



County Technical Assistance Service  
INSTITUTE *for* PUBLIC SERVICE

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# Chapter I - Administration

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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,

The University of Tennessee  
County Technical Assistance Service  
226 Anne Dallas Dudley Boulevard, Suite 400  
Nashville, Tennessee 37219  
615.532.3555 phone  
615.532.3699 fax  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

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# Chapter I - 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.

## Forrest Memorial Park

### Public Acts of 1963 Chapter 101

**COMPILER'S NOTE:** This is a special legislation that is not printed in the Tennessee Code Annotated.

*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.

## Northwest Tennessee Development Agency

### Public Acts of 1967 Chapter 345

**COMPILER'S NOTE:** This is special legislation that is not printed in the Tennessee Code Annotated.

**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 intergrading 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 [5-11-101 through 5-11-125], Tennessee Code Annotated, and for municipalities in Sections 6-1601 through 6-1632 [7-36-101 through 7-36-125], 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 [65-23-101 through 65-25-123], Tennessee Code Annotated, or the Tennessee Rural Electrification Authority, when and if organized by authority of Sections 65-2301 through 65-2323 [65-23-101 through 65-25-123], 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.

## 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.

## 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 - Historical Notes

### **Budget System**

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.

### **County Legislative Body**

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.

### **County Mayor**

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.
  3. 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.
  4. 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.
  5. 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.
  6. 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.

### **General Reference**

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.

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