



November 21, 2024

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# Clay

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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.

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# Clay



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Clay County Courthouse

# Chapter I - Administration

## Celina Port Authority

### Private Acts of 1974 Chapter 346

**SECTION 1.** That in order to facilitate transportation in the County of Clay and City of Celina in the State of Tennessee, and to promote navigation on the Cumberland River, which traverses portions of the said county; to facilitate the movement and transfer of people, goods, and merchandise to, from and through the said county, to aid in the utilization of the natural resources and recreation and water sports facilities and activities therein, and for the development of commerce and industry in said county, there is hereby established in Clay County and City of Celina, Tennessee a Port Authority, to be known as "The Celina Port Authority" "The Cumberland River Port Authority" or "The Celina Port Authority Commissioners," for the purposes of (a) acquiring, constructing, operating, and maintaining ports and navigation terminals on the Cumberland River and its tributaries, including docks, wharves, piers, loading and unloading machinery, scales, transportation equipment, harbor and river front improvements, storage and transfer facilities, elevators, and all other advisable appurtenant port and terminal facilities; (b) acquiring, holding, improving and disposing of lands in the vicinity of such ports and terminals which are suitable for the various purposes herein set forth and for use by manufacturing, processing, or fabricating plants or other industries which require access to the waters of the Cumberland River and its tributaries in their operation; and (c) acquiring, constructing, operating and maintaining concentration yards, recreation and water sports facilities, roads and bridges, and communication, electric power, gas, water, and all other utility facilities, including the aforesaid industrial sites, and to provide that the same shall be under the jurisdiction, control, and management of the Celina Port Authority 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 (sic) herein granted, in connection therewith, are declared to be public and corporate purposes and matters of public necessity.

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

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

(a) To acquire, construct, purchase, operate, maintain, repair, rebuild, extend, and improve within the boundaries of Clay County and City of Celina, Tennessee (except not within the present corporate limits of Celina, without first obtaining express permission and authority from the governing body of such other municipality), the ports 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 to all channels of commerce, and to make such facilities available to any firm, person, 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 issue and sell bonds payable solely out of the revenue and receipts derived from the Port Authority's projects or of any thereof as may be designated in the proceedings of the port authority commissioners under which the bonds shall be authorized to be issued, including debt obligations of the lessee, devisee, or contracting party obtained from or in connection with the financing of a project;

(c) To borrow money from banks and other financial institutions by issuing its notes for the purpose of carrying out any of its powers;

(d) As security for the payment of the principal of and interest on any bonds or notes so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its projects, or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues and receipts therefrom, or from any thereof, and/or to assign and pledge all or any part of, its interest in and rights under the leases, sale contracts or loan agreements relating thereto or to any thereof;

(e) To annually require an audit to be performed in accordance with provisions of Sections 9-3-111 to 9-3-113, inclusive, Tennessee Code Annotated, of the Authority's operations and to prepare and submit to the governing bodies of Clay County and the Town of Celina for each year, a financial report which shall include a balance sheet, statement of revenues and expenditures, a summary of

activities and accomplishments for the period, and proposed plans for at least the next year.

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

(g) 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.

(h) 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 which, in the judgment of The Port Authority Commissioners, is necessary or convenient to carry out the powers herein granted. The authority herein to acquire property shall include, but not be limited to, the acquisition of lands in the vicinity of the port and terminal facilities provided for herein, which is suitable for use by industries requiring access to the water of the Cumberland River and the navigable channel provided by the Cordell-Hull Reservoir.

(i) To make contracts and execute instruments containing such covenants, terms, and conditions as, in the judgment 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; to make all other contracts and execute all other instruments including, without limitation, licenses, long or short term leases, mortgages, and deeds of trusts, and other agreements relating to property and facilities under its jurisdiction, and the construction, operation, maintenance, repair, and improvement thereof, as in the judgment of said Board of Commissioners may be necessary, proper, or advisable for the furtherance of the purpose 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.

(j) 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.

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

(l) 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.

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

As amended by: Private Acts of 1983, Chapter 150

**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 in the name of the Celina Port Authority, any land, easements, or rights of way in Clay County that, in the opinion of the Board of Commissioners, are necessary or convenient to carry out the purposes of this Act. Title to property so condemned shall be taken by and in the name of the Celina Port Authority, and the property shall thereafter be entrusted to said Authority, to accomplish the purposes of this Act. Such condemnation proceedings shall be pursuant to and in accordance with Sections 23-1401 through 23-1525, inclusive of the 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 judgment 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 taking such property, 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: (a) The Port Authority shall have power to issue negotiable bonds from time to time in order to accomplish any of the purposes authorized by this act, and it shall also have power to issue refunding bonds for the purposes, and in the amounts and manner provided in Section 7-36-103(17), Tennessee Code Annotated, as amended. All such bonds shall be payable solely from all or any part of

the revenues, income and charges of the Port Authority.

(b) Such bonds shall be authorized by resolution of the Board of Commissioners and shall bear such date, mature at such time or times, bear interest at such rate or rates payable annually or semiannually, be in such form and denominations, be subject to such terms of redemption with or without premium, carrying such registration privileges, be payable in such medium and at such place or places, be executed in such manner, all as may be provided in the resolution authorizing the bonds. Such bonds may be sold at public or private sale in such manner and for such amount as the board may determine.

(c) Such resolution may include any covenants with the bondholders deemed necessary by the board to make such bonds secure and marketable, including, but without limitation, covenants regarding the application of the bond proceeds; the pledging, application and securing of the revenues of the Authority; the creation and maintenance of reserves; the investment of funds; the issuance of additional bonds; the maintenance of minimum fees, charges and rental; the operation and maintenance of the Port Authority; insurance and insurance proceeds; accounts and audits; the sale of Port Authority properties; remedies of bondholders; the vesting in a trustee or trustees such powers and rights as may be necessary to secure the bonds and the revenues and funds for which they are payable; the terms and conditions upon which bondholders may exercise their rights and remedies, the replacement of lost, destroyed or mutilated bonds; the definition, consequences and remedies of an event of default; the amendment of such resolution; and the appointment of a receiver in the event of a default.

(d) Any such resolution shall constitute a contract between the Port Authority and the holders of such bonds.

(e) Any holder of any such bonds, including any trustee for any bondholders, may enforce his or their rights against the Authority, its board or any officer, agent or employee thereof by mandamus, injunction or other action in any court of competent jurisdiction, subject to the covenants included in the bond resolution.

(f) All sums received as accrued interest from the sale of any bonds shall be applied to the payment of interest on such bonds. All sums received as principal or premium from such sale shall be applied to the purpose for which such bonds were issued, and may include, but without limitation, expenses for fiscal, legal, engineering and architectural services, expenses for the authorization, sale and issuance of the bonds, expenses for obtaining an economic feasibility survey in connection with such bonds, and to create a reserve for the payment of not exceeding one (1) year's interest on such bonds.

(g) Bonds issued pursuant to this chapter executed by officers in office on the date of such execution shall be valid obligations of the Port Authority notwithstanding that before the delivery thereof any or all of the persons executing the same shall have ceased to be such officers.

(h) All Public officers and bodies of the state, municipal corporations, political subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, all executors, administrators, guardians, trustees, and all other fiduciaries in the state may legally invest funds within their control in bonds issued pursuant to the provisions of this act which contain a pledge of the full faith and credit of Clay County and/or the Town of Celina.

As amended by: Private Acts of 1983, Chapter 150

**SECTION 8.** That the principal of and interest on any bonds issued by the Port Authority shall be secured by a pledge of such revenues and receipts out of which the bonds are authorized to be issued may contain any agreements and provisions respecting the maintenance of the projects, facilities covered thereby, the fixing and collection of rents, fees or payments with respect to any projects, facilities or systems or portions thereof covered by such proceedings, the creation and maintenance of special funds from such revenues and from the proceeds of such bonds, and the rights and remedies available in the event of default, all as the Board of Commissioners shall deem advisable and not in conflict with the provisions of this act. To the extent provided in the proceedings authorizing any bonds of the Port Authority, each pledge and agreement made for the benefit or security of any of the bonds of the Port Authority shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid or adequate provision for the payment thereof shall have been made by the Port Authority. In the event of default in such payment or in any agreements of the Port Authority made as a part of the proceedings under which the bonds were issued, such payment or agreement may be enforced by suit, mandamus, or the appointment of a receiver in equity, or any one or more of said remedies, all as provided in the proceedings under which the bonds were issued.

The county executive and county clerk of Clay County and the Mayor and Recorder of the Town of Celina are hereby authorized and directed, to the extent which is now or hereafter legally possible, to execute all

documents necessary to guarantee or in any other manner to secure the payment of the bond obligations of such Port Authority; provided, however, that the approval of the governing bodies of Clay County and the Town of Celina to such guarantee or security shall have been obtained before the execution of such documents; and provided, further, that if such town and county are called upon to pay any obligations of the Port Authority, such town and county hereby agree that Clay County shall pay one-half (1/2) of such obligation and the Town of Celina shall pay one-half (1/2) of such obligation.

Provided, however, that prior to any meeting where such authorization will be considered by the governing body of the county or town, the governing body shall cause reasonable public notice to be published describing the matter to be considered and containing an estimate of the dollar amount of any contingent liability by the county or town if such authorization is given. The approval by the governing bodies (2/3's) vote of the county legislative body of Clay County and the Board of Mayor and Aldermen of the Town of Celina and such legislative bodies shall also by a two-thirds (2/3's) vote approve the amounts of any bonds and/or notes which may be issued or entered into by the Port Authority.

Any bond issued under this act may be secured by a mortgage or deed of trust covering all or any part of the property, real or personal, or the Port Authority. The requirements for recordation of mortgages and other security instruments in the county Register's office shall be waived in the case of the Port Authority's execution of such mortgages or security instruments.

Any pledging of the credit of Clay County or the Town of Celina or guarantees of bond issues by Clay County or the Town of Celina shall be in accordance with and not contrary to Titles 5,6, and 7, Tennessee Code Annotated, as amended.

As amended by: Private Acts of 1983, Chapter 150

**SECTION 9.** That neither the State of Tennessee nor any municipality other than the Celina Port Authority shall, except as may otherwise be authorized by the governing body of Clay County or the Town of Celina in any event be liable for the payment of the principal of or interest on any bonds or notes of the Port Authority or for the performance of any pledge, obligation or agreement of any kind whatsoever which may be undertaken by the Port Authority within the meaning of any constitutional or statutory provision whatsoever.

As amended by: Private Acts of 1983, Chapter 150

**SECTION 10.** That Clay county and/or the Town of Celina shall have all necessary powers in order to further the purposes of this chapter, including, without limitation, the following, any or all of which powers may be exercised by resolution of its governing body:

- (1) To advance, donate or lend money, raised from any source and by any means, or real or personal property to the Port Authority;
- (2) To provide that any funds on hand or to become available to it for port purposes shall be paid directly to the Port Authority;
- (3) To cause water, sewer, gas, electric or other utility services to be provided to the Port Authority;
- (4) To open and improve streets, roads and alleys to said port;
- (5) To provide police and fire protection services to said port; and,
- (6) To pledge the full faith and credit and unlimited taxing power of the county and municipality as surety to the payment of the Port Authority's bonds.

As amended by: Private Acts of 1983, Chapter 150

**SECTION 11.** 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 Clay, Tennessee, such property, and 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 or private corporation.

**SECTION 12.** That Clay County, the Celina Port Authority, and the Board of Commissioners shall not 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 13.** 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 with respect to the management and control of the facilities authorized by this Act, including the establishment of rates, fees, and charges or otherwise.



**SECTION 14.** That the Board of Commissioners of The Port Authority shall consist of five members. Two of the initial members of the Board of Commissioners of the Port Authority shall be appointed by the Chairman of the County Court and approved by a majority vote of the members of the County Court of Clay County. An additional two members of the initial Board of Commissioners shall be appointed by the Mayor of Celina and approved by a majority vote of the City of Celina, Board of Mayor and Alderman. These entitle four members shall meet within thirty days of their appointment and shall choose a fifth member of the initial Board of Commissioners by a majority vote. The terms of office shall be as follows:

- (a) Two members, one appointed by the County Court and the other appointed by the Board of Mayor and Aldermen shall serve a term to expire one year from the date of their appointment,
- (b) Two members, one appointed by the County Court and the other appointed by the Board of Mayor and Aldermen shall serve a term to expire two years from the date of their appointment,
- (c) The member selected by the initial four appointed members of the Board of Commissioners shall serve a term to expire three years from the date of his appointment.

The successors in office, for each of the respective six initial members of the Board of Commissioners of The Port Authority whose full terms of office have expired shall be appointed in the same manner as described above, but for regular terms of office of three years each thereafter.

In the event of failure to elect a successor to any member of said board the member and Commissioner whose term has expired shall continue to serve until his successor has been duly elected as herein provided.

In the event of the death or resignation of a member and Commissioner, or his inability to serve, prior to the expiration of his term, his successor shall be elected for the unexpired term by the remaining members of the Board of Commissioners within thirty days of the event.

Any person at least twenty-five years of age who has resided within the boundaries of the county, for a period of at least one year immediately preceding his election, shall be eligible to serve as a member of the Board of Commissioners of The Port Authority, except the members of the County Court of Clay County and elected officials of the City of Celina shall not be eligible to serve as members of said Board of Commissioners. Any Commissioner who ceases to regularly reside within the boundaries of the county shall automatically become ineligible to serve in said office. All Commissioners shall be eligible for re-election, provided they are qualified as herein required.

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, copies of the said oath of each Commissioner shall be filed with the Clerk of the County Court of Clay County.

A majority of the Commissioners shall constitute a quorum and the Commissioners shall set 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 their election as herein provided, the Commissioners shall hold a meeting to elect a Chairman. The Commissioners shall hold regular meetings at least once every four months, 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 resolutions, 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 into his hands as such, in such penalty as the Board shall specify, by resolution. Said bond shall be filed with the Secretary of the State of Tennessee.

The Board of Commissioners, by resolution may require all other subordinate officers, or employees, to execute such fidelity bonds 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, except such per diem allowance, if any, as maybe appropriated by the County Court of Clay County and the City of Celina, but they shall be allowed necessary traveling and other expenses while engaged in the business of the Authority, as may be approved by the Board, payable from the funds of the Authority, of such funds as may be appropriated by the County Court of Clay County and/or for the City of Celina.

**SECTION 15.** That, except as otherwise herein provided, the Port Authority Commissioners shall be removable only for good cause, and after preferment of charges, as provided by law for county officers.

**SECTION 16.** 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 17.** That the County Court of Clay County and/or the City of Celina authorized to appropriate to the Port Authority from their general funds, 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 County Court and/or City of Celina are authorized and empowered to levy a tax, in addition to all other taxes, upon all taxable property within each said county, sufficient to pay the appropriation made by it to the Port Authority.

**SECTION 18.** 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 records of all such receipts and other 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 19.** That the revenues derived from the operation of the port, storage and transfer facilities, and any and all other facilities herein authorized, and the proceeds derived from the sale, transfer, lease or other disposition of any land or other facilities, shall be applied and used as follows:

- (1) The payment of all operating expenses of the Port Authority, except that the proceeds derived from the sale, transfer, or other disposition of any land or other facilities shall not be used for this purpose.
- (2) The payment of the interest on the bonds issued pursuant to the provisions of this act, and the principal of such bonds, as they severally mature, and/or payments into 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 or proceeds 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 into the general funds of the said counties, except as may be directed by the Port Authority Commissioners.

As amended by: Private Acts of 1983, Chapter 150.

**SECTION 20.** 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 Five Hundred Dollars (\$500.00), or for construction, installation, repair or improvement of the property of facilities, under the jurisdiction of the Board of Commissioners, involving more than One Thousand Dollars (\$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 arises and requires immediate delivery of the supplies or performance of the service; or
- (2) Repair parts, accessories, supplemental equipment or services or required supplies, or services previously furnished or contracted for, in which case such case purchase of supplies or procurement

of services shall be made in the open market in the manner common among business men.

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 service, no advertisement of 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 his Act with its own employees.

**SECTION 21.** 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 or any county or municipality in the State of Tennessee, or the Federal government provided such governmental agency shall consent to such use.

**SECTION 22.** That the Port Authority Commissioners may sell, transfer, lease, or otherwise dispose of any or all of the personal property in the custody and control of the Port Authority. The Commissioners may also as the agent of the county of Clay and/or the City of Celina sell, transfer, lease, or otherwise dispose of any real property in the custody and control of the Port Authority.

**SECTION 23.** 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 24.** That if any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional or 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 25.** That this Act is remedial in nature, and shall be liberally construed to effect its purposes of promoting navigation on the Cumberland River and its tributaries, the navigable Channel of the Cordell-Hull Reservoir facilitating the movement and transfer of goods and merchandise to, from and through the county of Clay encouraging utilization of the natural and recreational resources therein, and promoting the growth and development of commerce and industry in said county.

**SECTION 26.** That this Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the Quarterly County Court of Clay County and by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the City of Celina. Its approval or nonapproval shall be proclaimed and countersigned by the clerk of the Quarterly County Court of Clay County and the Recorder for the City of Celina, and shall be duly certified by them to the Secretary of State of the State of Tennessee.

**SECTION 27.** That for the purpose of approving or rejecting this act as provided in Section 22, it shall take effect on becoming a law, the public welfare requiring it, but for all other purposes, it shall be effective upon being approved as provided in Section 22.

Passed: March 27, 1974.

## Livestock Inspector

### Private Acts of 1953 Chapter 590

**SECTION 1.** That in counties of this State with a population of not less than 8,700, nor more than 8,725, by the Federal Census of 1950, or any subsequent Federal Census, the Quarterly County Court is hereby authorized to elect for a term of two years, not exceeding three animal inspectors to make an inspection and examination of the livestock in said County and to treat such as may be found ailing or sick with the view to promoting the spread of health among such stock and to reduce the danger of infectious or

contagious diseases. Such animal inspectors may contract with the owner or owners of any diseased livestock found by them for the treatment thereof by such inspectors, the compensation therefor to be mutually agreed upon between the parties. Such livestock inspectors may be compensated by the Quarterly County Court of such counties to which this Act applies in an amount not to exceed Ten (\$10.00) Dollars per annum for each inspector so appointed.

Elections thereof may be made by the Quarterly County Court at any regular term and the person so elected shall hold office for a period of two years from the date of such election. The said County shall not be liable for the default or negligence of any such livestock inspectors where such County Court has used care and caution in the selection thereof, but nothing herein shall exempt such inspectors personally for the negligence in the performance of their duties.

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

Passed: April 9, 1953.

