in administering and enforcing the provisions of this act, the clerk is entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67; it is 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 of Benton County to be used for the purposes stated in Section 3.

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 Benton County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by such presiding 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, this act shall take effect upon being approved as provided in Section 14.

Passed: April 19, 1994.

TAXATION

MINERAL SEVERANCE TAX

PRIVATE ACTS OF 1979

CHAPTER 89

SECTION 1. Benton County by resolution of its county legislative body is authorized to levy a tax on all sand, gravel, limestone and all other minerals severed from the ground within its jurisdiction. The tax shall be levied for the use and benefit of Benton County only and all revenues collected from the tax, except deductions for administration and collection provided for herein, shall be allocated to Benton County.

Administration and collection of this tax shall be by the county clerk of Benton County who shall have the power to promulgate all rules and regulations necessary and reasonable for the administration of the provisions of this act.

SECTION 2. The rate of the tax shall be set by the county legislative body, but shall not exceed five cents (5¢) per ton of sand, gravel, limestone, or other mineral products severed from the ground in the county. Every interested owner shall be liable for this tax to the extent of his interest in such products. The owner shall become liable at the time the sand, gravel, limestone, or other mineral product is severed from the earth and ready for sale, whether before processing or after processing as the case may be.

The term "sand, gravel, limestone, or other mineral product" shall mean sand, gravel, limestone, or any other mineral severed from the earth in the process of producing a saleable product by whatever means of severance used. It shall not include, however, any mineral taxed under the provisions of Tennessee Code Annotated, Sections 67-5901 through 67-5905. The tax is levied upon the entire production in the county regardless of the place of sale or the fact that delivery may be made outside the county. The tax shall accrue at the time the sand, gravel, limestone, or other mineral product is severed from the earth and in its natural or unprocessed state. The tax levied shall be a lien upon all sand, gravel, limestone, and other mineral products severed in the county and upon all property from which it is severed, including but not limited to mineral rights of the producer, and such lien shall be entitled to preference over all judgements, encumbrances or liens whatsoever created.

SECTION 3. The tax levied by this act shall be due and payable monthly on the first day of the month next succeeding the month in which the sand, gravel, limestone, or other mineral products are severed from the soil. For the purpose of ascertaining the amount of tax payable it shall be the duty of all operators in Benton County to transmit to the county clerk on or before the fifteenth (15th) day of the month next succeeding the month in which the tax accrues, a return upon forms provided by him. The return shall show the month or period covered, the total number of tons of each type of mineral, sand, gravel, limestone, or other mineral product severed from each production unit operated, owned or controlled by the taxpayer during the period covered, the amount of the tax and such other information as the county clerk may require. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 4. The tax levied by this act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which such tax accrues. When any operator shall fail to make any return and pay the full amount of tax levied on or before such date there shall be imposed, in addition to other penalties provided herein, a specific penalty in the amount of ten percent (10%)

of the tax due. Whenever a penalty is imposed there shall also be added to the amount of tax and penalty due interest thereon at the rate of six percent (6%) per annum from the date due until paid. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is due to an intent to evade payment. If the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing sand, gravel, limestone or other mineral products from a production unit from which sand, gravel, limestone, or other mineral products have been severed and sold and upon which the tax is due. Restraint proceedings shall be instituted in the name of the county by the district attorney general for the county upon the request of the Benton county clerk.

All such penalties and interest imposed by this act shall be payable to and collectible by the county clerk in the same manner as if they were a part of the tax imposed and shall be retained by the county clerk's office to help defray the expenses of administration and collection.

Any person required by this act to make a return, pay a tax, keep records, or furnish information deemed necessary by the county clerk for the computation, assessment, or collection of the tax imposed by this act, who fails to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation is, in addition to other penalties provided by law, guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than one thousand dollars (\$1000), or by imprisonment for not more than one (1) year or both.

Any person who willfully or fraudulently makes and signs a return which he does not believe to be true and correct as to every material fact is guilty of a felony and subject to the penalties prescribed for perjury under the law of this state. For purposes of this section the word "person" also includes an officer or employee of a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

SECTION 5. When any person shall fail to file any form, statement, report or return required to be filed with the county clerk, after being given written notice of same, the county clerk is authorized to determine the tax liability of such person from whatever source of information may be available to him. An assessment made by the county clerk pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return together with such supporting evidence as the county clerk may require indicating precisely the amount of the alleged inaccuracy.

SECTION 6. All revenues collected from the severance of sand, gravel, limestone, or other mineral products in Benton County less an amount of three percent (3%) of the tax and all of the penalties and interest collected, which shall be retained by the office of county clerk and credited to its current service revenue to cover the expenses of administration and collection, shall be remitted to the county clerk of Benton County. These revenues shall become a part of the general fund of Benton County, subject to appropriation by the county legislative body.

Any adjustment of taxes, penalties or interest with Benton County which is deemed necessary in order to correct any error may be made on a subsequent disbursement to that county.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Benton County before September 1, 1979. Its approval or

nonapproval shall be proclaimed by the presiding officer of the Benton County legislative body and certified by him to the Secretary of State.

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

Passed: April 24, 1979.

TAXATION

PULPWOOD SEVERANCE TAX

PRIVATE ACTS OF 1997

CHAPTER 55

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

(1) "County" means Benton County.

(2) "Person" means an individual, corporation, partnership, limited partnership, conglomerate, or any other entity owning or possessing an interest in lands located in the county.

(3) "Pulpwood" means trees severed from the ground, both hardwood and softwood, whether whole or part, that is ground or chipped and manufactured into salable wood or paper products.

SECTION 2. (a) There is hereby levied a severance tax on all pulpwood products severed from the earth and in their natural or unprocessed state. The tax is levied on the entire production in the county regardless of the place of sales or the fact that delivery may be made outside the county.

