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Private Acts of 1943 Chapter 278

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

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

Sincerely,

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COMPILER'S NOTE: See T.C.A. 5-8-501 through 5-8-506, a general state law on standard accounting systems and T.C.A. 5-8-601 through 5-8-604, on Revenue Commissioners, which could have superseded this act.

SECTION 1. That, in all counties of this State with a population of not more than 33,620 nor less than 33,590 according to the Federal Census of 1940 or any subsequent Federal Census, the books, accounts, funds and records of all county officials, employees, offices, departments, commissions, boards and other county agencies shall be audited as follows, to-wit: An initial audit of the books, accounts, funds and records of the office of the County Judge or Chairman of the County Court, as the case may be, the office of the County Court Clerk, and the Superintendent of Roads, the Superintendent of the Workhouse, the Board of Workhouse Commissioners, and/or other officer, employee, department, commission, board or other agency, as the case may be, having custody, control, management, administration, supervision and/or direction of the county road system and/or county workhouse in such counties, shall be and is hereby mandatorily required to be made for a period of not less than six years prior to and ending June 30, 1943; and an initial audit of the books, accounts, funds and records of any one or more or all other county officials, employees, offices, departments, commissions, boards and other county agencies in such counties is hereby permitted and authorized to be made. Annually thereafter, but beginning with the fiscal year beginning July 1, 1943 and ending June 30, 1944, the books, accounts, funds and records of the office of the County Judge or Chairman of the County Court, as the case may be, the office of the County Court Clerk, and the Superintendent of the Workhouse, the Board of Workhouse Commissioners and/or other officer, employee, department, commission, board or other agency, as the case may be, having custody, control, management, administration, supervision and/or direction of the county road system and/or county workhouse in such counties shall be and are hereby mandatorily required to be audited at and following the end of each fiscal year; and, annually thereafter but beginning with the fiscal year beginning July 1, 1943 and ending June 30, 1944, the books, accounts, funds, and records of any one or more or all other county officials, employees, offices, departments, commissions, boards and other county agencies in such counties, shall be and are hereby permitted and authorized to be audited at and following the end of each fiscal year.

The auditing commission in such counties hereinafter provided for shall be and is hereby authorized and empowered to determine the nature, extent and scope of the initial and annual audits hereinbefore permitted and authorized, but not mandatorily required, to be made.

SECTION 2. That, for each of such counties, there be and is hereby created a County Auditing Commission, composed of five (5) members, three of whom shall be members of the Quarterly County Court and two of whom shall be citizens and taxpayers at least twenty-one years of age who are not members of the Quarterly County Court. Each such County Auditing Commission shall elect the chairman and secretary thereof from its membership, and the compensation of the members thereof shall be Three Dollars (\$3.00) per day for every day said commission is in session; provided that, however, no member shall receive more than SeventyFive Dollars (\$75.00) in such compensation in any one year. Said compensation shall be paid by warrant of the County Judge or Chairman of the Quarterly County Court, as the case may be. Three members shall constitute a quorum for all purposes. The minutes of the meetings or sessions of said commission shall be recorded in a well bound book, and be safely kept by the secretary thereof, in which shall be recorded all action of the commission.

It shall be the duty of said commission, and said commission is hereby required, to employ and/or contract for the services of a certified public accountant or accountants to make the initial and subsequent annual audits that are mandatorily required to be made under the terms of Section 1 hereof, and to cause such audits to be made, and to supervise, manage, direct and conduct the same; and said commission is hereby authorized and empowered to employ and/or contract for the services of such accountant or accountants to make such additional initial and subsequent annual audits as are permitted and authorized, but not mandatorily required, to be made under the provisions of Section 1 hereof, and to cause such audits to be made, and to supervise, manage, direct and conduct the same.