## Natural Gas Utility Service

### Private Acts of 1995 Chapter 73

**SECTION 1.** Clay County, by resolution of its county legislative body, is authorized to establish, construct, install, acquire, operate and maintain facilities and do all things necessary to provide natural gas as a utility service to customers within Clay County.

**SECTION 2.** (a) In the event that Clay County establishes a natural gas service, such service shall be provided by a department of the government of Clay County which shall be headed by a superintendent of natural gas service (hereinafter "superintendent"). The superintendent shall be an employee of the county who shall be appointed by the county executive of Clay County subject to the approval of the county legislative body of Clay County. The superintendent shall serve at the pleasure of the county executive. The superintendent shall be a person qualified by training and experience to supervise the maintenance and operation of a natural gas service. The compensation of the superintendent shall be determined by resolution of the county legislative body after the body receives the recommendation of the county executive.

(b) The superintendent shall be responsible for the management and operation of all the facilities herein provided and the enforcement of all rules, regulations, and programs adopted by resolution of the county legislative body.

(c) The superintendent shall hire and supervise all other employees of the natural gas service, and shall determine such employees' compensation subject to the approval of the county executive.

(d) The superintendent shall develop a proposed budget and a plan of service and shall submit such proposed budget and plan of service to the county executive according to a time schedule determined by the county executive. Upon approval of a proposed budget and plan of service by the county executive, the county executive shall submit the proposed budget and plan of service to the county legislative body for its approval. The county legislative body may approve, modify or disapprove the proposed budget and plan of service. The superintendent shall propose updates to the plan as needed. The plan shall include areas to be served, anticipated capital and operational costs, service fees and other necessary financial arrangements.

(e) The superintendent may, with the approval of the county legislative body, acquire and dispose of all property, real and personal, necessary to provide natural gas utility service for Clay County. Title to such property shall in all cases be taken in the name of Clay County.

(f) The superintendent shall at all times operate the natural gas service within the budget approved by the county legislative body. The superintendent, subject to the approval of the county legislative body, may enter into contracts for the construction, repair or maintenance of facilities of the natural gas service, in accordance with applicable general law, and rules adopted by resolution of the county legislative body. The superintendent may make or requisition purchases of personal property according to applicable purchasing laws and rules established by resolution of the county legislative body.

(g) The superintendent, subject to such rules as the county legislative body may establish by resolution, may contract for the purchase of natural gas for the purpose of resale.

(h) The superintendent shall make and keep complete, accurate and proper books and records of all transactions, charges and collection activity of the natural gas service, subject to such rules as may be established by the county legislative body in conformity with the general law.

**SECTION 3.** The county legislative body of Clay County may by resolution establish a procedure for the collection of service charges from customers of the natural gas service. The county legislative body may provide for late payment charges and delinquency penalties. Delinquent accounts of customers of the natural gas service, including late payment charges and delinquency penalties, shall be civil debt owed to the county for which the county may bring suit in the general sessions court of Clay County.

**SECTION 4.** The revenues and receipts of the natural gas service of Clay County shall be deposited in the general fund of Clay County and expenditures for the natural gas service shall be made from the general fund upon warrants signed by the county executive. Revenues and receipts of the natural gas service in excess of the expenditures of the natural gas service may be used for any county purpose.

**SECTION 5.** Clay County, in providing natural gas service to customers within Clay County, shall be subject to all safety standards applicable to transmission and distribution facilities of a natural gas utility district under the Utility District Law of 1937, as amended.

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

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

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

Passed: May 22, 1995.

## Administration - Historical Notes

### County Legislative Body

The following act once applied to the quarterly court or the county legislative body of Clay County and is included herein for historical purposes.

1. Private Acts of 1959, Chapter 197, would have fixed the per diem of the Justices of the Peace at \$10 per day for attendance at meetings of the County Court plus mileage of ten cents per mile one way from their homes to the meeting place but this act was not approved by the County Court and therefore did not become a law.

### County Mayor

The references below are of acts which once applied to the office of county judge, or county executive in Clay 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 1903, Chapter 145, created the office of county judge for Clay County. The act also abolished the office of chairman and chairman pro tem of the county court and conferred the powers and jurisdiction of that office to the county judge. The compensation was set at \$200 per annum.
2. Private Acts of 1933, Chapter 742, amended Section 14, Chapter 145, Acts of 1903, which created the Office of County Judge for Clay County by setting the compensation of the Judge at \$500 per year, payable at quarterly intervals, which would be in lieu of all other compensation for services as a County Judge, financial agent, or whatever, including his work on the Workhouse Commission.
3. Private Acts of 1937, Chapter 407, amended Chapter 145, Acts of 1903, by making the County Judge or Chairman, the ex-officio Purchasing Agent for the county while denying the right to purchase by any other procedure to all other county officials; he would also arrange for rental of all equipment. He would also be free to contract. All items in excess of \$400 must be bid items. Administrative details are incorporated into the act, including a prescribed way of keeping records. He would be paid \$500 annual salary as Purchasing Agent. This Act was repealed by acts of 1937, Chapter 573.
4. Private Acts of 1937, Chapter 573, repeals Chapter 407 Private Acts of 1937, with reference to the duties of the County Judge as Purchasing Agent for the County.
5. Private Acts of 1937, Chapter 811, is a duplication of Chapter 573, above, in Item 3, and it also repeals Chapter 407, Acts of 1937.

6. Private Acts of 1939, Chapter 404, grants to the County Judge an additional salary of \$200 per annum for services in connection with the additional duties conferred upon him by the Social Security Act, it being the intention of the Legislature that this salary be in addition to all other compensation.
7. Private Acts of 1943, Chapter 53, repeals Chapter 145, Acts of 1903, which created the position of County Judge for Clay County, as the act was amended. This act was declared unconstitutional by the Supreme Court in State, ex rel, Baily v. Mabry, 181 Tenn. 7, 178 S.W.2d 379 (1943).
8. Private Acts of 1947, Chapter 322, provided that the County Judge of Clay County receive additional compensation of \$300 per year for the additional duties placed upon him by the Social Security Act, and for additional duties in connection with the Workhouse Commission, the Legislature intending this compensation to be in addition to all other pay.
9. Private Acts of 1949, Chapter 12, also granted the County Judge \$180 a year in additional salary because of the added duties placed upon him by law and for his performance of greater responsibilities with the Workhouse Commission, again, being the intent of the Legislature to grant this over and above all other compensation.
10. Private Acts of 1955, Chapter 403, would have repealed Chapter 145, Acts of 1903, which created the position of County Judge for Clay County, effective on September 1, 1958. The office would also stand abolished at the death or resignation of the incumbent County Judge if either should occur before September 1, 1958, all of this being contingent upon the outcome of a referendum held for that purpose, but this act was rejected and disapproved by the Quarterly County Court of Clay County and never did become effective under the Home Rule Amendment to the State Constitution.
11. Private Acts of 1978, Chapter 312, gave the county judge jurisdiction concurrent with that granted general sessions judges to supervise and approve emergency commitment of mentally ill individuals.

#### **County Trustee**

The following act once affected the office of county trustee in Clay County, but is no longer operative.

1. Private Acts of 1947, Chapter 544, states that the Clay County Quarterly Court by Resolution had given the Trustee a 1% commission on \$77,919.75 of bonds sold and an insurance claim collected in the public school system. This Act ratifies and validates all the actions taken by the county court in regard to the above, and orders that the Trustee be paid \$779.19 as his lawful commission for handling the said funds, which commission would be subtracted in pro rata amounts from each of the funds.

#### **General Reference**

The following private or local acts constitute part of the administrative and political history of Clay County but are today no longer operative because they have either been superseded, repealed, or failed to receive local approval. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1937, Chapter 406, was a lengthy piece of legislation providing for a budget system for Clay County which prescribed a deadline date for preparation of the budget, a form of publication for a public hearing and penalties for failing to comply or otherwise violating the mandates of this Act. A Budget Committee was provided with certain terms of office, certain duties and responsibilities and who would be paid for each meeting. The School Board would also file a budget request as any other department, records were to be kept by all participating agencies. Once adopted no official could exceed the amount of the budget in his spending.
2. Private Acts of 1937, Chapter 575, repealed Chapter 406, Private Acts of 1937.

## Chapter II - Animals and Fish

### Fence Law

### Private Acts of 1919 Chapter 466

**COMPILER'S NOTE:** Provisions of this act which are not in conflict with the state law are presumably still in effect in the absence of a direct repeal.

**SECTION 1.** That it shall be unlawful for any owner or keepers of horses, mules, cattle, hogs, sheep, goats, or any other kind of livestock; to permit same to be or run at large in counties of this State, having a population of not less than 9000 nor more than 9010 according to the Federal Census of 1910 or any subsequent Federal Census, up to now.

**SECTION 2.** That any person wilfully, knowingly or negligently violating Section 1 of this Act, shall be deemed guilty of a misdemeanor, and upon conviction, shall pay a fine of not less than two dollars, nor more than ten dollars.

**SECTION 3.** That there shall be a lien on all such livestock running at large in violation of Section 1 of this Act, whether with the knowledge of the owner or not, in favor of the person damaged by such animals, for all damage done to crops, property or premises, by such stock, so running at large, said lien to begin with the date of the damage and continue for ninety days, and until the termination of any suit commenced within ninety days from the enforcement of such lien.

**SECTION 4.** That the lien provided for in Section 3, of this Act, may be enforced by attachment of the stock so running at large, or by judgment and execution, either to be levied on such stock in whosoever possession it may be.

**SECTION 5.** That it shall be the duty of sheriffs, deputy sheriffs and constables, in counties where this Act applies to take up and impound all such stock as is set out in Section 1 of this Act, found or known to be running at large in violation of this Act, whether with the knowledge of the owner or not, and such officers shall proceed to this duty without delay upon knowledge of the fact, and especially upon being notified of the fact by any land owner or property owner, on whose premises such stock may be trespassing.

**SECTION 6.** That any such officer taking up and impounding stock under Section 5 of this Act, shall safely keep and properly care for, and feed and water same until called for by the owner; or if not called for by the owner within forty-eight hours after the taking up, the officer shall advertise said stock, by written posters, at the trading point nearest to where the stock is impounded, for ten days, and sell the same where impounded at public outcry, to the highest bidder for cash. Provided that if at or before the time of sale such stock shall be claimed by the owner and identified to the satisfaction of the officer, and the expense of impounding and feeding such stock shall be paid, such stock shall be delivered to the owner and not sold.

**SECTION 7.** That the officer proceeding under Section 6 of this Act, shall be entitled to receive out of the proceeds of the sale of the stock, or before the delivery of the stock up to the owner, the following compensation: For impounding each head of stock twenty-five cents, for keeping and caring for each head of horses, mules, or cattle, forty cents per day, for keeping and caring for each head of all other kinds of stock twenty-five cents per day, of twenty-four hours.

**SECTION 8.** That the remainder of the funds arising from the sales of stock under the provisions of this Act, after the expense of the officer has been paid, shall be paid to the owner of such stock, by the officer making the sale, and by settlement of same with the owner of the property sold.

**SECTION 9.** That any owner or proprietor of land on which stock may be found trespassing in violation of Section 1, of this Act, may take such stock up or cause it to be done and held until it can be turned over to an officer authorized under this Act, to impound it, but such owner or proprietor shall not be entitled to any compensation for the act of taking up the stock, and when said stock is so turned over to said officer, he shall proceed with the stock as if he had taken it up in the first instance.

**SECTION 10.** That this Act take effect thirty days after its passage, the public welfare requiring it.

Passed: April 1, 1919.

## Red Foxes

### Private Acts of 1955 Chapter 28

**SECTION 1.** That there shall be a closed season upon red foxes at all times, and that red foxes may be chased with dogs at any time of the year except during such periods as may be fixed by the Game and Fish Commission for the protection of the species in all counties of this State having a population of not less than 8,700 and not more than 8,725 inhabitants, according to the Federal Census of 1950, or any subsequent Federal Census.

Should the Game and Fish Commission determine that there is need for an open season on red foxes in

any such county or counties, they shall have the power and authority to open same for such a period of time as they may deem necessary and advisable.

**SECTION 2.** That all laws or parts of laws in conflict with this Act be and the same are hereby repealed, and that this Act shall take effect from and after its passage, public welfare requiring it.

Passed: January 27, 1955.

## Animals and Fish - Historical Notes

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

1. Acts of 1889, Chapter 179, made it unlawful for any person who was a non-resident of the State to hunt, shoot, kill, catch, or carry away, game of any kind in several counties named in the act including Clay County.
2. Acts of 1893, Chapter 128, amends Chapter 179, Acts of 1889 by stating that nothing in the said Chapter shall apply to non-residents hunting on lands in Sullivan County at the request of and with the consent of the landowners.
3. Acts of 1897, Chapter 241, made it illegal to catch, kill, or wound fish in any stream or river in Clay, Fentress, Overton, and Pickett Counties by seine, trap, net, gun, gig, poison, dynamite, or in anyway except by rod and line, or by troutline, from January 1 until June 1 of each year. To build a dam, fishgate, or to obstruct any stream by this or other means was also declared to be a wrongful act. One could fish from June 1 to January 1 provided the mesh in the seine was one inch or larger. A schedule of fines was established for violations, all money collected thereby to go into the public school fund.
4. Acts of 1917, Chapter 46, made it lawful to catch fish in the Obeds River, and in all other streams in Clay County by hook and line, trotline, gigging, grabhooks, net, or fish basket without a license if the fish were for home consumption. It was unlawful to use a net or fish basket with mesh less than 1 1/4 inches, violators being subject to fines from \$10 to \$25. No trammel net would be set at the mouth of Obeds River at any time and could not be used at all anywhere from January 1 to June 1, and only with mesh larger than 1 1/4 inches during the season.
5. Acts of 1917, Chapter 401, declared it to be lawful for resident citizens in Pickett, Overton, Clay, Jackson, and Macon Counties to hunt and kill squirrels at any season of the year on unenclosed lands, or on all enclosed lands with the owner's written or verbal permission, without having to procure a license.
6. Acts of 1919, Chapter 162, authorized the holding of elections in Clay, Cannon, and Rutherford Counties to ascertain the feeling of the voters regarding the enactment of a "No Fence Law" for these counties. The elections would be held under the regular elections laws of the state, and the results certified to the General Assembly by the election commissions.
7. Acts of 1921, Chapter 405, was devoted entirely to counties which were exempting themselves from the provisions of Chapter 61, Public Acts of 1919, a statewide Dog Law. Clay County was among those which chose not to come under this act.
8. Private Acts of 1931, Chapter 131, made it legal to take, catch, and kill fish by means of gigs and fish baskets in any and all streams in Clay County provided that the season for gigging shall be between the months of October 1 of one year and March 1 of the following year. The slats on all fish baskets shall not be closed more than 1½ inches apart. The fee for the privilege of fishing with a gig was \$1.00 per year and for fishing with a basket \$2.50 a year, the proceeds of which would go into a fund to place young fish into the various streams of the county.
9. Private Acts of 1931 (2nd Ex. Sess.), Chapter 83, made it lawful to gig fish in Overton, Pickett, Fentress, and Clay Counties but in order to do so one must have the license as provided in Chapter 51, Public Acts of 1931. This act did not specifically repeal Chapter 131, Item 8 above, but would supersede it in so far as fishing with a gig in Clay County was concerned.
10. Private Acts of 1935, Chapter 443, made it illegal for any person to hunt or kill deer, wild turkeys, wild guineas, or pheasants in Jackson and Clay Counties. Violators would be fined a minimum of \$50 for deer, \$25 for wild turkeys, and \$10 to \$25 for guineas and pheasants.



## Chapter III - Bond Issues

### Bond Issues - Historical Notes

A listing of the acts which authorized various bond issues for Clay County is included below for reference purposes, although these acts are no longer current. Also referenced below is an act which repeals prior law without providing new substantive provisions.

#### **General**

1. Private Acts of 1923, Chapter 615, made it unlawful for the County Court of Clay County to issue bonds for any purpose whatsoever until the question had been submitted to the vote of the electorate, and approved by a majority provided, also, that authority existed for the proposed bond issue. Elections under this act would be held in accordance with general election laws.

#### **Debts**

1. Private Acts of 1929 (Ex. Sess.), Chapter 49, authorized the Quarterly County Court of Clay County to issue \$50,000 in 6%, 25 year bonds to discharge and pay off the outstanding debts of the county as they were evidenced by warrants issued prior to the act. The forms and details of the bonds were written in the act and provision made for the tax levy for the sinking fund.
2. Private Acts of 1935, Chapter 779, allowed the County Court to issue \$25,000 in 5% bonds with no maturity schedule being specified to pay the outstanding indebtedness of the County including general county warrants, school warrants, accounts, and votes. Details of the issue were fairly well stated and sinking fund tax levy provided.
3. Private Acts of 1937, Chapter 322, permitted a bond issue of \$65,000 in 5%, 20 year bonds by the Quarterly County court which would be used to retire and redeem valid obligations of the county for general county and school purposes. The details were to be supplied by Resolution of the Court and a Committee composed of the County Judge, the County Court Clerk, and G. B. Johnson would advertise and sell the bonds.
4. Private Acts of 1941, Chapter 379, validates all the prior proceedings of the County Court in passing a Resolution which authorized the sale of \$123,000 in bonds on April 4, 1938. No other details are furnished other than those mentioned here except the validation language is repeated twice.
5. Private Acts of 1941, Chapter 514, recites that in order to place the fiscal affairs of Clay County on a cash basis, the County Court is authorized to issue at one time or from time to time, in order to fund any and all warrants, judgments, or other debts of the county, including those of the Highway Department, bonds not to exceed \$50,000 at one time with maximums of 6% interest, and 30 year maturity periods. The details of the issue, the tax levy required, and the requirement that accurate records be kept are all stated in the Act.

#### **Roads**

1. Private Acts of 1909, Chapter 552, stated that subject to the successful outcome of a referendum election which could be initiated by a petition from citizens representing \$100,000 in property, the Quarterly County Court could issue up to \$100,000 in bonds to build turnpikes or otherwise improve public roads. A schedule of maturity dates for 5 to 25 years, and of interest rates of 4% of 5%, plus the details essential to the issue are all written out in the act. Three Commissioners from the County Court would be the "County Turnpike Commission" whose duties and compensation were specified. The roads to be built or repaired would radiate from Celina.
2. Private Acts of 1917, Chapter 688, declared that on petition of 100 taxpayers, an election would be held within two years on whether to issue up to \$98,000 in bonds to improve, drain, macadamize, change, build, and maintain public roads and bridges as specified in the law. The people would vote "For Good Roads" or "Against Good Roads." A Court Committee of three members would sell the bonds at 6% or under and for 30 years or under. Then a "Good Roads Commission" would be organized consisting of nine members from the various civil districts, two each, and one at large. Lafayette Birdwell, Benton McMillen, Jr., M. J. Kyle, W. Clay Hall, E. S. Young, Sam Keisling, Champ William, M. R. Hargrove, and W. L. Brown were on the first committee. A list of roads to be improved or built was contained in one section of the law.