(b) The tax shall accrue at the time such products are severed from the earth and in their natural or unprocessed state.

(c) The tax levied shall be a lien upon all such products severed in the county, which lien upon such products shall be entitled to preference over all judgments, encumbrances or liens whatsoever created; and upon the real property from which such products were severed provided that, with respect to real property, said lien shall be effective when the county causes a notice thereof to be filed in the office of the register of deeds of the county in which the real property lies, second only to liens of the state, county and any municipality for taxes, any lien of the county for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice; such notice shall identify the owner of record of the real property, contain the property address, if any, describe the property sufficiently to identify it, and recite the amount of the obligation secured by the lien.

SECTION 3. The measure of the tax is fifteen cents (\$0.15) per ton on all pulpwood products severed from the ground in the county.

SECTION 4. Every interested owner shall be liable for this tax to the extent of the owner's interest in such products. The owner shall become liable at the time the pulpwood products are

severed from the earth and ready for sale, whether before processing or after processing as the case may be.

SECTION 5. (a) The tax levied by this act shall be due and payable monthly on the tenth (10th) day of the month next succeeding the month in which the pulpwood is severed from the soil.

(b) For the purpose of ascertaining the amount of tax payable, it shall be the duty of all owners to transmit to the county trustee, on or before the fifteenth (15th) day of the month next succeeding the month in which the tax accrues, a return upon forms provided by the county trustee. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 6. (a) The tax levied by this act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which such tax accrues.

(b) When any owner fails to make any return and pay the full amount of the tax levied on or before such date, there shall be imposed, in addition to other penalties provided herein, a specific penalty in the amount of ten percent (10%) of the tax due. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is due to an intent to evade payment.

(c) All such penalties and interest imposed by this act shall be payable to and collectible by the county trustee in the same manner as if they were a part of the tax imposed.

SECTION 7. If the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing pulpwood from all production units administered, owned or possessed by that person in the county from which such products may be severed and sold and upon which the tax is due. Restraint proceedings shall be instituted in the name of the county by the sheriff upon the request of the county trustee.

SECTION 8. The proceeds of the tax levied by this act shall be deposited in the general fund of the county, and all or part of the proceeds may be designated by the county commission.

SECTION 9. (a) It shall be a violation of this act for any person required by this act to make a return, pay a tax, keep records, or furnish information deemed necessary by the county trustee for the computation, assessment, or collection of the tax imposed by this act, to fail to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation. It shall be a violation for any person to willfully or fraudulently make and sign a return which such person does not believe to be true and correct as to every material fact.

(b) Violations of the provisions of this act shall be punishable by a fine of not more than one thousand dollars (\$1,000.00).

(c) For purposes of this section the word "person" also includes an officer or employee of a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

SECTION 10. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Benton County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and so certified to the Secretary of State.

SECTION 11. For the purposes of approving or rejecting the provisions of this act, as provided in Section 10, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes it shall upon such approval become effective July 1, 1997.

Passed: May 14, 1997.

TAXATION

GENERAL REFERENCE

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 Benton County which are no longer effective.

1. Public Acts of 1870-71, Chapter 50, stated that all counties and cities could levy taxes for county and city purposes under the following conditions; (1) that all taxable property be taxed according to its value and in compliance with the principles laid down for State taxation; and (2) that no the credit of a county or city, shall be given or loaned to any person, firm, or corporation, except on a majority vote of the magistrates in court to submit the issue in a referendum vote to the people where the same must be adopted by a three-fourths majority. Several counties exempted themselves from the requirement of the three-fourths vote for the next ten years, but Benton was not included.
2. Private Acts of 1927, Chapter 422, provided that all taxes assessed and collected for road purposes by counties which are on property and privileges inside incorporated cities, shall be paid by the counties to the cities to be used where the money originates to maintain roads. The tax levy shall be the same in both and the money raised shall be paid to the Recorder of the city.
3. Private Acts of 1929, Chapter 693, authorizes the Quarterly County Court of Benton County to levy a special tax rate to meet the expense of paupers, pauper coffins, county farm, Western Hospital, lunacy inquests, court house sewerage, expense for jury services, jail expense, boarding prisoners, salaries of officers, court employees, building and repairing bridges and levees, and for miscellaneous expenses. They could also borrow money against the credit of the county in case of floods, fires, tornadoes, and other emergencies. See N.C. & St. L. Railroad v. Benton County, 161 Tenn. 588, 33 S.W.2d 68, (1930) upholding the validity of this law.
4. Private Acts of 1931, Chapter 338, stated that in Benton County when any taxes on real estate, personal property, or poll taxes became delinquent in the office of the County Trustee,

he shall not be required to certify delinquent lists of unpaid taxes to officers for collection but shall proceed to the collection of the said taxes at no extra compensation for doing so.

5. Private Acts of 1971, Chapter 32, levied a wheel tax in Benton County for the privilege of using the County roads on all vehicles except farm tractors and farm machinery not generally used to being on the highways. The tax was \$10 for the first vehicle, \$7.50 for the second vehicle, \$5.00 for the third vehicle and fifty cents for each additional vehicle owned. The County Court Clerk would collect the tax on or before July 1st of each year. This Act was rejected by the Quarterly County Court and thus failed to become effective.
6. Private Acts of 1975, Chapter 2, levied a motor vehicle tax of \$15 and a motorcycle tax of \$9.50 on all vehicles and motorcycles in the counties having a population of 12,050 minimum and 13,000 maximum which would include Benton County. All the essential details of administering the tax and collecting the same were also embodied in the statute. However, Public Acts of 1975, Chapter 23, changed the population quotes to read "no less than 12,050 and no more than 12,100 according to the 1970 Census", which would make this act effective only in Hickman County.