The County Auditing Commission of such counties shall be authorized to expend for and in connection with the initial audits or either of them provided for in Section 1 hereof, not more than the sum of Five Thousand Dollars (\$5,000.00), and the Quarterly County Courts of such counties shall be and are hereby authorized and empowered to appropriate additional sums for the purpose of defraying the costs and expenses of or incident to the making of said initial audits or either of them, and shall be and are hereby authorized and empowered to appropriate such sum or sums as may be necessary for the purpose of defraying the costs and expenses of or incident to the making of the subsequent annual audits provided for in Section 1 hereof.

Said sum of \$5,000.00 to defray the costs and expenses of said initial audit or audits is hereby appropriated from and out of the general county funds of such counties, and shall be available for said purpose in all events, regardless of any budgetary or other provision therefor or restriction thereon and regardless of whether or not approved by the Quarterly County Courts of such counties; and, in the event said sum of \$5,000.00 shall be insufficient to defray the costs and expenses of said initial audit or audits, it shall be the duty of such County Auditing Commission to certify to the Quarterly County Court that additional funds are needed therefor. Necessary amounts of said sum of \$5,000.00 shall be expended upon order of the chairman of said commission, drawn on the County Judge or Chairman of the County Court, as the case may be, and it shall be the duty of such County Judge or Chairman of the County Court to issue warrants drawn on the County Trustee for payment of such expenditures. The unexpended portion of said sum of \$5,000.00 shall be returned to the general county fund.

The County Auditing Commission of every such county shall, on or before June 30, 1944, and on or before June 30th in each succeeding year, file with the County Judge or Chairman of the County Court thereof, as the case may be, for submission to and filing with the Quarterly County Court thereof at the next regular meeting or session thereof, a report of the activities of such commission for the preceding year.

The County Auditing Commission of every such county shall be a continuing body, and no audit nor audits provided for in this Act in the process of being made shall be discontinued, interrupted, or be otherwise interfered with or prevented, nor shall the validity, effect or enforceability of any contract entered into by said commission as provided for in this Act be in anywise affected, either by or on account of the expiration of the period or term for which any member thereof has been elected to serve or the election of the successors to the members of said commission or by or an account of the removal, ouster or resignation of said members or any of them.

SECTION 3. That it shall be the duty of said auditing commission so designated and appointed, as soon as practicable after the passage of this Act, to assume the duties of said commission under this Act, and, as soon as practicable after the passage of this Act, said commission so designated and appointed shall promptly proceed to employ and/or contract for the services of a certified public accountant or accountants to make the initial audit mandatorily required and the initial audit permitted and authorized, to be made under the provisions of Section 1 hereof, and forth-with to proceed to cause said audit or audits to be made and to supervise, manage, direct and conduct said audit or audits, until the successors to the members of said commission are elected as hereinafter in this Section provided for.

At the first regular meeting of the Quarterly County Court after the passage of this Act, the County Judge or Chairman shall designate the names of six members of the Quarterly County Court, from which number the Quarterly County Court shall elect three members of the County Auditing Commission; and at such time the County Judge or Chairman shall also designate the names of four citizens and taxpayers of said county, from which number the Quarterly County Court shall elect two members of said County Auditing Commission, the five members so elected to compose the County Auditing Commission herein provided for, who shall hold their respective offices until the regular July term or meeting of the Quarterly County Court in 1944, and/or until their successors shall have been duly elected or appointed and qualified as provided for elsewhere in this Act. The successors in office of said County Auditing Commission shall be elected or appointed as herein provided annually, at the regular July term or meeting of the Quarterly County Court, who shall likewise hold their respective offices until their successors shall have been duly elected or appointed and qualified as herein provided in this Act.