3. Private Acts of 1921, Chapter 901, amended the act above, Chapter 688, Acts of 1917, in Section 18 by repealing the paragraph in that Section which required a pro rata allocation of bond money to the roads approved for improvement with State and Federal Assistance when compared to the total miles of roads listed in the law.

### **Schools**

1. Private Acts of 1951, Chapter 563, allowed the County Court to issue \$250,000 in 4% bonds, or less, with no maturity schedule, to erect, repair, or otherwise maintain school buildings. The Trustee would receive  $\frac{1}{4}$  of one percent commission for bonding the money. All details are written into the act and an additional tax levy required to replenish the sinking fund.

## Chapter IV - Boundaries

### Creation of County

#### Acts of 1870 (2nd Extra Session) Chapter 29

**SECTION 1.** That a new county be and the same is hereby established, to be composed of portions taken from the northern portion of Jackson and Overton Counties, to be known and designated by the name of County of Clay, and shall be bounded as hereinafter provided.

**SECTION 2.** That the general boundaries of said county shall be as follows, to-wit: Beginning at the common corner of Jackson and Overton Counties, upon the State line between Kentucky and Tennessee, running thence with said line east to a point in said line on the northern boundary of Overton County, to be fixed by the Commissioners to be hereafter designated in this act; thence south or southwest to a point in Overton County, to be also fixed and established by the said Commissioners; thence in a westerly direction through Overton and Jackson counties to a point to be fixed by the Commissioners; thence north with said line to the State line; thence east with said line to the beginning; Provided, That no line of said new county shall approach the Court-houses of Jackson and Overton Counties nearer than ten miles in a direct line from the same.

**SECTION 3.** That R. P. Brooks, Jas. G. Cunningham and Job M. Morgan, of Jackson County, and W. H. Turner and Thomas Armstrong, of Overton County, be and they are hereby appointed Commissioners, with full power and authority to run out and designate the boundaries of said county by actual survey; and they are authorized to employ a competent person to survey the same; and if, upon finding that their territory and population are sufficient to meet the requirements of the Constitution without infringing the constitutional territory or population of the counties from which said County of Clay is to be taken, then said Commissioners shall have the lines of said County of Clay plainly marked, and cause a correct map of the same to be made out and transmitted to the Secretary of State, who shall file the same in his office; and the County of Clay is hereby established upon the following conditions:

**SECTION 4.** That it shall be the duty of said Commissioners, as soon as they shall ascertain that there is territory and population sufficient to establish a new county under the requirements of the second and third sections of this act, after giving twenty days' notice in three or more public places of the time and place in each of the fractions proposed to be stricken off from the Counties of Jackson and Overton, to open and hold an election in each of the fractions proposed to be stricken off from the counties aforesaid, for the purpose of ascertaining whether two-thirds of the voters residing in those fractions, are in favor of or opposed to the establishment of said County of Clay; and all persons qualified to vote for members of the General Assembly who have resided in the fractions aforesaid six months immediately preceding the day of election, shall be entitled to vote; and each voter who desires the establishment of the new county, shall have on his ballot "New County," and those opposed to the new county shall have on their ballots "Old County;" and if upon counting the ballots, the judges of the several elections shall return that two-thirds of each of the fractions have voted for the new county, then the County of Clay shall be and the same is hereby established, with all the powers, privileges and advantages, and subject to all the liabilities of other counties in this State.

**SECTION 5.** That all officers in said county shall continue to hold their offices and exercise all the powers and functions thereof, until others are elected and qualified according to law, and the said County of Clay shall elect her officers on the day and under the same rules and regulations as provided by law for the election of officers in other counties in this State.

**SECTION 6.** That the Commissioners appointed by the third section of this act shall appoint such persons as they deem suitable to open and hold elections for county officers for the County of Clay; and the

persons so appointed shall be and are hereby invested with full power and authority to appoint Deputies, Clerks and Judges, and by themselves and deputies to administer all necessary oaths, and to do and perform all other duties as by law are required of Sheriffs and other officers holding similar elections.

**SECTION 7.** That it shall be the duty of the Commissioners aforesaid, as soon after the County of Clay shall have been established as practicable, to select and secure, by purchase or otherwise, a suitable site for the seat of justice in said county, and the said Commissioners, having first caused a deed to be made to themselves and their assigns, with general warranty, to a sufficient quantity of land, including the site so selected, shall cause a town to be laid off thereon, with as many streets and alleys as they may deem sufficient, within a suitable square, for the erection of public buildings. Said Commissioners may reserve such lots as they may deem advisable, for the purpose of erecting a jail, and such other purposes as they deem proper, and said town, so laid off, shall be known by the name of \_\_\_\_\_; Provided, Said Commissioners shall consult the wishes and convenience of a majority of the citizens of said county; and said Commissioners shall open and hold an election at three or more places in said county, first giving twenty days [sic] notice of the time and place, for the purpose of fixing upon an eligible site for the seat of justice in said County of Clay; and should said election be held, all qualified voters for members of the General Assembly, shall be entitled to vote in selecting said site. Should there be two or more places put in nomination and voted for, the place receiving a majority of the votes cast shall thereupon be declared, by said Commissioners, the seat of justice of Clay County: Provided, That said Commissioners shall have the right to hold elections, from time to time, until one place shall receive a majority of those voting.

**SECTION 8.** That the Commissioners of said county shall sell the lots in said town on a credit of at least twelve months, first giving due notice thereof in one or more newspapers, of the time and place, and shall take bond, with security, from the purchasers of said lots, payable to themselves or their successors in office, and shall make title, in fee simple as Commissioners, to the respective purchasers of said lots.

**SECTION 9.** That the proceeds of sale of said lots aforesaid, shall be a fund in the hands of said Commissioners for the defraying of the expenses incurred in the purchase of said tract of land on which the said county site shall be located, and, also, for defraying the expenses of erecting the public buildings for said County of Clay.

**SECTION 10.** That the Commissioners shall also appoint five Commissioners, whose duty it shall be to divide and lay off said county into civil districts, designate the place of holding elections therein, and do and perform all the duties relative thereto, which, by the laws of this State, such Commissioners are authorized and required to do.

**SECTION 11.** That the County Court of Clay County, when organized, shall be authorized to make such appropriations as they think proper to the Commissioners appointed under this act, to compensate them for their necessary expenses and services.

**SECTION 12.** That for the convenience of the citizens, and for the administration of justice, the County and Circuit Courts for the County of Clay shall be held at such place as may be designated by said Commissioners, until the public buildings for said county shall be completed, due notice of which shall be given to the clerks of the several courts of said county, by the Commissioners herein appointed, after which time they shall be held at the Court-house in the county aforesaid.

**SECTION 13.** That the Commissioners appointed by the provisions of this act, together with Surveyor employed to run out and designate the boundary of said county, shall, severally, before they enter upon the discharge of the duties assigned them, take an oath before some Justice of the Peace to discharge the duty assigned them, without partiality or prejudice, to the best of their judgment according to law.

**SECTION 14.** That the Commissioners of Clay County be, and they are hereby authorized to exercise all the powers conferred in this act, and such other powers as may be necessary and proper to the complete organization of the County of Clay.

**SECTION 15.** That the citizens of Clay County, in all elections for Governor, Representatives in Congress, and the election of President and Vice-President, shall vote with the counties from which they have been respectively stricken off, until the next apportionment.

**SECTION 16.** That the counties of Jackson and Overton shall retain complete jurisdiction over the fractions stricken off from said counties, until the County of Clay shall be completely organized.

**SECTION 17.** That the fractions of Jackson and Overton Counties, formed by this act into the County of Clay, shall continue liable for their pro rate of all debts contracted and owing by said Overton and Jackson Counties, as well as entitled to any portion of any stocks and credits belonging to said Overton and Jackson Counties.

**SECTION 18.** The public welfare requiring it, that this act take effect from and after its passage.

Passed: June 16, 1870.

## Change of Boundary Lines

### Public Acts of 1871 Chapter 6

**SECTION 1.** That the county line between Overton and Clay counties be changed as follows: Beginning on said county line south of G. W. Morgan's, where his line crosses said line, running with said Morgan's line and R. J. Upton's, to the eleven and three-fourth miles post from Livingston, on Mill Creek; thence an easterly course a straight line, passing the south end of William Garrett's land, to the forks of Carter's Creek, above Jesse M. Martin's; thence a slight variation north of east, so as to include in Clay county all of Thomas Martin's and W. W. Chilton's lands, passing through the land dividing the lands of Mrs. Ruth Martin and O. T. L. Martin, to a chestnut oak, southeast corner of Thomas W. Barry's land, and including all his land, intersecting the county line again in the land dividing the lands of W. J. Dennis and Ezekiel Long: Provided, said line so changed shall not approach nearer than ten miles of Livingston, the county seat of Overton county, on a direct line.

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

Passed: October 20, 1871.

## Acts of 1875 Chapter 140

**COMPILER'S NOTE:** Section 2 is the only Section that applies to Clay County. Therefore, the other sections were omitted.

**SECTION 2.** The lines between the counties of Overton and Clay be changed as follows: Beginning on the south boundary line of Clay county, between Overton and Clay counties, near the farm of Marion Taylor, running thence an eastern direction with Taylor's line to the Livingston and Mouth of Wolf road; thence with said road to the east boundary line of the Jesse Heard tract of land; thence east with said line to the land of Matthew Arme; thence with his boundary line to Obed's river; thence across said river and up the same to the east boundary line of Armstrong's 5000 acre survey; thence north 370 poles to a stake; thence west to the beginning corner of said survey; thence south to the Obed's river, which is the Gore line. Also this further change: beginning at a sour wood in said Gore line south, and near the residence of Ensley Billbery, running thence east to a white oak near Jesse Martin's; thence northeast so as to run through the lane which divides the lands owned on the one side by Mrs. Ann Martin, and on the other by Mrs. Ruth Martin, to a large double chestnut in T. W. Berry's south boundary line; thence with Berry's line, so as to intersect the Gore line near Joseph Parkers, so as to include all the lands of T. W. Berry, Thomas Martin, W. W. Chilton, C. H. Heard, W. Hear, W. H. Welburn, Matthew Arme, and John F. Gawette, in Clay county; provided the county of Overton shall not be reduced by said change below its constitutional limits in territory, or the line run nearer the Court House of Overton county than ten miles, and said applicants shall pay all expenses of change.

Passed: March 24, 1875.

## Acts of 1869-70 (2nd Sess.) Chapter 29

**SECTION 1.** That a new county be and the same is hereby established, to be composed of portions taken from the northern portion of Jackson and Overton Counties, to be known and designated by the name of County of Clay, and shall be bounded as hereinafter provided.

**SECTION 2.** That the general boundaries of said county shall be as follows, to-wit: Beginning at the common corner of Jackson and Overton Counties, upon the State line between Kentucky and Tennessee, running thence with said line east to a point in said line on the northern boundary of Overton County, to be fixed by the Commissioners to be hereafter designated in this act; thence south or southwest to a point in Overton County, to be also fixed and established by the said Commissioners; thence in a westerly direction through Overton and Jackson counties to a point to be fixed by the Commissioners; thence north with said line to the State line; thence east with said line to the beginning; Provided, That no line of said new county shall approach the Court-houses of Jackson and Overton Counties nearer than ten miles in a direct line from the same.

**SECTION 3.** That R. P. Brooks, Jas. G. Cunningham and Job M. Morgan, of Jackson County, and W. H. Turner and Thomas Armstrong, of Overton County, be and they are hereby appointed Commissioners,

with full power and authority to run out and designate the boundaries of said county by actual survey; and they are authorized to employ a competent person to survey the same; and if, upon finding that their territory and population are sufficient to meet the requirements of the Constitution without infringing the constitutional territory or population of the counties from which said County of Clay is to be taken, then said Commissioners shall have the lines of said County of Clay plainly marked, and cause a correct map of the same to be made out and transmitted to the Secretary of State, who shall file the same in his office; and the County of Clay is hereby established upon the following conditions:

**SECTION 4.** That it shall be the duty of said Commissioners, as soon as they shall ascertain that there is territory and population sufficient to establish a new county under the requirements of the second and third sections of this act, after giving twenty days' notice in three or more public places of the time and place in each of the fractions proposed to be stricken off from the Counties of Jackson and Overton, to open and hold an election in each of the fractions proposed to be stricken off from the counties aforesaid, for the purpose of ascertaining whether two-thirds of the voters residing in those fractions, are in favor of or opposed to the establishment of said County of Clay; and all persons qualified to vote for members of the General Assembly who have resided in the fractions aforesaid six months immediately preceding the day of election, shall be entitled to vote; and each voter who desires the establishment of the new county, shall have on his ballot "New County," and those opposed to the new county shall have on their ballots "Old County;" and if upon counting the ballots, the judges of the several elections shall return that two-thirds of each of the fractions have voted for the new county, then the County of Clay shall be and the same is hereby established, with all the powers, privileges and advantages, and subject to all the liabilities of other counties in this State.

**SECTION 5.** That all officers in said county shall continue to hold their offices and exercise all the powers and functions thereof, until others are elected and qualified according to law, and the said County of Clay shall elect her officers on the day and under the same rules and regulations as provided by law for the election of officers in other counties in this State.

**SECTION 6.** That the Commissioners appointed by the third section of this act shall appoint such persons as they deem suitable to open and hold elections for county officers for the County of Clay; and the persons so appointed shall be and are hereby invested with full power and authority to appoint Deputies, Clerks and Judges, and by themselves and deputies to administer all necessary oaths, and to do and perform all other duties as by law are required of Sheriffs and other officers holding similar elections.

**SECTION 7.** That it shall be the duty of the Commissioners aforesaid, as soon after the County of Clay shall have been established as practicable, to select and secure, by purchase or otherwise, a suitable site for the seat of justice in said county, and the said Commissioners, having first caused a deed to be made to themselves and their assigns, with general warranty, to a sufficient quantity of land, including the site so selected, shall cause a town to be laid off thereon, with as many streets and alleys as they may deem sufficient, within a suitable square, for the erection of public buildings. Said Commissioners may reserve such lots as they may deem advisable, for the purpose of erecting a jail, and such other purposes as they deem proper, and said town, so laid off, shall be known by the name of \_\_\_\_\_; Provided, Said Commissioners shall consult the wishes and convenience of a majority of the citizens of said county; and said Commissioners shall open and hold an election at three or more places in said county, first giving twenty days [sic] notice of the time and place, for the purpose of fixing upon an eligible site for the seat of justice in said County of Clay; and should said election be held, all qualified voters for members of the General Assembly, shall be entitled to vote in selecting said site. Should there be two or more places put in nomination and voted for, the place receiving a majority of the votes cast shall thereupon be declared, by said Commissioners, the seat of justice of Clay County: Provided, That said Commissioners shall have the right to hold elections, from time to time, until one place shall receive a majority of those voting.

**SECTION 8.** That the Commissioners of said county shall sell the lots in said town on a credit of at least twelve months, first giving due notice thereof in one or more newspapers, of the time and place, and shall take bond, with security, from the purchasers of said lots, payable to themselves or their successors in office, and shall make title, in fee simple as Commissioners, to the respective purchasers of said lots.

**SECTION 9.** That the proceeds of sale of said lots aforesaid, shall be a fund in the hands of said Commissioners for the defraying of the expenses incurred in the purchase of said tract of land on which the said county site shall be located, and, also, for defraying the expenses of erecting the public buildings for said County of Clay.

**SECTION 10.** That the Commissioners shall also appoint five Commissioners, whose duty it shall be to divide and lay off said county into civil districts, designate the place of holding elections therein, and do and perform all the duties relative thereto, which, by the laws of this State, such Commissioners are authorized and required to do.

**SECTION 11.** That the County Court of Clay County, when organized, shall be authorized to make such appropriations as they think proper to the Commissioners appointed under this act, to compensate them for their necessary expenses and services.

**SECTION 12.** That for the convenience of the citizens, and for the administration of justice, the County and Circuit Courts for the County of Clay shall be held at such place as may be designated by said Commissioners, until the public buildings for said county shall be completed, due notice of which shall be given to the clerks of the several courts of said county, by the Commissioners herein appointed, after which time they shall be held at the Court-house in the county aforesaid.

**SECTION 13.** That the Commissioners appointed by the provisions of this act, together with Surveyor employed to run out and designate the boundary of said county, shall, severally, before they enter upon the discharge of the duties assigned them, take an oath before some Justice of the Peace to discharge the duty assigned them, without partiality or prejudice, to the best of their judgment according to law.

**SECTION 14.** That the Commissioners of Clay County be, and they are hereby authorized to exercise all the powers conferred in this act, and such other powers as may be necessary and proper to the complete organization of the County of Clay.

**SECTION 15.** That the citizens of Clay County, in all elections for Governor, Representatives in Congress, and the election of President and Vice-President, shall vote with the counties from which they have been respectively stricken off, until the next apportionment.

**SECTION 16.** That the counties of Jackson and Overton shall retain complete jurisdiction over the fractions stricken off from said counties, until the County of Clay shall be completely organized.

**SECTION 17.** That the fractions of Jackson and Overton Counties, formed by this act into the County of Clay, shall continue liable for their pro rate of all debts contracted and owing by said Overton and Jackson Counties, as well as entitled to any portion of any stocks and credits belonging to said Overton and Jackson Counties.

**SECTION 18.** The public welfare requiring it, that this act take effect from and after its passage.

Passed: June 16, 1870.

## Public Acts of 1974 Chapter 421

**COMPILER'S NOTE:** The following act is a public act of special application and is not codified in [Tennessee Code Annotated](#).

**SECTION 1.** The boundary line between the counties of Pickett and Clay is hereby changed by detaching from the county of Clay, and attaching to the county of Pickett, all of the hereinafter described territory, to-wit:

A tract or parcel of land now lying in the 4th Civil District of Clay County adjacent to the existing line between Clay-Pickett County line, and beginning at the corner of tract D-81 in the division property line of G-404A; thence, north 86 degrees, 30 minutes West 920 feet; thence, north 13 degrees, 45 minutes West, 1225 feet; thence, north 38 degrees, 00 minutes East, 920 feet; thence, north 69 degrees, 15 minutes East, 335 feet; thence, north 14 degrees, 30 minutes West for 490 feet; thence north 56 degrees, 30 minutes East for 660 feet; thence, north 67 degrees, 30 minutes East for 80 feet, to the Pickett-Clay County line, south to the point of the beginning; containing approximately 48 number of acres.

