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Chapter XI - Taxation

Dear Reader:

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

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

Sincerely,

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Chapter XI - 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.

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.

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 or campground, tourist court, tourist cabin, motel, or campsite; any campsite, tourist cabin, tourist court, tourist camp or campsite, inn, hotel, or motel owned or operated by a governmental entity; 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, and includes governmental entities.
7. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.
8. "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

As amended by: Private Acts of 2020, Chapter 52.

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.

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 fifteen cents (15¢) 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.

As amended by: Private Acts of 2021, Chapter 15.

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.

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 or authorized tax collector has the right to inspect such records at all reasonable times.

As amended by: Private Acts of 2021, Chapter 15.

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.

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.

(d) The clerk or authorized collector of the tax 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.

As amended by: Private Acts of 2021, Chapter 16.

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.

SECTION 12. 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 or authorized collector of the tax has the right to inspect such records at all reasonable times.

As amended by: Private Acts of 2021, Chapter 16.

Passed: May 14, 1997.

Taxation - Historical Notes

Assessor of Property

The following acts were superseded, repealed or failed to win local ratification, but they are listed here as a reference to laws which once affected the 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

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.

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