In the event the County Judge or Chairman should fail to designate members of the Quarterly County Court and citizens and taxpayers at each meeting of the Quarterly County Court at which time the members of the County Auditing Commission is required to be elected or appointed as provided in this Act, then and in such event the Quarterly County Court shall elect such members without them first having been designated by the County Judge or Chairman, three to be elected from the Court and two from citizens and taxpayers who are not members of the Court as herein provided. On the other hand, should the Quarterly County Court fail for any reason to elect all or any number of said commission at the times herein designated, the County Judge or Chairman shall appoint such commission for the time hereinbefore provided for their election. Such appointments, however, shall be made from members of the Court and from citizens and taxpayers as hereinbefore provided in case of election by the Quarterly County Court.

Vacancies on said commission, whether occurring by reason of death, disability, resignation, ouster, removal or other cause whatsoever, shall be filled by the Quarterly County Court at its next regular meeting after such vacancy occurs, from persons designated by the County Judge or Chairman, two designations or nominations to be made for each such vacancy, or appointed by the County Judge or Chairman in the event the Court fails to elect as hereinbefore provided, and such newly elected or appointed member or members shall hold their respective offices until the next regular July term of the Quarterly County Court, or until their successors are duly elected or appointed and qualified as herein

provided.

the event a vacancy occurs between the regular quarterly sessions of the Quarterly County Court, the County Judge or Chairman shall appoint a successor, who shall hold office until the next ensuing regular Quarterly County Court, at which time a successor shall be elected or appointed as hereinbefore provided.

SECTION 4. That it shall be the duty of every such official, employee, office, department, commission, board or other county agency of any such county to make available to the County Auditing Commission of said county, and to the certified public accountant or accountants employed and/or contracted with by it, all the books, accounts, funds, records, warrants, files and other sources of information of every kind whatsoever in the possession, custody or control of any such official, employee, office, department, commission, board or other county agency in anywise relating to or helpful in the making of the audits mandatorily required, or permitted and authorized, to be made as provided for under this Act. Any person or persons refusing or failing to make any such books, accounts, funds, records, warrants, files and other information available for such purpose shall be guilty of a misdemeanor and upon conviction shall be punishable by fine of not less than \$10.00 nor more than \$50.00 and shall be subject to removal from office under Sections 1877 et seq. of the Code of Tennessee.

SECTION 5. That the County Auditing Commission of every such county shall have authority to subpoena witnesses and to examine them under oath, and to certify or cite any witness refusing to testify, pursuant to any such subpoena, to the Circuit or Criminal Court or Courts of such County for contempt.

SECTION 6. That in the event the constitutionality of this Act is challenged or any suit is filed involving the validity or construction of this Act, the County Auditing Commission of every such County is hereby authorized and empowered to employ an attorney or attorneys to represent said auditing commission in such litigation. The Judge or Chancellor of the Court in which such suit is tried shall fix the reasonable compensation of said attorney or attorneys, and said compensation so fixed shall be paid from the general county funds of such county. The County Auditing Commission of every such county shall be and is hereby authorized and empowered to employ and/or contract for the services of an attorney or attorneys, and to stipulate as to and/or fix the compensation to be paid such attorney or attorneys, to represent said commission in any litigation that may arise out of or preliminary to or in connection with the making of any of the audits mandatorily required or permitted and authorized to be made under this Act, and/or to consult with or advise said commission as to any and all legal questions that may arise either in regard to the powers, duties and/or authority of said commission or in connection with the making of any such audit; but any compensation payable under this paragraph of this Section to any such attorney or attorneys shall be chargeable against and be payable only out of sum or sums appropriated and made available for the making of such audit.

SECTION 7. That the term "certified public accountant" as used in this Act shall mean a person who has successfully passed an examination and, upon basis thereof, has been duly licensed as a Certified Public Accountant by the State Board of Accountancy.

SECTION 8. That the provisions of this Act are hereby declared to be severable; and, 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 passed even if such unconstitutional or void matter had not been included therein.

SECTION 9. That all laws or parts of laws, in conflict with this Act, be and the same are hereby to the extent of such conflict repealed.

SECTION 10. That this Act shall take effect from and after its passage, the public welfare requiring it.
Passed: February 2, 1943.

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