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

Passed: January 28, 1974.

## Boundaries - Historical Notes

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

1. Acts of 1881, Chapter 131, changed the boundary between Clay and Overton Counties so as to include all the lands of Thomas and William Martin in Clay County.
2. Acts of 1883, Chapter 122, Section 1, transferred all the lands of F. M. Taylor, and the lands of the Taylor heirs as they were described therein comprising thirty acres, more or less, from Clay County into Pickett County.
3. Acts of 1885, Chapter 125 moved the land known as the old W. C. Heard farm, recently purchased by W. H. Hawkins and lying on Ashburn Creek into Clay County; also transferred into

Clay County from Pickett County were the lands of W. W. Heard, W. H. Wilburn, B. C. Wilburn, and S. R. Heard.

4. Acts of 1885, Chapter 128, changed the lines between Overton and Clay Counties so as to include the 15 acres belonging to T. B. Davis in Clay County.
5. Acts of 1887, Chapter 52, detached the lands of P. H. Wilburn from Pickett County and attached them to Clay County.
6. Acts of 1887, Chapter 102, transferred the lands of B. K. Biggerstaff, known as Brimstone Island, from Jackson County to Clay County.
7. Acts of 1889, Chapter 62, changed the lines between Overton and Clay Counties so as to move all the lands of Thomas Marlin and J. K. P. Davis into Clay County.
8. Acts of 1891, Chapter 233, transferred the properties of John Conner, James Conner, and O. C. Waddle from Clay County into Overton County.
9. Acts of 1893, Chapter 57, changed the lines between Clay and Pickett Counties with a metes and bounds description which would include in Pickett County all the lands belonging to Clay County lying between the Obed and the Wolf Rivers. This law was repealed by Chapter 270, Acts of 1901.
10. Acts of 1901, Chapter 214, moved the Robert Fletcher farm from Overton County into Clay County.
11. Acts of 1901, Chapter 282, detached the farm belonging to Sam H. Hance from Clay County and attached it to Macon County.
12. Acts of 1901, Chapter 482, moved the Gabriel A. Marcon property from Clay County into Overton County.
13. Acts of 1903, Chapter 226, moved all the properties of Jerry Age (sic) and Malangthon Kirby from Clay County into Macon County.
14. Acts of 1905, Chapter 258, altered the boundary between Clay and Overton Counties so as to include the land of James Glidewell lying near Oakly, Tennessee, in Overton County.
15. Acts of 1905, Chapter 266, moved the lands of Smith Mulens which were located near Head, Tennessee, from Clay County into Pickett County.
16. Acts of 1905, Chapter 337, transferred the combined properties of A. J. Poston, Bill Smith, J. P. Maxwell, J. B. Ayers, Elijah Carwile, and part of the farm belonging to Mrs. Fisk Kirkpatrick from Clay County into the Third Civil District of Overton County.
17. Acts of 1909, Chapter 167 transferred the lands of Eusebius Rich from Clay County into Jackson County.
18. Acts of 1909, Chapter 306, was identical with Chapter 167, Acts of 1909, Item 17 above.
19. Acts of 1909, Chapter 538, changed the boundary lines between Clay and Overton Counties so as to include the property of Dr. Cullom Sidwell, known as the Buck Farm, in Clay. This Act was repealed by Chapter 430, Private Acts of 1931.
20. Private Acts of 1911, Chapter 530, detached the combined properties of C. B. Jenkins, Elizabeth Crabtree, William Kemp, R. W. Allen, and G. S. McCain from Clay County and attached them to Jackson County.
21. Private Acts of 1911, Chapter 575, moved the farm of Joseph Griggiths from Clay into Jackson County.
22. Private Acts of 1933, Chapter 221, moved the farm of W. H. Maynard out of the jurisdiction of Clay County and into the area of Overton County.
23. Private Acts of 1939, Chapter 244, changed the lines between Clay and Overton Counties so as to include the property of Dillard Maynard in Overton County.
24. Private Acts of 1939, Chapter 561, took the land of Chatt Chilton from Overton County and placed them in Clay County as they were bounded on the north by G. L. Maynard and Eddie Brown, on the east by the Fletcher heirs, on the south by the B. Stinson heirs, and on the west by Farley Robbins, Gertrude Riley, and Edd Chilton, containing 150 acres, more or less.
25. Private Acts of 1943, Chapter 449, changed the boundary between Clay and Jackson Counties so as to move the land belonging to Frank Rogers, from the Second Civil District of Clay County into Jackson County, said land being known as the Moore and Brown farm and consisting of 100 acres, more or less.

## Chapter V - Court System

### Circuit Court Clerk

#### Private Acts of 1963 Chapter 176

**SECTION 1.** That the Circuit Court Clerk for Clay County, Tennessee, shall be entitled to and receive the sum of Six Hundred Dollars (\$600.00) per annum for his services as Clerk of the Court of General Sessions. Such sum shall be in addition to and supplementary of the salary allowed him as Clerk of the Circuit Court of said County under the provisions of Section 8-2405 of the Tennessee Code Annotated. Payments of such sum shall be made by equal monthly installments out of the general fund of the County. In the event the Clerk's fees of such office exceed the amount allowed him as Circuit Court Clerk under the provisions of the above Code section and the provisions of this Chapter combined, he may elect and accept such fees in lieu of salary. Provision for this added compensation is made pursuant to authority granted in Section 18-408 of the Tennessee Code Annotated.

**SECTION 2.** That this Act shall have no effect unless the same be approved by a two-thirds vote of the Quarterly County Court of Clay County. The presiding officer shall proclaim its approval or non-approval and shall certify the same to the Secretary of State.

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

Passed: March 18, 1963.

## Court of Common Pleas

#### Private Acts of 1973 Chapter 145

**SECTION 1.** That there is hereby created a court, effective September 1, 1973, for Clay County, Tennessee, having the powers and jurisdictions hereinafter set forth, coextensive with the boundary lines of said county, and to be known as the Court of Common Pleas of Clay County, Tennessee.

**SECTION 2.** That the Judge of the General Sessions Court of Clay County, Tennessee, upon his being elected and qualified as Judge of the General Sessions Court shall also be Judge of the Court of Common Pleas of Clay County, Tennessee, and the present General Sessions Judge of Clay County, Tennessee, shall be and is hereby designated to serve as such Judge of the Court of Common Pleas until his successor is duly elected and qualified under the terms and provisions of this Act.

**SECTION 3.** That the terms of the Court of Common Pleas of Clay County shall be monthly, commencing on the First Monday of each calendar month, and the procedure shall conform to the Rules of Civil Procedure applicable to the Circuit and Chancery Courts.

**SECTION 4.** That the Court of Common Pleas of Clay County, Tennessee, shall have concurrent jurisdiction with the Circuit Court and Chancery Court in said county in workmen's compensation, divorce and Habeas Corpus cases, and those powers specifically conferred by Section 23-1201 of the Tennessee Code Annotated. In addition to the powers and duties set out above for such Judge of the Court of Common Pleas, he may sit by interchange with the Circuit and Criminal Judges and the Chancellor, and they with him, in such county.

**SECTION 5.** That the Court of Common Pleas of Clay County shall be a court of record and the same records shall be kept and preserved as is required by law for Circuit and Chancery Courts.

**SECTION 6.** That the Circuit County Clerk of Clay County shall be the Clerk of the Court of Common Pleas, and all fees received by him as Clerk of the Court of Common Pleas shall continue to be a part of the fees of his office.

**SECTION 7.** That said Judge shall receive for his duties as Judge of the Court of Common Pleas a salary of Four Thousand Dollars (\$4,000.00) per annum, payable monthly from the county treasury like other county officials are paid, from and after the effective date of this Act, in addition to the salary received by him for his services as General Sessions Judge.

**SECTION 8.** That the Judge of the Court of Common Pleas of Clay County shall take and subscribe to the same oath provided by law for Circuit Judges and Chancellors.

As amended by: Private Acts of 1984, Chapter 212



**SECTION 9.** That the provisions of this Act shall be severable and if any of the provisions shall be held to be unconstitutional the decision of the Court shall not affect the validity of the remaining provisions. It is hereby declared the legislative intent of this Act that it would have been adopted by the General Assembly had such constitutional provisions not been included therein.

**SECTION 10.** That this Act shall be void and of no effect unless the same shall be approved by a two-thirds (2/3) vote of the Quarterly Court of Clay County on or before September 1, 1973. The action of the Quarterly County Court hereon shall be proclaimed by the presiding officer of said county and certified by said officer to the Secretary of State.

**SECTION 11.** That this Act shall take effect for the purpose of validating the same from and after its passage and for all other purposes on September 1, 1973, the public welfare requiring it.

Passed: May 3, 1973.

## Criminal Court

### Creation of the Circuit

#### Acts of 1907 Chapter 85

**SECTION 1.** That a Criminal Court is hereby created and established for the counties of White, Putnam, Cumberland, Overton, Pickett, Clay, Jackson, Macon, Trousdale, and Smith, to be known as the "Criminal Court of the Fifth Judicial Circuit of Tennessee."

**SECTION 2.** That said Criminal Court shall have general, common law, and statutory jurisdiction, original and appellate, over all criminal cases arising in said counties to the same extent as is now, or hereafter may be, conferred upon the Circuit and Criminal Courts of this State under the common law or the statutes.

**SECTION 3.** That the times of holding the Criminal Courts in said counties shall be as follows: White County, first Tuesday after the first Monday in January, May, and September; Putnam County, first Tuesday after the third Monday in January, May, and September; Cumberland County, first Monday in February, June, and October; Pickett County, second Monday in February, June and October; Overton County, third Monday in February, June, and October; Clay County, second Monday in January, May, and September; Jackson County, first Monday in March, July, and November; Macon County, third Monday in March, July, and November; Trousdale County, fourth Monday in March, July, and November; Smith County, second Tuesday after fourth Monday in March, July, and November.

As amended by: Private Acts of 1931, Chapter 298

**SECTION 4.** That the Circuit Court Clerks of the several counties herein named shall be the Clerks of said Criminal Court, and they shall perform the same duties and receive the same compensation as now provided by law.

**SECTION 5.** That the Attorney-general of the Fifth Judicial Circuit shall perform the duties of Attorney-general in the Criminal Court in the counties herein named, except the county of Fentress, and in the county of Fentress the Attorney-general of the Second Judicial Circuit shall perform the duties of Attorney-general.

**SECTION 6.** That immediately upon the passage of this Act, or as soon thereafter as practicable, the Governor shall appoint a Judge of said Criminal Court created by this Act, who shall possess the same qualification and be clothed with the same powers and jurisdiction as are now provided by law for Judges in this State, and whose salary shall be the same and paid in like manner by the State as that of other Criminal and Circuit Judges of the State.

**SECTION 7.** That the Judge of the Criminal Court created by this Act shall hold the Circuit Courts in the counties of Pickett, Macon, and Trousdale, and it shall be lawful for said judge of said Criminal Court and the Judge of the Fifth Judicial Circuit to hold each of their courts, both criminal and civil, in any of the different counties of said circuit at the same time; and the Judge of the Fifth Judicial Circuit shall hold the Criminal Court in the counties of Cumberland and Clay, and the Judge of the Fifth Judicial Circuit shall hold the Circuit and Criminal Court for Fentress County.

**SECTION 8.** That all bonds and recognizances heretofore or hereafter taken and all process hereafter issued shall be made returnable to the times and places fixed by law for holding the courts for the several counties herein named.

**SECTION 9.** That all laws and parts of laws in conflict with this Act be, and the same are hereby, repealed in so far as they conflict with this Act, but no further or otherwise.

**SECTION 10.** That this Act take effect from and after March 1, 1907, the public welfare requiring it.

Passed: February 7, 1907.

## Private Acts of 1941 Chapter 298

**SECTION 1.** That the Criminal Court at Celina, for Clay County, Tennessee, which is now being held by the Circuit Judge of the Fifth Judicial Circuit of Tennessee, on the fourth Mondays in February, June, and October, shall hereafter be held by the Judge of the Criminal Court of the Fifth Judicial Circuit of Tennessee.

**SECTION 2.** That this Act take effect from and after the first day of March, 1941, the public welfare requiring it.

Passed: February 14, 1941.

## General Sessions Court

### Private Acts of 1949 Chapter 285

**SECTION 1.** That there is hereby created and established in and for Clay County, Tennessee, a Court which shall be designated Court of General Sessions of Clay County, Tennessee, which shall possess the powers and jurisdiction as hereinafter provided. The Court shall be held in Celina, and Clay County shall provide courtrooms, dockets, furnishings, and necessary supplies for the equipment, operation and maintenance of said Court, and pay for same out of the ordinary funds of said county.

**SECTION 2.** That the jurisdiction, powers and authority of said Court shall be coextensive with Clay County and shall be the same as provided by law for Justices of the Peace in civil and criminal action; and the Justices of the Peace of Clay County are hereby divested of all such jurisdiction, powers and authority. The authority of said Justices of the Peace in their capacity as members of the Quarterly Court, or in the performance of the rites of matrimony, is in no wise affected by this Act. The said Justices of the Peace shall retain their power and authority to issue criminal warrants, mittimus, accept and approve appearance bonds, and said Justices of the Peace shall be paid their regular fees for such services, but such warrants, mittimus and appearance bonds shall be returnable for trial before the General Sessions Judge.

As amended by: Private Acts of 1949, Chapter 881

**SECTION 3.** That the Court of General Sessions is hereby vested with the jurisdiction to try and determine and render final judgment in all misdemeanor cases brought before said Court by warrant or information, wherein the person charged with such misdemeanor offenses enters a plea of guilty, or requests a trial upon the merits, and expressly waives an indictment, presentment and a Grand Jury investigation, and a jury trial. In such cases the trial shall proceed before the Judge and without a jury. The final judgment of such Court may be appealed to the Circuit Court of Clay County, by the defendant, where such appeal shall be tried by a Judge of such Court without a jury, and without indictment or presentment.

**SECTION 4.** That it shall be the mandatory duty of the Judge of the Court of General Sessions when a defendant is brought before such Court upon arraignment or trial, to advise such defendant of his constitutional right to the aid of counsel, the right to be tried only upon presentment or indictment by a Grand Jury, the right to make a statement in reference to the accusation or the right to waive such statement, and the right to a trial by jury. Upon the defendant agreeing in writing to waive the right to be put to trial by presentment or indictment by a Grand Jury and the right to be tried by a jury of his peers, such Court may proceed to hear and determine said case as is provided in Section 3 hereof.

Said waiver shall be written or attached to the warrant substantially in words and figures as follows:

The defendant \_\_\_\_\_ pleads \_\_\_\_\_ guilty to the offense of \_\_\_\_\_ and waives his right to be tried only

by indictment or presentment preferred by a Grand Jury, and likewise waives trial by a jury of his peers.

**SECTION 5.** That the laws regulating pleading and practice, stay of judgments, writs and processes in

civil actions in the Courts of Justices of the Peace shall apply to and govern said Court; and all of the statutes regulating appeals before Justices of the Peace shall likewise apply to said Court, except no appeal shall be granted from a judgment dismissing a suit or judgment which does not exceed the amount of Twenty-five (\$25.00) Dollars, exclusive of interest and cost; howevr (sic), a new trial of said excepted cases may be had and with as full rights as if on appeal to the Circuit Court, provided a petition for a writ of certiorari showing merit and sworn to has been filed with the Circuit Court within ten days from the date of judgment complained of, and the writ has been granted. No execution shall issue during said period of ten days unless said writ has been previously denied.

**SECTION 6.** That before the issuance of any warrant in a civil case, the plaintiff shall execute a cost bond with good security in the sum of Twenty-five (\$25.00) Dollars, or in lieu thereof, make a cash deposit with the Clerk of not less than Two Dollars and fifty cents (\$2.50), or more than Twenty-five (\$25.00) Dollars, to secure the costs, or take the oath prescribed for poor persons, and on motion, the Court may increase the security.

**SECTION 7.** That in all matters the costs and fees of said Court of General Sessions shall be the same as those provided by law for Justices of the Peace.

The fees and other compensation of the Sheriff, his Deputies, Constables, Game Wardens, and State Highway Patrolmen for the execution of writs and processes of said Court and fees for attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Courts of the Justices of the Peace.

The fees and compensation, due for services rendered by the Court, shall accrue to Clay County, and the Clerk of said Court shall pay to said county monthly all fees, commissions and emoluments of said Court of General Sessions.

The fees and compensation, costs and mileage of witnesses, the Sheriff, his deputies, constables, game wardens and State Highway Patrolmen for services to said Court, and the fines and forfeitures adjudged by it shall be paid to the Clerk, and handled, accounted for, and disbursed as required by law. The Clerk of said Court shall monthly pay to Clay County all fines and forfeitures collected.

**SECTION 8.** That there shall be one civil docket and one criminal docket for the Court in which all cases shall be entered immediately upon the issuance of the warrant. Upon said dockets shall be entered the style and number of the case, the date of the issuance of the warrant or process, the name of the officer to whom delivered, the return of the process in brief form, the action of the Court both interlocutory and final, orders, judgments, executions, garnishments, lists of fees of Court, of the Sheriff and all other officers for their respective services, fees of witnesses for attendance, credits for payments upon judgments and upon costs. There shall be a direct and cross index of each case in the civil docket and a direct index giving the name of the defendant on the criminal docket, so as to provide ready access to the record of each case.

The judgment of the Court shall be entered both on the warrant and docket and signed by the trial judge.

On the criminal docket there shall be kept a column wherein the criminal warrant is charged to the officer taking out the warrant, and the officer who receives the warrant, shall give a receipt for same. No warrant, criminal or civil, shall be taken from the office of said Court until its issuance has been properly entered on said respective dockets.

**SECTION 9.** There shall be one judge for said court who shall be at least thirty (30) years of age, and shall before his election, have been a resident of the state for five (5) years and of Clay County for one (1) year. The oath of said judge shall be the same as that prescribed for chancellors.

As amended by: Private Acts of 1963, Chapter 227  
Private Acts of 1984, Chapter 212

**SECTION 10.** That the compensation of said Judge shall be Two Thousand Four Hundred (\$2,400.00) Dollars per annum, payable in equal monthly installments, on the first day of each month. It shall be paid out of the ordinary funds of Clay County and shall not be increased or diminished during the time for which said Judge is elected.

The Judge of said Court may practice his profession in the other Courts of this State so long as it does not interfere with his duties as Judge of the Court of General Sessions. Provided further, however, he shall not give advice, nor render any legal services in connection with any matter coming within the jurisdiction of his Court.

As amended by: Private Acts of 1949, Chapter 881

**SECTION 11.** That for the purpose of carrying out the provisions of this Act, W. Grady Sidwell is hereby appointed Judge of the Court of General Sessions of Clay County, Tennessee, to serve until the first day of September, 1950, and until his successor is elected and qualified.

That at the regular election in 1950, and each eight years thereafter there shall be a Judge of the General Sessions Court elected by the qualified voters of Clay County, Tennessee, who shall take office on the first day of September following, and shall hold office for a term of eight years and until his successor is elected and qualified.

**SECTION 12.** That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason fails to hold Court, then a majority of the attorneys present in Court may elect one of their number who has the qualifications of such a Judge, and when elected shall have the same authority as a regular Judge to hold the Court for the occasion. Such special Judges shall not be entitled to compensation for their services.

**SECTION 13.** That in the case of a vacancy for any cause the Governor shall have the power to appoint some qualified person to fill such vacancy.

**SECTION 14.** That the Clerk of the Circuit and Criminal Courts of said county shall act as Clerk of said Court of General Sessions and when acting as Clerk of said Court shall be designated "Clerk of the Court of General Sessions of Clay County, Tennessee." The fees, commissions, and emoluments of said Court of General Sessions shall accrue to said county. The Clerk of said Court shall receive as compensation for his services the sum of Six Hundred (\$600.00) Dollars per annum, payable in equal monthly installments, on the first of each month, out of the ordinary funds of said county, which shall be in addition to the fees and compensation now allowed by law.

The Clerk of said Court and his deputies shall have concurrent authority with the Judge to issue warrants and other processes and writs, other than those which the law requires shall be issued only by or upon the fiat of a judicial officer.

**COMPILER'S NOTE:** Chapter 285, Private Acts of 1949, was part of the basis for the suit of Clay County v. Stone (1961), 343 S.W.2d 863, 208 Tenn. 1 (1961), wherein the court ruled that the fees collected in the General Sessions Court should be counted as part of the fees of the Circuit Court Clerk to provide for the clerk's salary established in the Anti-Fee bill.

**SECTION 15.** That the Sheriff of said county, or any Deputy Sheriff or Constable thereof, shall serve legal processes, writs and papers issued by said Court with the same authority as provided by law in the other inferior Courts.

**SECTION 16.** That the Judge of said Court shall adopt such rules as may be necessary to expedite the trial and disposition of cases. He shall also have the authority to appoint some officer to wait upon the Court and act as bailiff thereof, when the General Sessions Judge deems it necessary and no officer shall draw pay for said service unless approved by said General Sessions Judge, and shall have the same authority to preserve order in his Court and to punish for contempt of Court as is now given by law to Circuit Judges.

As amended by: Private Acts of 1949, Chapter 881

**SECTION 17.** That this Act shall in no wise impair the right, title or interest of any Justice of the Peace of said county to any unpaid fees, or funds in which he had a right or interest in any proceeding, judgment or suit, whether said cause is disposed of or pending when this Act becomes effective.

**SECTION 18.** That at the time this Act becomes effective all of the official dockets and records and papers in cases that are disposed of, or that are undisposed of and pending, belonging to Justices of the Peace or former Justices of the Peace of Clay County, shall be delivered to the General Sessions Court as the successor of the said Justices of the Peace.

**SECTION 19.** That said Court shall have authority to hear and determine all undisposed of cases pending in the Courts of Justices of the Peace of Clay County as if such cases had originated in said Court of General Sessions, and shall have the power to issue executions on judgments rendered by Justices of the Peace.

**SECTION 20.** That the Legislature expressly declares that each section of this Act is severable and that should any portion of this Act be held unconstitutional or invalid, the same shall not affect the remainder of this Act, but such unconstitutional or invalid portions shall be elided and the Legislature declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 21.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 24, 1949.

## Court System - Historical Notes

**Board of Jury Commissioners - Jurors**

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

1. Private Acts of 1923, Chapter 160, amended Chapter 37, Acts of 1919, which act authorized and empowered the Criminal Judges and the Judges of the Circuit Courts having criminal jurisdiction to appoint the foreman of the respective grand juries so as to exempt Clay, Overton, and Pickett Counties from its provisions. A general repealing clause repealed all acts in conflict.
2. Private acts of 1925, Chapter 773, repealed Chapter 160, Private Acts of 1923, above, which exempted the counties mentioned from the provisions of the 1919 Act, Chapter 37.
3. Private Acts of 1927, Chapter 156, also amended Chapter 37, Acts of 1919, so as to exempt another County (Pickett County, according to the population figures).
4. Private Acts of 1929, Chapter 806, created a Board of Jury Commissioners for Clay County. The act prescribed the qualifications, method of appointment, term of office and duties of said Commissioners and their compensation, and the duties of the Secretary of the Board. It further defined the qualification of jurors and the manner of their selection for the Criminal and Circuit Courts, including the Grand Jury and its foreman. The duties of the Judges, the Clerks, and the Sheriff were spelled out and provisions made to punish violators of the terms of this law. This was a well written, comprehensive piece of legislation which was superseded by the state law referred to in the opening statement of this section.
5. Private Acts of 1929, Chapter 932, again repealed entirely and specifically, Chapter 160, Private Acts of 1923, as it was amended, which would make these counties which exempted themselves again subject to the provisions of the 1919 Act, Chapter 37. Clay County however, provided for this matter in their law setting up the Board of Jury Commissioners which is outlined above.
6. Private Acts of 1931, Chapter 723, pertains to the same subject of the Judges of the Criminal Courts and the Circuit Courts having criminal jurisdiction appointing the Foreman of the Grand Jury in their respective counties. This particular act applied only to Overton County which exempted itself from the 1919 act.
7. Private Acts of 1933, Chapter 854, amended Chapter 806, Private Acts of 1929 by changing the number 42 to 30 in Sections 3 and 4 of the act so as to reduce the number of jurors to that figure. The act was further amended by striking the fourth and fifth paragraphs in Section 4 and inserting a provision which stated that after the Grand Jury has been formed, the twelve jurors whose names are first drawn shall be the Petit Jury, and the remaining six persons on the list shall be designated by the court as Special Petit Jurors.
8. Private Acts of 1953, Chapter 204, further amended Chapter 806, Private Acts of 1929, to the effect that previous Jury service on regular panel within two years shall not disqualify a person from jury service.

**Chancery Court**

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

1. Acts of 1870 (2nd Ex. Sess.), Chapter 32, divided Tennessee into twelve chancery districts, assigning Van Buren, White, Putnam, Overton, Jackson, Macon, Smith, DeKalb, and Clay Counties to the Fifth Chancery Division.
2. Acts of 1870 (2nd Ex. Sess.), Chapter 47, established court terms for the county chancery courts in the Fifth Chancery Division. Clay County's Court terms would begin on the fourth Monday in June and December.
3. Acts of 1881, Chapter 17, changed the beginning dates of terms in the Fifth Chancery Division. Clay was changed to the fourth Monday in May and November.
4. Acts of 1885 (Ex. Sess.), Chapter 20, again divided Tennessee into eleven chancery divisions. The Fifth Division was composed of Cumberland, Fentress, Pickett, Overton, Jackson, Putnam, White, DeKalb, Smith, Macon, and Clay counties. Court terms in Clay County would start on the second Monday in April and October.
5. Acts of 1891 (Ex. Sess.), Chapter 11, changed the terms of the Fifth Chancery Division moving Clay County to the first Friday after the fourth Monday in March and September.
6. Acts of 1895, Chapter 15, again changed all the court terms in the Fifth Chancery Division to which DeKalb, Macon, Jackson, Overton, Pickett, Fentress, Cumberland, White, Smith, Putnam,

and Clay counties belonged. Clay County terms would start on the last Monday in March and September.

7. Acts of 1897, Chapter 43, reorganized the judicial structure of the State. Clay County remained in the Fifth Chancery Division along with the same counties but the beginning of court terms was changed to the last Monday in April and October.
8. Acts of 1897, Chapter 160, changed the court terms for the chancery court of Clay County only to the last Monday in February and September.
9. Acts of 1897, Chapter 294, rearranged all the court terms for the counties in the Fifth Chancery Division. Counties remained unchanged in the division but Clay's court terms were named to start on the fourth Monday in February and September. Chancellors and Judges could interchange in the Fifth.
10. Acts of 1899, Chapter 427, separated the State into ten Chancery Divisions. The Fourth Division consisted of Cumberland, Pickett, Overton, Clay, Jackson, Putnam, White, DeKalb, Smith, Macon, Van Buren, Cannon, and Trousdale Counties. The starting dates for the terms in Clay remained on the fourth Monday in February and September.
11. Acts of 1901, Chapter 385, changed the chancery court terms for Clay County only to the fourth Monday in March and September.
12. Acts of 1903, Chapter 97, changed the starting dates for the Fourth Chancery Division court terms but left Clay County's on the fourth Monday in March and September.
13. Acts of 1905, Chapter 120, again altered the initial days for the Chancery Courts in the Fourth Division but did not bother Clay County.
14. Private Acts of 1911, Chapter 507, was also devoted to rearranging the starting dates for the chancery court terms in the Fourth Chancery Division but did not mention Clay County in the Act.
15. Private Acts of 1927, Chapter 40, changed the schedule for the chancery courts of Trousdale, Macon, Smith, and Pickett Counties but no others in the Fourth Chancery Division were affected.
16. Private Acts of 1927, Chapter 406, changed the chancery court terms for Clay and Cumberland Counties. Clay's terms of court would start on the fourth Monday in January and July.
17. Private Acts of 1943, Chapter 170, changed the dates for the Chancery Court terms in Clay County from the 4th Monday in January and July to the second Monday in April and October.

### **Circuit Court**

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

1. Acts of 1870 (2nd Ex. Sess.), Chapter 31, set up the 15 Judicial Circuits and the one Special Circuit for Shelby County in Tennessee. The Fifth Circuit had Overton, DeKalb, Putnam, White, Smith, Jackson, Macon, and Clay if it were established. Circuit Court terms would start on the second Monday in January, May, and September in Clay County.
2. Acts of 1872 (Ex. Sess.), Chapter 15, changed the court terms in the Fifth Judicial Circuit switching Clay County to the first Monday of January, May and September.
3. Acts of 1873, Chapter 22, detached Trousdale County from the 7th Judicial Circuit and placed it in the 5th which necessitated a change in court terms for all the counties. Clay's would begin on the fourth Monday in December, April, and August but no change would take place until the next term of Court.
4. Acts of 1875, Chapter 137, provided that the terms of the Circuit Court in Clay County, after June 1, 1875, would begin on the fourth Monday of January, May, and September instead of the dates listed in Item 3 above.
5. Acts of 1877, Chapter 124, changed the commencing dates of the circuit Court in Clay County to the first Monday after the fourth Monday of January, May, and September.
6. Acts of 1881, Chapter 92, rearranged all the court terms in the Fifth Circuit Court in Clay County to the first Monday in February, the first Monday after the fourth Monday in May, and the first Tuesday after the fourth Monday in September.
7. Acts of 1882 (Ex. Sess.), Chapter 7, Section 2 amended the act above in Item 6 so that the last term of the Circuit Court in Clay County would begin on the first Monday in October rather than on the first Tuesday after the fourth Monday in September.
8. Acts of 1885 (Ex. Sess.), Chapter 20, rearranged the state's chancery divisions and judicial circuits. The Fifth Circuit had Pickett, Fentress, Cumberland, Putnam, Overton, Clay, Jackson,

Smith, Macon, and Trousdale. The terms of court in Clay County would begin on the first Tuesday after the fourth Monday in February, June, and October. See *Flynn v. State*, 203 Tenn. 341, 313 S.W.2d 249 (1958).

9. Acts of 1887, Chapter 12, changed court terms for all the Fifth Judicial Circuit which was composed of the same counties. Circuit Court terms for Clay County would begin on the fourth Monday after the fourth Monday in January, May, and September.
10. Acts of 1891, Chapter 46, amended Chapter 12, Acts of 1887, above, so as to change the terms for the Clay County Circuit Court to the last Monday in February, June, and October.
11. Acts of 1891 (Ex. Sess.), Chapter 3, changed court terms for some of the counties in the Fifth Circuit but did not change Clay.
12. Acts of 1897, Chapter 43, was a reorganizational act for both the Fifth Chancery Division and the Fifth Judicial Circuit. Clay remained in the Fifth with Putnam, White, Overton, Jackson, Smith, Trousdale, Cumberland, and Macon. The court terms for Clay would start on the last Monday in February, June, and October.
13. Acts of 1897, Chapter 294, changed all the circuit court terms in the Fifth Circuit shifting Clay County to the fourth Monday in February, and the third Monday in June and October.
14. Acts of 1899, Chapter 427, divided the state into 14 Judicial Circuits. The Fifth was composed of Pickett, Cumberland, Putnam, Overton, Clay, Jackson, Smith, Trousdale, White, and Macon. Court terms for Clay County remained as stated in Item 13, above.
15. Acts of 1901, Chapter 324, rearranged court terms throughout the Fifth Judicial Circuit. Clay County Circuit Court would commence on the fourth Monday in February, June, and October.
16. Acts of 1907, Chapter 122, was also concerned with court terms in the same circuit but did not affect Clay County in any way. A separate Criminal Court was created for the Fifth Judicial Circuit in 1907.
17. Acts of 1909, Chapter 547, also amended acts to change Circuit times for Trousdale County only.
18. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, reorganized Tennessee into twenty Judicial Circuits. Clay County remained in the Fifth Circuit with White, Overton, Jackson, Putnam, Cumberland, and Pickett Counties. The civil division court terms for Clay County would begin on the second Monday in January, May, and September.

### **Circuit Court - Clerk**

The following act has no current effect, but once applied to the Clay County Circuit Court Clerk.

1. Public Acts of 1903, Chapter 255, determined the salaries of Circuit Court Clerks according to population figures. Those counties having a population of 15,000 or under, would pay their Circuit Court Clerks \$500 a year, provided they filed a sworn itemized statement with the County Judge, or Chairman, showing the amount of fees collected by his office. If the fees were less than the salary, the county would pay the difference to the Clerk but, if the fees exceeded the salary, the Clerk could retain the excess.

### **Criminal Court**

The following acts once pertained to the Clay County Criminal Court, but are no longer current law.

1. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, which reorganized the entire judicial structure of the State into 20 circuits and 14 Chancery Divisions, showed Trousdale, Smith, Wilson, Macon, Jackson, Overton, Putnam, White, and Clay Counties to be in the criminal section of the Fifth Judicial Circuit with court terms for Clay County to begin on the fourth Monday in February, June, and October.
2. Public Acts of 1977, Chapter 444, divided the Criminal Court of the Fifth Judicial Circuit into two divisions. Clay County was in division one and court was held on the fourth Mondays in February, June, and October. The second division was transferred to the Twenty-fifth Judicial Circuit in Public Acts of 1978, Chapter 798.
3. Private Acts of 1984, Chapter 160, attempted to amend the Private Acts of 1949, 1963, and 1973, Chapters 285, 227, and 145 respectively. The Private Acts of 1984, Chapter 160, sought to redefine the qualifications for the judge of the General Sessions Court of Clay County by requiring that the judge be at least 30 years of age, shall have been a resident of the state for five years and of Clay County for one year. This act was not acted upon by local authorities and therefore did not become operative.

### **District Attorney General - Assistants and Criminal Investigators**

The following acts once affecting Clay County are no longer in effect but are listed here for historical purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1907, Chapter 381, created the office of Assistant Attorney General for the Fifth Judicial Circuit who would serve at the pleasure and direction of the Attorney-General and who must be learned in the law and not under twenty-five years of age. His salary would be \$1,800 annually payable from the state treasury. This act was specifically repealed by Chapter 166, Private Acts of 1919.
2. Private Acts of 1919, Chapter 166, repealed Chapter 381, Private Acts of 1907, Item One, above, in its entirety.

### **General Reference**

The following acts are listed below for historical purposes and no longer have any local effect.

1. Acts of 1870, (2nd Ex. Sess.), Chapter 90, amended Chapter 29, Acts of 1870 (2nd Ex. Sess.) which created Clay County, by providing that when both of the parties to a lawsuit reside in Clay County, the suit may be remanded to that county upon the application of either part, and the Clerks of the various courts will prepare the transcripts necessary to accomplish the same.
2. Public Acts of 1897, Chapter 124, may have been the first of the statewide acts setting salaries for the Clerk and Master, Clerks of the County, Circuit Special, and Criminal Courts, County Trustees, County Registers, Sheriffs, and in this case, the Clerks of the Supreme Court, all based on the population of the county. This act was declared unconstitutional in Weaver v. Davidson County, 104 Tenn. 315, 59 S.W. 1105 (1900).
3. Public Acts of 1915, Chapter 117, Section 1, created a position of Special Court Stenographer for the Judge of the Fourth Judicial Circuit.
4. Private Acts of 1915, Chapter 461, removed the disability of minority from Tony B. Maxey so that he could be appointed as a Deputy County Court Clerk and all his deeds and actions as such Deputy Clerk would be as legal and binding as if he were an adult.
5. Public Acts of 1939, Chapter 156, created officially a position of Stenographer for the Judge of the Fifth Judicial Circuit to which Clay County belonged. This Act was repealed by Chapter 134, Public Acts of 1967.

## Chapter VI - Education/Schools

### Board of Education

#### Private Acts of 1947 Chapter 330

**SECTION 1.** That in all Counties of this State having a population of not less than 10,895, nor more than 10,925, according to the Federal Census of 1940, or any subsequent Federal Census, there is hereby created a County Board of School Commissioners to be composed of ten (10) members.

As amended by: Private Acts of 1999, Chapter 50

**SECTION 2.** That the members of said Board shall be elected at the regular August election, 1948, and quadrennially thereafter, and shall hold office for a period of four years from the first day of September next following their election and until their successors shall be elected and qualified. The County Board of Education of Clay County shall consist of ten (10) members with two (2) members to be elected from each of the five (5) Civil Districts of Clay County as follows:

In order to implement staggered terms for all members of the Board of Education, members added by this act in Civil Districts 2, 3 and 5 shall be elected to two (2) year terms at the August General Election in 2000. Thereafter, all members shall be elected to full four (4) year terms at subsequent August General Elections. Existing positions on the Board of Education shall continue to be filled for full four (4) year terms with the existing positions in Civil Districts 2, 3 and 5 filled at the August General Election in 2002 and the existing positions in Civil Districts 1 and 4 being filled at the August General Election in 2000.



Nothing in this act shall be construed as having the effect of removing any incumbent member of the County Board of Education from office or abridging the term of any member prior to the end of the term for which the member was elected.

The positions created by this act are created as of the effective date of this act, and shall remain vacant until the persons elected at the August General Election in 2000 are qualified and take office. Said vacancies shall have no effect on quorum and voting requirements prior to the August General Election in 2000.

No person shall be eligible to election to said Board who is not 21 years of age, and no person shall be eligible to election as a member of said Board from any particular civil district of such County who is not a resident and citizen of such District.

As amended by: Private Acts of 1999, Chapter 50

**SECTION 3.** That prior to the performance of any official duty as a member of such Board, each member thereof shall execute a good and solvent bond in the penal sum of One Thousand (\$1,000.00) Dollars, with two or more sureties, conditioned for the faithful performance of his duties. Said bond to be approved by the County Court Clerk and filed of record in his office. The members of said Board shall also take and subscribe to an oath to faithfully discharge the duties of his office, which oath shall likewise be filed in the office of the County Court Clerk.

**SECTION 4.** That as soon as practicable after the first day of September, 1948, it shall be the duty of the members of said County Board of Education to meet and organize by selecting one of its members as Chairman, who shall preside over the deliberation of said Board.

**SECTION 5.** That the County Superintendent of Public Instruction in each County to which this Act applies shall act as Secretary of said Board of Education, without additional compensation therefor and without the right to vote upon any question coming before said meeting.

**SECTION 6.** That it shall be mandatory that said County Board of Education hold its meetings at the Courthouse in the Counties to which this Act applies. All of said meetings shall be of a public nature and open to any person desiring to attend said meetings. The time of said meetings shall be the same as is now required by law for County Boards of Education. Each member of the County Board of Education as herein provided shall receive the sum of Three (\$3.00) Dollars per day and the Chairman shall receive the sum of Four (\$4.00) Dollars per day for each day in attendance upon the meetings of said Board, which sum shall be paid out of the school funds of the County by warrant drawn by the Chairman of said Board; provided, however, that no member thereof shall receive pay for more than ten meetings in any twelve months.

**SECTION 7.** That all purchases made by said Board of Education, acting either as a Board or as a Building Committee, for any purpose whatsoever, where the purchase price shall amount to or exceed the sum of One Hundred (\$100.00) Dollars, shall be made upon competitive bidding.

When said purchase price shall be more than One Hundred (\$100.00) Dollars, but less than Two Hundred Fifty (\$250.00) Dollars, it shall be mandatory that said Board of Education advertise for bids by five or more written or printed posters for a period of ten days. Said posters shall contain a description of the article or articles to be purchased, and the final date and place of submitting bids, and shall be posted at the Courthouse and at least one public place in each of the four Civil Districts of the County to which this Act applies.

When the purchase price of any article or articles sought to be purchased by said County Board of Education shall amount to or exceed the sum of Two Hundred Fifty (\$250.00) Dollars, it shall be mandatory for said Board to have published in some newspaper in the County to which this Act applies, an advertisement setting forth a description of the article or articles sought to be purchased, and the final date of submitting bids. Said advertisement shall be inserted in one issue of said newspaper and shall be paid for at a rate not to exceed two-thirds of the regular advertising rate of said newspaper.

A record of advertisements, the bids received and the award to the successful bidder and the reasons therefor shall be kept by said Board of Education for a period of two years, and shall be open for inspection by any interested party or any citizen of such County.

**SECTION 8.** That the County Board of Education shall in no event purchase any article whatsoever from any member of said Board; neither shall said Board contract with or employ any member of said Board. The violation of this section shall constitute a misdemeanor, and in addition any member of said Board voting for the purchase of any such article or contract shall be removed from office, and shall be liable upon his official bond for the full value of the article or contract to be recovered by any citizen of the County to which this Act applies, by suit instituted in his own name for the use and benefit of the County to which this Act applies, or by suit by the County itself.

**SECTION 9.** That, except as hereinbefore set forth, the duties, powers and functions of said Board of Education shall be the same as are now required by law for County Board of Education.

**SECTION 10.** That nothing herein shall be construed as removing from office until the first day of September, 1948, the present Board of Education, it being the intention of this Act to permit the present Board of Education to remain in office until the Members of the Board of Education are elected under this Act at the regular August election, 1948.

**SECTION 11.** That all laws or parts of laws in conflict with this Act be, and the same are hereby repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 14, 1947.

## Education/Schools - Historical Notes

### **Board of Education**

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

1. Private Acts of 1935, Chapter 259, created a Board of County School Commissioners for Clay County to be composed of five members, one from each civil district, and one from the county at large, some to be elected at August, 1936, election for four year terms but naming Burt Hestand, Smith Roberts, J. M. Hamilton, Gordon Smith, and W. W. Grace to serve until that time. Each must be 21 years of age, or older, and a resident of the civil district represented. They would select a Chairman and the Superintendent of Public Instruction would be the Secretary without vote and pay. Each member of the Board would get \$3.00 daily, and the Chairman \$4.00 daily, for each days attendance at Board meetings, limited to ten meetings per year. This Act was repealed by Chapter 236, Private Acts of 1947.
2. Private Acts of 1937, Chapter 326, amended Chapter 259, Private Acts of 1935, in Section 3 by deleting the words "without additional compensation therefor", thereby making it possible for the Superintendent of Public Instruction to be paid for acting as Secretary to the Board of Education.
3. Private Acts of 1937, Chapter 777, amended Section One of Chapter 259, Acts of 1935, by increasing the membership of the Board of Education from five to seven, and naming the following (1) one member, Burt Hestand from the First Civil District, (2) two members, W. B. Bean and J. R. Colson, from the Second Civil District, (3) two members, J. M. Hamilton and Roy Maynard from the Third Civil District, and (4) two members, H. E. Neely and H. B. King, from the Fourth Civil District. Old members would hold office during their elected terms and the two new members would hold until the August, 1940 election where they would have to run for office.
4. Private Acts of 1947, Chapter 236, repealed specifically and entirely, Chapter 259, Private Acts of 1935, which created a County Board of Education.
5. Private Acts of 1947, Chapter 239, amended Chapter 259, Section 4, by rewriting the sections on purchasing by the Board so as to demand advertising and competitive bidding on purchases exceeding certain amounts. This amendment however must fall with the repeal of the act it amends. A new law creating a Board of Education was passed in 1947 and is published in full herein.
6. Private Acts of 2016, Chapter 59, would have amended Private Acts of 1947, Chapter 330, as amended by Private Acts of 1999, Chapter 50, to reduce the membership of the Clay County Board of Education from ten to five, however, the Act was not approved locally.

### **Superintendent or Director of Schools**

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

1. Private Acts of 1923, Chapter 606, as amended by Private Acts of 1943, Chapter 324, created the office of county superintendent of public instruction in counties having a population of not less than 9,190 and not more than 9,225, according to the 1920 Federal Census.
2. Private Acts of 1933, Chapter 882, amended Chapter 606, Private Acts of 1923, by reducing the compensation of the Superintendent of Public Instruction from \$1,000 to \$800 annually.
3. Private Acts of 1937, Chapter 324, specifically repealed Chapter 882, Private Acts of 1933, in its entirety.

### **General Reference**

The following acts constitute part of the administrative and political heritage of the educational structure

of Clay County but are no longer operative since they have either been superseded, repealed, or failed to receive local approval. Also referenced below is an act which repealed prior law without providing new substantive provisions.

1. Acts of 1905, Chapter 412, incorporated the Mont Vale Academy in Celina of Clay County, naming W. L. Brown, W. N. Gray, W. C. Lowery, E. Kirkpatrick, S. B. Anderson, Codell Hull, and W. B. Boyd as Trustees. The Academy may operate as a normal school and the remaining members on the Board of Trustees are authorized to fill any vacancies which may occur.
2. Public Acts of 1907, Chapter 236, abolished the office of District Directors of Education, and created Boards of Education and District Advisory Boards for every county in the State except for nine counties which exempted themselves from its application. Clay was not among the exempting counties. This law did not apply to city school systems. The County Court would divide the county into five school districts, as nearly equal as possible, composed of whole civil districts from which they would appoint a member of the Board of Education until September of 1908 when the members would be elected by the voters of the district for two year terms. Duties of the Chairman, the Secretary, the ex-officio Secretary, and the Board as a whole are written into the Act. Some general provisions are part of the Act which apply to all the school districts. See Whitthorne v. Turner 193 S.W. 147. 155 Tenn. 303 (1927).
3. Private Acts of 1909, Chapter 494, was a compulsory attendance law, applying to Clay and seventeen other counties, which required all children between the ages of 8 and 14 to attend some public school at least four months, or eighty consecutive days each year unless excused under the conditions stated in the Act. The responsibility was placed on the parents, guardians, or those having custody of the child, and violations were misdemeanors. Certain records required by this law were to be kept which included a monthly report on attendance no child being allowed more than two days legitimate absence in each four week period. This act was repealed by the Public Acts of 1978, Chapter 716.
4. Private Acts of 1925, Chapter 737, provided for a special tax not exceeding 12¢ on the \$100 of taxable property, for the purpose of maintaining three two-year county high schools. The schools were Moss, Hermitage Springs, and Willow Grove.

## Chapter VII - Elections

### Districts - Reapportionment

#### Civil Districts

#### Private Acts of 1961 Chapter 43

**SECTION 1.** That the existing four (4) civil districts of Clay County, Tennessee be and the same are hereby abolished, and in lieu thereof there are hereby created eight (8) civil districts the boundaries of which shall be as follows:

(A) With respect to the existing First Civil District, beginning at a stake in the Richville and Brimstone Road where said road enters the existing Second District, thence northward with said road to a stake at the intersection of this road and the Turkey Creek Road, thence a straight line northeasterly, from this point to a stake at the intersection of the New Hope Road and Liberty Hill Road, with same straight line extending northeastwardly to a stake in the Kentucky line, thence east with the Kentucky line to the Cumberland River, thence down the Cumberland River to where the existing Third Civil District crosses the Cumberland River, thence with the existing Third District line to a stake where the existing First, Second and Third Districts corner, thence with the existing Second District line to the beginning point, said boundaries to contain what shall be known as District No. Five.

The remainder of the existing district shall be known as District No. One.

(B) With respect to the existing Second Civil District, beginning where Browning Creek enters Jackson County, running northward to where Willmore Short Road intersects Union Hill and Miles Roads, thence northwest to the forks of Trace Creek and Pursley Creek, thence with Trace Creek to Highway 52, thence northward to where Clementsville Road enters Kentucky, said line to be the boundary between the new Second and Sixth Districts.

That portion of the existing Second District to the west of said line shall be known as the new Second District, and that portion to the east of said line shall be known as the new Sixth District.

(C) With respect to the existing Third District, beginning at a stake where Dale Hollow Reservation leaves Highway 53 (near the top of Cedar Hill), thence north with Highway 53 to a stake where the J. W. Stone Road enters Highway 53, thence westerly one thousand (1,000) feet with the J. W. Stone Road to a stake in said road, thence northwardly a straight line to a stake at the Key Cemetery (near Mrs. Franklin Killmon's residence), thence northwesterly to a stake at the top of the Neely Creek Hill in the Neely Creek to Pea Ridge Road, thence northwardly to a stake at the Kentucky line where Slop Hollow Branch enters Kentucky, thence eastward with the Kentucky Line to Dale Hollow Lake, thence with the western shore of Dale Hollow Lake to a stake in the Dale Hollow shore line directly south of the beginning point, thence northward to the a beginning point, such boundaries to enclose what shall be known as the new District No. Seven.

The remainder of the existing Third District shall be the new District No. 3.

(D) With respect to the existing Fourth District, beginning at a point where Irons Creek enters Dale Hollow Lake, up Irons Creek to the head of the left fork of Irons Creek, thence south to a stake in the Overton County line, thence westerly with the Overton County line to Dale Hollow Lake, thence with said lake to the beginning point, such boundaries to enclose what shall be known as the new Eighth District.

The remainder of the existing Fourth District shall constitute the new Fourth District.

**SECTION 2.** That there are hereby named to serve as justices of peace, in addition to those presently serving, the following: For the First District, H. T. Melton; for the Fifth District, C. D. Reecer; for the Seventh District, J. T. Colson and Waymon Estep; for the Fourth District, Sid Mabry; for the Eighth District, E. E. Chilton; for the Second District, Claude Browning; for the Sixth District, Gurvis Smith.

**SECTION 3.** That there are hereby named the following additional constables: For the Fifth District, Roscoe Boles; for the Seventh District, Brance Scott; for the Eighth District, Rad Collins; for the Second District, Lynn Spivey.

**SECTION 4.** That all present justices of the peace and all present constables shall until their terms of office expire represent the new Civil District in which they reside.

**SECTION 5.** That those persons appointed as justices of the peace and constables by this Act shall serve until September 1, 1962, and their successors shall be elected in the August General Election of 1962. Any vacancies occurring prior to that time shall be filled as now provided by law.

**SECTION 6.** That the constitution of the School Board of Clay County, as provided for in Chapter 330 of the Private Acts of 1947, shall remain undisturbed by the present Act.

**SECTION 7.** That this Act shall be of no effect unless and until it shall be approved by a majority of qualified voters voting in a referendum to be held in Clay County on March 23, 1961. Its approval or rejection in said referendum shall be certified by the Clay County Election Commission to the Secretary of State.

Passed: February 13, 1961.

## Elections - Historical Notes

### **Civil Districts**

The acts listed below have affected the civil districts in Clay County, but are no longer operative regarding elections. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1903, Chapter 569, reduced the number of civil districts in Clay County from twelve to four, which were composed of whole former civil districts. The County Court was authorized to set up the voting precincts in the various civil districts as created herein.
2. Private Acts of 1943, Chapter 283, abolished the existing four Civil Districts of Clay County and created eight in their place, which were described by incorporating civil districts into the descriptions and by metes and bounds. Section 3 of this act names the two Justices of the Peace and the Constable for each District who would serve until the next regular county election in August, 1944. C. J. Mabry was named as the chairman of the county court and his salary as such set at \$100 per month. He would serve until the next regular meeting of the county court when the justices of the court would elect their own chairman. This act was expressly repealed by Chapter 238, Private Acts of 1947.

3. Private Acts of 1947, Chapter 238, specifically repeals Chapter 283, Private Acts of 1943, Item 2, above, which redistricted Clay County.
4. Private Acts of 1947, Chapter 329, abolished the then existing eight civil districts in Clay County and regrouped them into four new districts. This act was repealed by the Private Acts of 1961, Chapter 43.

### **Elections**

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

1. Acts of 1871, Chapter 146, apportioned Tennessee according to the 1870 federal census. Clay, Jackson, and Macon Counties would elect one representative between them and the 25th Senatorial District was composed of Macon, Smith, Clay, Trousdale, Sumner, and Jackson Counties.
2. Acts of 1872 (Ex. Sess.), Chapter 7, placed Clay in the Second of eight, U.S. Congressional Districts with Sevier, Knox, Jefferson, Anderson, Campbell, Scott, Morgan, Fentress, Cumberland, White, Putnam, Overton, Jackson, Smith, and Macon Counties.
3. Acts of 1873, Chapter 27, divided the State into ten U.S. Congressional Districts. Clay was assigned to the Fourth with Fentress, Overton, Putnam, Jackson, Macon, Smith, Trousdale, Wilson, Sumner, and Robertson.
4. Acts of 1881 (Ex. Sess.), Chapter 6, reapportioned Tennessee according to the 1880 Federal Census. Macon and Clay Counties would share a Representative to the General Assembly. Jackson, Macon, Clay, Overton, Pickett, and Fentress Counties composed the 11th Senatorial District.
5. Acts of 1882 (Ex. Sess.), Chapter 27, delineated ten U.S. Congressional Districts in the State. The counties remained the same except DeKalb County was added to the Fourth U.S. Congressional District.
6. Acts of 1891, Chapter 131, separated the U.S. Congressional Districts according to the 1890 Federal Census. The Counties were changed by adding Pickett, Rhea, and Cumberland Counties and by taking Robertson and DeKalb out of the Fourth.
7. Acts of 1891 (Ex. Sess.), Chapter 10, provided that Clay, Overton, Fentress, and Pickett Counties would share a Representative to the General Assembly as the 8th District, and that Scott, Fentress, Pickett, Overton, Clay, Jackson, and Putnam Counties would constitute the Tenth State Senatorial District.
8. Acts of 1901, Chapter 109, designated Sumner, Trousdale, Wilson, Putnam, Jackson, Overton, Smith, Macon, Pickett, Fentress, Morgan, Cumberland, and Rhea Counties as the Fourth U.S. Congressional District.
9. Acts of 1901, Chapter 122, put Clay County in the 10th Senatorial District with Morgan, Fentress, Pickett, Overton, Putnam and Jackson Counties. Fentress, Pickett, Overton, and Clay Counties would elect one Representative jointly for the General Assembly.

## **Chapter VIII - Health**

### **Health - Historical Notes**

The following act is included herein for reference purposes.

1. Private Acts of 1933, Chapter 853, made it lawful for any person of good moral character holding a diploma of graduation from a reputable Chiropractic School to practice in Clay County after presenting the diploma to the County Court and paying \$1.00 for a license, all of which could be done without any formal examination, or test, or without any other requirements than these.

## **Chapter IX - Highways and Roads**

### **Highway Commissioner**

### **Private Acts of 1951 Chapter 565**

**SECTION 1.** In order to more effectively maintain public roads and highways, there is hereby created the office of Highway Commissioner in Counties of this State having a population of not less than 10,900, nor more than 10,950, by the Federal Census of 1940, or any subsequent Federal Census. His term of office shall be for a period of four (4) years from September 1, next following his election and until his successor shall be elected and qualified. At the August election, 1970, and every four (4) years thereafter, there shall be elected by the qualified voters of counties to which this Act applies, such highway Commissioner. His compensation shall be \$9,500 per annum payable in equal monthly installments out of the County Highway Funds and in addition thereto, he shall have the use of a county vehicle in his official capacity. Such Highway Commissioner may appoint an assistant who shall hold office at the pleasure of such Highway Commissioner and shall perform such duties as may be required of him by such Commissioner. Such assistant shall act as secretary to the Commissioner and have complete charge of the books and records of the commissioner. Such assistant shall be paid such sum, not to exceed \$6,000 per annum, as may be agreed upon between him and the Commissioner, which sum likewise shall be payable out of the County Highway Funds. Both the Commissioner and his assistant shall devote their full time to the duties of their office.

As amended by: Private Acts of 1969, Chapter 28  
 Private Acts of 1970, Chapter 262  
 Private Acts of 1973, Chapter 146

**SECTION 2.** That the Commissioner shall have the following duties:

- (a) To have general supervision over the construction, repair and maintenance of all roads, bridges, gravel pits and other like structures which form a part of the county highway system.
- (b) To employ such labor as he may deem necessary for the efficient construction and maintenance of the highway system of such counties.
- (c) To act upon all applications to open and close roads and to take such action thereon as he may deem to the best interest of the county system. To this end the Commissioner is hereby vested with the power of eminent domain which shall be exercised in the manner provided by the general laws of the State therefor. Any damages assessed by reason of the exercise of the power of eminent domain shall be paid from the general funds of such county which general county fund shall be reimbursed therefor from the highway funds.
- (d) To have charge of all county highway equipment and to at least once a year make an inventory thereof which shall be filed in the office of the County Court Clerk and open to the inspection of any interested part.
- (e) To make all purchases of material and equipment necessary in the maintenance and repair of such highway system; but all purchases shall be made upon competitive bids except in case of an emergency when with the approval of the County Judge, the Commissioner may make purchases of material or equipment not in excess of \$500. The assent of the County Judge for such emergency purchase shall be in writing and filed with the records of the Commissioner.
- (f) To keep a full and accurate account of all disbursements made from highway funds. Disbursements from highway funds shall be made only upon the warrant of the Commissioner, and drawn on the County Trustee.
- (g) To store all equipment belonging to the County Highway Department when not in use and to prohibit the use of any part thereof on business other than that of the highway system.
- (h) To make to the County Judge a monthly report showing all employees (sic) of such highway system, the rate of pay of each, the number of hours worked by each during such month and all equipment and supplies purchased from highway funds during such month.
- (i) To make and file in the office of the County Court Clerk at least 5 days prior to each regular session of the Quarterly County Court a report, itemized in form, all expenditures made from highway funds during such quarter and where equipment be purchased, such report should show the nature of the equipment, the person from whom purchased and the price paid therefor.

Likewise, the Commissioner and/or his assistant shall furnish to each justice of the peace of the County a copy of the above mentioned report.

As amended by: Private Acts of 1953, Chapter 205

**SECTION 3.** That before entering upon the duties of his office, the Commissioner herein and any assistants whom he may appoint shall execute bond with sureties to be approved by the County Judge, in the sum of \$5000 conditioned upon the faithful performance of the duties of his office and to account for all county property and funds which may come into his hands by reason of such office; and it is hereby declared to be the legislative intent that both the Commissioner and his assistant shall execute such bonds conditioned as above mentioned. The present road authorities shall retain their office until September 1,

1952, and no appointment shall be made to fill the vacancy herein created.

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

Passed: March 12, 1951.

## Superintendent of Roads

### Private Acts of 1947 Chapter 871

**COMPILER'S NOTE:** The provisions of this act establishing the office of superintendent of roads and providing for the duties, salary, etc., of the office have apparently been superseded by Private Acts of 1951, Chapter 565, as amended which establishes the office of Highway Commissioner. Private Acts of 1947, Chapter 871, as amended is reproduced here in full, however, as the remainder of the act is presumably still in force. It has not been specifically repealed or superseded. Private Acts of 1951, Chapter 565, as amended is published herein following this act.

**SECTION 1.** That this act shall apply to all Counties in the State of Tennessee having a population of not less than 10,895, nor more than 10,925, according to the Federal Census of 1940, or any subsequent Federal Census.

**SECTION 2.** That there is hereby created a Superintendent of Roads for each County to which this Act applies, who shall be executive head of the County Highway Commission, who shall possess the qualifications, be elected in the manner and for the term, charged with the duties, subject to the restrictions, and entitles to the compensation hereinafter set out and provided for.

**SECTION 3.** That at the regular August election in 1948, and each two years thereafter, a Superintendent of Roads shall be elected by the qualified voters of the county or counties to which this Act applies. That said Superintendent of Roads shall be a person at least 25 years of age and shall be skilled in the art of road and bridge construction and shall have had at least five years experience in said work. He shall be a resident and citizen of the county and of good moral character. Said Superintendent shall take office on the first day of September following his election and shall hold office for a term of two years and until his successor is elected and qualified.

As amended by: Private Acts of 1949, Chapter 40

**SECTION 4.** That said Superintendent of Roads shall, before entering upon the duties of his office, take and subscribe to an oath that he will support the Constitution of the United States and of the State of Tennessee, and that he will faithfully, impartially, diligently, honestly, and to the best of his skill and ability, perform all duties required as such Superintendent, and shall count for all monies and property coming into his hands as such Superintendent. He shall also execute and file in the office of the County Court Clerk a good and sufficient bond, with approved personal security, or with some incorporated bonding company authorized to do business in this State, as surety thereon. Said bond shall be in the penal sum of Five Thousand (\$5000.00) Dollars, payable to the State of Tennessee, conditioned upon the faithful performance of his duties, and the faithful accounting of all monies and properties belonging to the County which may come into his hands as such official. In the event said bond is executed by some corporate bonding company, then and in that event the premium of said bond shall be paid out of the Road Fund of said County as other disbursements are made.

That the salary of said Superintendent of Roads shall be Three Thousand (\$3,000.00) Dollars per annum, payable at the rate of Two Hundred Fifty (\$250.00) Dollars per month. Said disbursement to be made by warrant issued and signed by the Superintendent of Roads, and shall be paid from the Road and/or Bridge Funds of said county.

As amended by: Private Acts of 1949, Chapter 40

**SECTION 5.** That said Superintendent of Roads shall be vested with the following power and authority, charged with the following duties and responsibilities, and shall be subject to the following penalties:

(1) He shall be Chairman and executive head of the County Highway Commission and vested with the sole and exclusive authority to convene said Commission at such times as he deems to be to the interest of the county: provided, however, that said Superintendent of Roads shall give to each member of said Commission a three days' notice of the time and place of said meeting. Said Superintendent shall not vote on any question coming before said Commission.

(2) It shall be the duty of the Superintendent of Roads to provide an efficient system of laying out, building, constructing, reconstructing, repairing and maintaining all county public roads and bridges and of constructing, operating and repairing and maintaining all public ferries in said county, and to accomplish this end said Superintendent shall have general, complete and exclusive control over the construction,

repair and maintenance of public roads and bridges and ferries.

(3) The Superintendent of Roads shall have the sole, exclusive and complete authority of the disbursement and paying out of all road and bridge funds received from any source whatsoever. All disbursements made from said road and/or bridge funds shall be by warrant signed by said Superintendent of Roads.

Any and all funds received by the County Trustee of the County or Counties to which this Act applies from the United States of America or any agency thereof, due by virtue of the taking appropriation or destruction of any public road, or as an allowance or allowances for the construction, repair or maintenance of any public road, bridge or ferry occasioned or brought about by the construction by said United States of America or any agency or department thereof in the County or Counties to which this Act applies of any dam or other internal improvement, shall be deposited to the Road or Bridge Funds of said County or Counties, and shall be exposed solely and only by the Superintendent of Roads, It being the intent and meaning of this section to prohibit the use of said sum, or any part thereof, for any purpose except the construction repair and maintenance of public roads, or the operation or maintenance of public ferries, and the costs, fees and expenses incident to the acquiring or securing of said fund from the United States of America or any agency or Court thereof.

(4) In the event any lawful indebtedness or obligation shall have been incurred by former highway officials of said county, said Superintendent of Roads shall have authority, and it shall be his duty, to pay and satisfy said indebtedness.

(5) The Superintendent of Roads shall have the sole and exclusive power and authority to employ all persons including members of the County Highway Commission to do work in the laying out, constructing and repairing of all public roads, bridges and ferries in said county and to fix the wages to be paid each employee. He shall likewise have the sole and exclusive power and authority to employ such clerical and legal assistance as he deems meet and proper and to fix the salary or fee to be paid such persons. Provided, however, that no wage, salary or fee shall be paid in excess of the average wage, salary or fee prevailing in said county for similar services.

(6) He shall have the sole and exclusive power and authority to discharge, lay off and fire any employee or person, now working or that may hereafter be employed. It being the intent of this Act to vest in said Superintendent the sole and exclusive right to employ and discharge any employee at any time he desires.

(7) The superintendent of Roads shall have the sole and exclusive right to contract and enter into agreements with any State or Federal Agency by which the road and/or bridge funds of the county may be supplemented or augmented, or by which additional employees may be secured for the construction or repair of roads and bridges, or by which additional employees may be secured for the construction or repair of roads and bridges, or by which additional roads may be constructed, reconstructed, repaired and maintained in said county.

(8) The Superintendent of Roads shall have the care and custody of all road tools, machinery and equipment, and all office supplies, books, records and office equipment. It shall be his duty to see that all tools, machinery and equipment are kept in good repair and preservation. He is expressly forbidden to use any of said tools, machinery or equipment for private, social or personal use, or to permit any employee or other person to use the same. Said tools, machinery and equipment are to be used solely and exclusively for the building and maintaining of a public road system for said county. The violation of this provision is declared to be a misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars, nor more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office.

(9) When the estimated cost of supplies, materials, equipment or repairs to equipment, required for essential functions of the county road system is less than One Thousand Five Hundred (\$1,500.00) Dollars, the Superintendent of Roads is authorized and directed to purchase said supplies, materials and equipment, and to have any equipment repaired, without the necessity of advertising for bids, but in making such purchases said Superintendent shall be diligent in securing the lowest possible price, and in no event shall any purchase be made in excess of the prevailing market price for such supplies, materials or equipment.

When the estimated cost of supplies, materials and equipment shall exceed the sum of One Thousand Five Hundred (\$1,500.00) Dollars, but shall be less than Three Thousand (\$3,000.00) Dollars, the Superintendent of Roads shall only purchase the same after making the advertisement, by posters posted for 7 days in the county, or one publication in some newspaper published in the county, which advertisement shall set forth a description of the article or articles sought to be purchased, and the time within which written and sealed bids for the same shall be received. Contracts for the purchase of such supplies and equipment shall in all cases be awarded to the lowest bidder, except where the



Superintendent shall reject all bids, in which event said proposed purchase shall be readvertised as above provided. The violation of this section is hereby declared to be official misconduct and misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office.

(10) That when it becomes necessary in order to carry out efficiently the construction of a highway system for said county, the Superintendent of Roads shall have the authority and is hereby directed and made his duty to institute condemnation proceedings for the purpose of condemning land for road purposes, chert beds, rock quarries, gravel beds or other road building materials, or rights of way. Provided, however, that no such condemnation proceedings shall be instituted involving expenditures in excess of revenues for the current year. Said condemnation proceedings shall be instituted in the manner provided by law for condemnation of land for public purposes under the laws of eminent domain. The damages assessed in favor of the property owner shall, in all such cases, be paid out of the road and/or bridge funds of the county, and as all other expenditures, shall be by warrant signed by the Superintendent of Roads.

As amended by: Private Acts of 1949, Chapter 40

As amended by: Private Acts of 1949, Chapter 872

**SECTION 6.** That in order to provide a more efficient road system in the County to which this Act applies, there is hereby created, in addition to the Superintendent of Roads, a County Highway Commission, to consist of five members, who shall be residents of the Civil District from which they are elected, and who shall be persons of known integrity and of good moral character.

**SECTION 7.** That at the Regular August election in 1948, in the county to which this Act applies, said County Highway Commission shall be elected by the qualified voters as follows:

One member shall be elected by the qualified voters of the First Civil District.

One member shall be elected by the qualified voters of the Second Civil District.

Two members shall be elected by the qualified voters of the Fourth Civil District.

The members thus elected shall qualify on the first day of September following their election by taking an oath of office and by filing a bond, with approved security, conditioned for the faithful performance of their duty in the sum of Two Hundred Fifty (\$250.00) Dollars. Which bond shall be approved by the County Judge and filed in the office of the County Court Clerk.

Provided further that every two years thereafter at the regular election One (sic) member of said Highway Commission shall be elected by the qualified voters of the First Civil District; One member shall be elected by the qualified voters of the Second Civil District; Two members shall be elected by the qualified voters of the Third Civil District, and, One member shall be elected by the qualified voters of the Fourth Civil District. Said Commissioners thus elected shall qualify on the first day of September following their election, as above provided, and shall hold office for a term of two years and until their successors are elected and qualified.

**SECTION 8.** That each member of the County Highway Commission shall receive Six (\$6.00) Dollars per day for attending each meeting of said commission, when called in meeting or session by the Superintendent of Roads as above provided. Provided, however, that no member shall receive pay for more than twelve days in any twelve (12) months period.

As amended by: Private Acts of 1949, Chapter 40.

**SECTION 9.** That said County Highway Commission shall be vested with the following power and authority, charged with the following duties, and shall be subject to the following penalties:

(1) To purchase all road machinery and equipment when the estimated purchase price for such machinery or equipment exceed the sum of Three Thousand (\$3,000.00) Dollars. Provided, however, that all such purchases in excess of Three Thousand (\$3,000.00) Dollars shall only be made after the Superintendent of Roads has certified in writing to said commission the need for such equipment, and only after due advertisement of same shall have been made by written or printed poster posted at the Courthouse door for seven days or published in some newspaper of general circulation for one week. Said advertisement shall set forth a description of the machinery or equipment sought to be purchased and the time within which written and sealed bids for same shall be received. Said machinery or equipment shall in all cases be purchased from the person or firm submitting the lowest bid, except where the commission shall reject all bids, in which event said proposed purchase shall be re-advertised as above provided. It shall be unlawful for any member of said commission to evade the intent and purpose of this section by any scheme or subterfuge, and any violation shall be a misdemeanor, punishable by a fine of not less than Ten (\$10.00) Dollars and not more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office.

Said County Highway Commission shall have no further or other authority or powers, except as set forth in this section, all other powers and authority being vested in the Superintendent of Roads.

(2) To contract with any State or Federal Agency by which the Road Funds of the county may be supplemented or augmented, or by which additional employees may be employed on road construction or repairs or whereby additional repairs and maintenance may become available. Provided, that such contract shall not incur any liability to the county above the current revenues for the current year.

(3) To employ a suitable person as Clerk of said Highway Commission, whose duties shall be as hereinafter set forth.

(4) To purchase all supplies, materials and equipment and repairs to equipment and machinery, needed for the construction and repair and maintenance of the public roads where the purchase price for such supplies, materials, equipment and repairs exceeds the sum of Two Hundred (\$200.00) Dollars. Provided that all purchases aggregating Two Hundred (\$200.00) Dollars or more shall only be made after due advertisement of same shall have been made at least one time in some newspaper of general circulation, published in the county and, setting forth the amount, quality, and description of such materials, supplies and equipment desired, and the time within which written and sealed bids for same shall be received. Such contracts shall in all cases be awarded the lowest bidder, except where the Commission shall reject all bids, in which said proposed purchase shall be readvertised as above provided. It shall be unlawful for said Commission to break down anticipated purchases of Two Hundred (\$200.00) Dollars or more for the purpose of evading this provision, or to evade the intent and purpose of this provision by any scheme or subterfuge whatsoever. The violation of this Section is hereby declared to be official misconduct and a misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars, nor more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office as provided by Section 1877 et seq. Code of Tennessee.

(5) That when it becomes necessary to do so, in order to carry out efficiently the work on the public roads as provided by this Act, the Highway Commission may institute condemnation proceedings for the purpose of condemning land for road purposes, chert beds, rock quarries, gravel beds or other road building material or rights-of-way necessary for the construction and maintenance of the public roads of said county. Provided, however, that no such condemnation proceedings shall be instituted involving expenditures in excess of revenues for the current year. Said condemnation proceedings shall be instituted in the manner provided by law for condemnation of land for public purposes under the laws of eminent domain. The damages assessed in favor of the property owner shall, in all such cases, be paid out of the Road Funds of the County upon warrant of the Clerk of the Commission, countersigned by the Superintendent of Roads, as hereinabove provided.

(6) That the County Highway Commissioners, by and through its Clerk, shall make a report to the Quarterly County Court of the County at each regular term of such Quarterly County Court, showing the expenditures for the preceding year, the number, kind and condition of the road machinery. The report herein provided for is mandatory, and the failure to file said report shall be a misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars, for each member of said Commission, and removal from office.

As amended by: Private Acts of 1949, Chapter 40  
Private Acts of 1951, Chapter 564

**SECTION 10.** That the Superintendent of Roads is expressly prohibited and enjoined from expending and from drawing warrants against said road fund in a greater amount than the amount of the road and bridge funds available for the year in which said warrants were drawn. Said Superintendent is likewise expressly forbidden from incurring any obligation in excess of the road funds for the current year, and any such obligation shall be illegal, non-enforceable and shall not be paid. Any violation of this section is declared to be a misdemeanor, punishable by a fine of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, and by removal from office.

As amended by: Private Acts of 1949, Chapter 40

**SECTION 11.** That the Superintendent of Roads shall, on the first day of September of each year, make a report to the County Judge of the county to which this Act applies. Said report shall show the source and amount of all road and/or bridge funds received, a summary of funds on hand as of that date. Said report shall also set forth all machinery, tools and equipment and its condition. A copy of said report shall be published in some newspaper of general circulation in said county.

Said Superintendent shall also keep in a well bound book a list of all warrants issued by him, together with the amount of road and bridge funds received. He shall also file and keep all invoices, payroll accounts and bids submitted by persons or firm for supplies and equipment purchased; same to be preserved for a period of two years. All of said records shall constitute and be public records open to the inspection of any citizen of the county at all reasonable times.

As amended by: Private Acts of 1949, Chapter 40

**SECTION 12.** That neither the Superintendent of Roads, Highway Commission, or Clerk nor any assistant or employee working under the directions of said officials shall be financially interested in, or have any

personal beneficial interest, either directly or indirectly, in the purchase of any supplies, material or equipment for said department of roads nor in any firm, corporation, partnership, association or individual furnishing such supplies, materials or equipment. Nor shall the Superintendent of Roads, Highway Commission or Clerk accept or receive, directly or indirectly, from any person, firm, corporation, partnership, or association to whom any contract may be awarded, by rebate, gift or otherwise, in money or other things of value whatsoever, or any promise, obligation or contract for future reward or compensation. The violation of this Act is hereby declared to be official misconduct and a misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars and removal from office, as provided by Code Section 1877 et seq.

**SECTION 13.** That the method of opening, closing or changing the location of any public road in said County as provided in Sections 2731-2741 of the Code of Tennessee shall not be changed or abridged by this Act, but shall remain in full force and effect in said county.

**SECTION 14.** That at any time a vacancy occurs in the office of said Superintendent of Roads and/or County Highway Commission the Quarterly County Court at its next regular meeting shall fill said vacancy by electing a person or persons who shall possess all the qualifications set forth in this Act. The person and/or persons elected as member or members of the County Highway Commission shall serve until the next regular election and until their successors in office are elected and qualified.

**SECTION 15.** That the provisions of this Act are hereby declared to be severable. If any of its sections, provisions, sub-sections, sentences, clauses, phrases, or words be held unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent now hereby declared that this Act would have been adopted even if such unconstitutional or void matter had not been included herein.

**SECTION 16.** That this Act shall take effect from and after the first day of September, 1948, and not until then, except that at the regular August election of 1948, there shall be elected the Superintendent of Roads and County Highway Commissioners, as herein set out; to take office on the first day of September, 1948; the Public Welfare requiring it.

Passed: March 14, 1947.

## Highways and Roads - Historical Notes

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

1. Public Acts of 1901, Chapter 136, applied to all counties under 70,000 population, census of 1900, or subsequent, and probably formed the pattern of the great mass of road laws to come. The County Court would elect one Road Commissioner from each road district, same to be co-extensive with civil districts who would have general supervision over all roads, bridges, and overseers in his district. The duties of all the officials specified in the act of the courts, of those who were subject to compulsory road work, including prisoners from the workhouse, were written in detail in the act. A road tax was allowed to be levied and specifications for new roads to be built or old ones to be repaired were also included. The power to contract was granted and among the records to be kept were the inventory and classification of the roads in the county. See Carroll v. Griffin (1906), 117 Tenn. 500, 97 SW 66.
2. Private Acts of 1905, Chapter 478, amended the general road law of the state as it was stated by the 1901 Act above. The amendments provided that the County Trustee would prosecute suits and handle the money, the procedures for handling those petitions to open, change, or close roads were changed, and the County Court was given appellate jurisdiction over all those discretionary individual responsibilities.
3. Private Acts of 1929, Chapter 889, established a County Highway Commission for Clay County consisting of five members, one from each of four civil districts and two from the Third Civil District. W. A. Marcom was named as Chairman of the Board, R. L. Donaldson as Secretary, and Estus Cherry, J. M. Brown and C. E. Clark as members, all to serve until their successors were elected and qualified in September, 1930. Quarterly County Court would fill vacancies until the next general election. The Commission could employ a Superintendent of County Roads whose salary would be between \$100 and \$150 per month and whose duties would include all those vested by law in the District Road Commissioners. The County Court would fix the salary of the Commissioners who would also have all their expenses reimbursed out of county highway funds. The commission was enabled to contract work out and to keep records on that and other

programs. A periodic report of the conditions and programs for roads would be made to the County Court. This Act was specifically repealed by Chapter 698, Private Acts of 1937.

4. Private Acts of 1935, Chapter 207, amended Chapter 889, Private Acts of 1929, by striking all of Section 8 and providing that the members of the Highway Commission shall each be paid \$150 annually in equal monthly installments out of road funds and the Secretary of the Commission would receive \$300 a year in the same way.
5. Public Acts of 1937, Chapter 195, amended Section 3275, of William's Code of 1932 so as to change the classification of the toll bridge over the Cumberland at Celina from Class B to Class A and institute a schedule of toll charges accordingly.
6. Private Acts of 1937, Chapter 698, repealed Chapter 889, Private Acts of 1929, Item 3 above, the former Road Law for Clay County and enacted a new one. Four Road Districts, co-extensive with the Civil Districts were created from which one commissioner would be elected and an extra commissioner would be elected in the Third District. The duties, powers, qualifications, terms of office, and compensation of the County Highway Commission were specified. A compensation of \$4.00 daily for attendance at all regular and called meetings of the commission was limited to six days per month. The Commission would meet regularly on the first Monday of each month at the courthouse in Celina and the meeting would be open to the public. The Commission would be in charge of all highway work, would employ a Superintendent of Roads at a maximum \$1,200 annual salary. Purchasing procedures were prescribed which were to be observed by the Commission. All employees and laborers, civilian and prisoners, were placed under their supervision, and they would also operate and maintain the County Poor Farm. J. H. Durnette, Jr., of Moss, Tennessee, Jesse Rich, of Hermitage Springs, Fred Maxey and Frank Brown, of Celina, and, B. C. Ledbetter, of Willow Grove, were named to be members of the first Road Commission under this act, to serve until their successors were elected. This Act was repealed by Chapter 296, Private Acts of 1941.
7. Private Acts of 1941, Chapter 296, repealed the above act in Item 6, and passed a new Road Law. This act retains the composition of the Board of Highway Commissioners and names W. A. Marcom as Chairman, Lester Brown as Secretary, and C. E. Clark, Frank Brown, and Dewey Birdwell as members to serve until September, 1944 when their successors would be elected for two year terms. Their compensation was \$24 a month, their expenses in line of duty would be paid, and, if they worked for the county in any other capacity, they would be paid what the county court deemed reasonable. They would employ a Road Superintendent and set his salary at a reasonable figure. They would report to the county court on the conditions of the roads and keep accurate records of the disbursement of funds. Public ferries were likewise under their supervision. This act was also repealed by Chapter 52, Private Acts of 1943.
8. Private Acts of 1941, Chapter 370, released all the citizens of Clay County from their obligation of performing compulsory road work or paying a commutation fee.
9. Private Acts of 1943, Chapter 52, specifically repeals Chapter 296, Private Acts of 1941, which constituted the then existing Road Law, in its entirety.
10. Private Acts of 1943, Chapter 54, expressly repealed Chapter 698, Private Acts of 1937, which had already been repealed by Chapter 296, Private Acts of 1941. The title of the repealed act is copied into the caption of this act. This act and four others were the basis of the suit styled Kyle v. Marcom, (1944), and Brown v. Kyle, a companion suit heard with the former, 181 Tenn. 58, 178 S.W.2d 618 (1944).
11. Private Acts of 1943, Chapter 219, became the new Road Law after Chapter 54, above, had repealed the old one. This act names the same people to the Board of Highway Commissioners as Chapter 296, Private Acts of 1941, and seems to be substantially the same as that former act except the compensation for the Commissioners is fixed at \$25 a month, and \$4.00 per day for all time spent in road supervision. The act has a general repealing clause only and is construed along with the other 1943 acts mentioned in the case cited in the above Item 10. Chapter 219, Acts of 1943, was repealed by Chapter 872, Private Acts of 1947.
12. Private Acts of 1947, Chapter 872, repealed expressly and entirely Chapter 219, Private Acts of 1943.

## Chapter X - Law Enforcement

No current private acts in force.

## Chapter XI - Taxation

# Hotel/Motel Tax

## Private Acts of 2009 Chapter 25

**SECTION 1.** For the purposes of this act:

- (1) "Clerk" means the county clerk of Clay County, Tennessee or such other officer as the county legislative body may direct;
- (2) "Consideration" means the consideration charged, whether or not received, for the rental of any room, lodging or accommodations 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.
- (3) "County" means Clay County, Tennessee;
- (4) "Hotel" means any structure, space, or vessel, 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, marina, tourist camp, tourist court, tourist cabin, campground, houseboat, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;
- (5) "Houseboat" means a vessel fitted for use as a dwelling, a pleasure craft with a broad beam, a usually shallow draft, a large superstructure resembling a house that contains space intended and designed for lodging and sleeping accommodations.
- (6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise, and shall include 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, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit;
- (8) "Space" means the rental for personal use of, or the right to rent for the personal use of, any room, lodgings or accommodations in a hotel;
- (9) "Transient" means any person who rents or is entitled to rent any rooms, lodgings, spaces, or accommodations in a hotel for a period of less than thirty (30) continuous days; and

**SECTION 2.** The legislative body of Clay County is authorized to levy a privilege tax upon the privilege of a transient renting any room, lodging or accommodations in a hotel, in an amount of four percent (4%) of the rate charged by the operator. The tax imposed is a privilege tax upon the transient renting such room, lodging or other accommodations in a hotel and is to be collected and distributed as herein provided. Such tax shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

As amended by:

Private Acts of 2024, Chapter 43

**SECTION 3.** Such tax shall be added by each operator to each invoice prepared by the operator for the rental of the room, lodging or accommodations in a hotel to a transient. Such invoice shall be given directly or transmitted to the transient, a copy thereof to be retained and filed by the operator as provided in Section 8.

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

**SECTION 4.** 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 5.** (a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels within the county, to the clerk 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 rental, whether prior to, during or after the rental period expires, as may be the custom of the operator. 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 county clerk for collecting the tax, the clerk shall be allowed two percent (2%) of the amount of the tax remitted by the operators.

(c) The clerk shall faithfully account for, make proper reports of, and pay over to the trustee of the county at monthly intervals, all funds paid to, and received by, such clerk for the privilege tax authorized by this act.

**SECTION 6.** The county clerk shall be responsible for the collection of the tax and shall place the proceeds of such tax in accounts as designated in Section 10 for the purposes stated therein. 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 per year and shall report on the audits made on a quarterly basis to the county legislative body. The county legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports.

**SECTION 7.** (a) Taxes collected by an operator which are not remitted to the clerk on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve 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.

(b) Each occurrence of knowing refusal of an operator to collect or remit the tax or knowing refusal of a transient to pay the tax imposed is a separate violation of this act and may result in the imposition of a civil penalty, to be imposed separately for each violation, not to exceed fifty dollars (\$50.00) upon a finding of such knowing refusal by a court of competent jurisdiction. As used in this section, "each occurrence" (sic) means each day.

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

**SECTION 8.** It shall be the duty of every operator liable for the collection and payment to the county of any tax levied pursuant to this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax, which records the clerk shall have the right to inspect at all reasonable times.

**SECTION 9.** The clerk in administering and enforcing the provisions of the act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67, Tennessee Code Annotated, or otherwise provided by law for the county clerks. Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Title 67, Tennessee Code Annotated, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied pursuant to 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 the 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 10.** The proceeds of the tax authorized by this act shall be deposited in a fund designated by the county legislative body to be used for tourism and economic development.

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

**SECTION 12.** If any 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 13.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Clay County. Its approval or nonapproval shall be proclaimed by the presiding officer of such legislative body and certified to the secretary of state.

**SECTION 14.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 13.

Passed: June 2, 2009.

## Litigation Tax

### Private Acts of 1967 Chapter 18

**SECTION 1.** That a litigation tax of two dollars (\$2.00) shall be taxed as part of the costs in all civil and criminal actions in the General Sessions Court or the Circuit Court of Clay County, Tennessee.

**SECTION 2.** That the Clerk of said Courts will collect the said litigation tax and pay same into a separate and distinct fund, which is to be designated as the "Clay County Capital Improvement Fund," to be spent exclusively for improvements on the jail, improvements on the courthouse and grounds, and construction of a new courthouse, either for one purpose or all.

**SECTION 3.** That all expenditures made for either one or all the said purposes will be made by the County Judge upon the authorization of the quarterly County Court for the purpose or purposes specified herein.

**SECTION 4.** That the County Court is hereby authorized to issue bonds or capital outlay notes for the purposes herein specified and pledge the revenue from the tax herein levied for the exclusive payment of said notes or bonds.

**SECTION 5.** That this Act shall have no effect unless it shall have been approved by a two-thirds (2/3) vote of the Quarterly County Court of Clay County, Tennessee, on or before the next regular meeting of said Quarterly County Court occurring more than thirty (30) days after its approval by the Chief Executive of the State. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court, and shall be certified by him to the Secretary of State.

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

**SECTION 7.** That this Act shall take effect upon becoming a law, the public welfare requiring it.

Passed: March 10, 1967.

## Motor Vehicle Tax

### Private Acts of 2003 Chapter 59

**SECTION 1.** For the privilege of using the public roads and county highways in Clay County, Tennessee, there is levied upon motor-driven vehicles, and upon the privilege of the operation thereof, except motorcycles, motor-driven bicycles and scooters, farm tractors, self-propelled farm machines not usually used for operation upon public highways or roads, and motor-driven vehicles owned by any governmental agency or governmental instrumentality, and except for other exemptions provided by general law, a special privilege tax for the benefit of such county, which tax shall be in the amount of twenty-five dollars (\$25.00) for each such motor-driven vehicle, the owner of which resides within said county. This tax applies to, is a levy upon, and shall be paid on each motor-driven vehicle, the owner of which resides within said county.

**SECTION 2.** The tax herein levied shall be paid to and collected by the county clerk of Clay County, who is authorized by T.C.A. § 67-4-103 to collect such privilege taxes. The county clerk shall collect this tax at the same time he or she collects the state privilege tax levied upon the operation of a motor-driven vehicle over the public highways of this state. The county clerk shall deduct a fee of five percent (5%), or such higher or lower fee as may from time to time be authorized under T.C.A. § 8-21-701(55) for receiving and paying over county revenue, from the amount of taxes collected and paid over to the county trustee.

The proceeds of the tax levied by this act shall be placed in such county fund as the county legislative body shall designate by appropriate resolution and shall be used for the purposes of such fund.

**SECTION 3.** Payment of the privilege tax imposed hereunder shall be evidenced by a receipt, issued in duplicate by the county clerk, the original of which shall be kept by the owner of the motor-driven vehicle

and, if required by the county legislative body by resolution pursuant to T.C.A. § 55-4-103, by a decal or emblem also issued by the county clerk, which shall be displayed in the manner required by resolution of the county legislative body. The design of the decal or emblem shall be determined by the county clerk. The expense incident to the purchase of such decals herein required, as well as the expense of obtaining proper receipts and other records necessary for the performance of the duties herein incumbent upon the county clerk, shall be paid from the general fund of the county.

**SECTION 4.** The privilege tax or wheel tax herein levied, when paid, together with full, complete and explicit performance of and compliance with all provisions of this act by the owner, shall entitle the owner of the motor-driven vehicle for which said tax was paid and on which any required decal or emblem has been affixed, as herein provided, to operate or allow to be operated this vehicle over the streets, roads and highways of the county for a period of one (1) year which shall run concurrently with the period established by T.C.A. § 55-4-104 for state registration fees.

In the event a wheel tax decal or emblem is sold by the clerk for more or less than a twelve-month period, the tax imposed shall be proportionate to the annual tax fixed for the vehicle and modified in no other manner, except that the proportionate tax shall be rounded off to the nearest quarter of a dollar.

**SECTION 5.** In the event any motor-driven vehicle for which the wheel tax has been paid and any required decal or emblem issued and placed thereon become unusable or is destroyed or damaged to the extent that it can no longer be operated over the public roads, streets or highways of said county, or in the event that the owner transfers the title to such vehicle, or completely removes therefrom and destroys the decal or emblem issued for and placed thereon, and the owner makes proper application to the clerk for the issuance of a duplicate decal or emblem to be used by him on another vehicle for the unexpired term for which the original decal or emblem was issued, and the clerk is satisfied that the applicant is entitled to the issuance of a duplicate decal or emblem and the owner pays into the hands of the clerk the sum of ten dollars (\$10.00), the clerk will then issue to such owner a duplicate receipt, canceling the original receipt delivered to him by the owner, and will deliver to the owner a duplicate decal or emblem, which shall be affixed to the motor-driven vehicle for which it is issued, as herein provided, and such duplicate decal or emblem shall entitle the owner to operate or allow to be operated the vehicle upon the streets, roads and highways of said county for the remainder of the period for which the original decal or emblem was issued. Likewise, in the event a decal or emblem becomes obliterated, erased or defaced, or is destroyed under the provisions of this act, and is therefore illegible and unusable by the owner, upon proper application made by the owner and filed with the clerk, showing such circumstances and facts to be true, then the clerk, upon receipt from the owner of ten dollars (\$10.00), may issue and deliver to the owner a duplicate decal or emblem.

**SECTION 6.** Any person violating the provisions of this act, or any part thereof, is subject to being assessed a civil penalty not in excess of fifty dollars (\$50.00) for each violation.

**SECTION 7.** 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 8.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Clay County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and certified by him or her to the secretary of state.

**SECTION 9.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon approval as provided in Section 8.

Passed: May 29, 2003.

## 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 Clay County Assessor. Also referenced below is an act which repealed prior law without providing new substantive provisions.

1. Private Acts of 1921, Chapter 810, fixed the salary of the Tax Assessor in Clay County at \$750 per annum to be paid out of the county treasury on warrant from the County Judge, or Chairman, on the first day of April, July, and October of each year.
2. Private Acts of 1933, Chapter 741, set the compensation of Clay County's Tax Assessor at \$400



annually on the warrant of the County Judge or Chairman. Countersigned by the County Court Clerk, and drawn on the county treasury on the first day of April, July, and October. This act would not take effect until the expiration of the term of the incumbent Tax Assessor.

3. Private Acts of 1937, Chapter 574, repealed Chapter 741, Private Acts of 1933, which was an Act to fix the salary of the Tax Assessor of Clay County.
4. Private Acts of 1951, Chapter 688, provided that the Tax Assessor in Clay County be paid \$1,000 a year in equal monthly installments from the county treasury.
5. Private Acts of 1961, Chapter 79, fixed the salary of the Tax Assessor of Clay County at \$1,800 annually in equal monthly installments from the county treasury which would be in addition to allowances for clerical help. The allowance for clerical assistance was \$75 per month, not to exceed \$900 annually, and neither would be effective until the expiration of the incumbent's term. This Act was not approved by the Clay County Quarterly Court and therefore did not become a law under the provisions of the Home Rule Amendment to the constitution.

### **Taxation**

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

1. Private Acts of 1925, Chapter 737, made it the duty of the Quarterly County Court of Clay County to levy at its April term, or at any term at which the general county assessment is made a special tax not exceeding twelve cents per \$100 of property valuation for the purpose of maintaining three two-year high schools which were located in Moss, Hermitage Springs, and Willow Grove, all under the Board of Education of Clay County and teaching the same subjects as would be found in the first two years of a four year high school curriculum. The taxes would be collected as other county taxes are.
2. Private Acts of 1976, Chapter 277, enacted a \$5.00 motor vehicle tax in Clay County for all vehicles except the farm type vehicles expressly exempted. The Act applied to all residents of Clay County and to those who usually stay in Clay County, and failure to purchase the same would constitute a misdemeanor for which one could be fined. The County Court Clerk would collect the tax at the same time the State license tags were sold and issue a tag, or some type of decal, signifying payment of the tax, for all of which a fee of fifty cents could be charged. The proceeds of this tax were to be deposited in the debt service fund. The means by which lost, or destroyed tags could be replaced, and/or transferred from one vehicle to another, were included in the law. That act was subject to approval by the people in a referendum but never got that far because the Quarterly County Court rejected the act, thus it never became operative in Clay County.

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