

**PRIVATE ACTS**  
**OF**  
**POLK COUNTY, TENNESSEE**

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**REVISED EDITION**

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**COUNTY TECHNICAL ASSISTANCE SERVICE**  
**THE UNIVERSITY OF TENNESSEE**  
**INSTITUTE FOR PUBLIC SERVICE**  
**NASHVILLE, TENNESSEE**

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Revised and Edited By  
Steve Lobertini, Legal Consultant  
and Stephany A. Skaggs, Administrative Assistant  
1995

Update By  
Elaine Turner, Paralegal  
2009

## PREFACE

County government in Tennessee is a political subdivision of state government. As a political subdivision, county government has only that authority which is delegated to it by the state. In Tennessee, the process of delegation of power from state government to county government is accomplished through legislative action of the general assembly, either through a general (public) act or private act. In the case of the general act, the general assembly grants certain powers which have general application to all or a large number of counties across the state. These general acts are assembled and codified in the Tennessee Code Annotated which is revised and published on an annual basis and is widely available. However, finding individual county legislation (private acts) is not so easy since it is not published in the official code.

The presence of a large body of private legislation in this state is the result of two basic factors. First, although the Tennessee Constitution mentions some county government offices, the provisions of the Tennessee Constitution dealing with county government lack detail, thereby allowing the general assembly wide latitude in county government administration. Secondly, the Tennessee General Assembly has seen fit to enact much of the law relating to county government on an individualized county-by-county approach. The result has been that the 95 counties in Tennessee operate under both general laws and private acts. This body of private legislation is a mass of separate acts, with each applying to only one or a very small group of counties. Since these acts affect counties on an individual basis, they are not included in the Tennessee Code Annotated but rather are published annually in separate volumes.

The result of this past method of publication of private legislation has been the accumulation of a large portion of county law in a cumbersome mass of chronologically arranged volumes which at last count numbered over 120 books. To further complicate matters, the older volumes have not been reprinted, so that there are today only a handful of complete sets of the private acts in existence. Nevertheless, scattered through these hard-to-obtain volumes is the only public record of those laws from which Tennessee counties draw a large portion of their authority to govern and under which they operate daily. Before the County Technical Assistance Service began compilation of the private acts on a county-by-county basis, there was no statewide effort to organize these acts into a body of current law easily accessible for reference by county officials and interested citizens. It is our hope that this volume of The Private Acts of Polk County will provide a useful reference for county administration in Polk County.

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

## HOW TO USE THE PRIVATE ACTS OF POLK COUNTY

At least three methods can be used to locate a private act contained in this volume. The method used will depend on the amount of information you have at the outset of your research.

First, when you have no information about any specific act but merely a general question as to the law on a given subject, the table of contents can be used to ascertain the pages of this volume pertaining to that particular subject area. The chapter headings found in the table of contents are arranged alphabetically and conform to what the compiler believes to be the most commonly used terms found in county government in Tennessee. You should note, however, that the table of contents is general in nature and is not a word index.

A second method can be used if you already know the year and chapter number of an act in question. The parallel reference table in the back of this volume affords a reference to the pages containing the desired act or acts.

Finally, if you have a copy of the Tennessee Private Acts Index (The Michie Co., Charlottesville, VA, 1984; currently LexisNexis) it can be used as a more complete word index. Upon ascertaining the chapter and year of the private act of interest, the parallel reference table in this volume can be used to locate the private acts.

The private acts currently in effect for the county are reprinted in this volume. When going through this volume you will note that there are some acts noted herein which are no longer current laws due to subsequent passage of acts which have superseded them in usage. The compiler has described these acts which have been superseded in historical notes at the end of the chapter wherein the current act on the subject is reprinted. Under topic headings throughout this volume, brief summaries or references are made to general law codified in Tennessee Code Annotated that deals with the particular topic.

The acts that are printed in full in this volume include any subsequent amendments to the act. Although no statement is made regarding whether the amendatory act was ratified, the ratification was checked by the compiler to insure that the amendatory act was approved locally and is in effect.

**This compilation is updated through the first regular session of the 106th Tennessee General Assembly.**

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## **CHAPTER I - ADMINISTRATION**

## ADMINISTRATION

### BUDGET SYSTEM

Counties in Tennessee may operate their budgeting system under one of the three optional general laws on the subject or under the provisions of private acts or county or metropolitan government charters. The three optional general laws dealing with budgeting are the County Budgeting Law of 1957, the County Financial Management System of 1981 and the Local Option Budgeting Law of 1993. If neither an optional general law nor a private act or county charter has been adopted, the county may have established a budget committee by resolution to serve in an advisory role to the county legislative body. Also see T.C.A. §§ 5-9-401 through 5-9-407, and T.C.A. § 49-2-301 (school budget). Most counties are subject to a general law dealing with the procedure for making budget amendments that is codified at T.C.A. § 5-9-407.

The County Budgeting Law of 1957 is found in title 5, chapter 12 of Tennessee Code Annotated. It is a general law establishing procedures for the preparation and adoption of county budgets for all county funds, activities and agencies. The County Budgeting Law of 1957 is permissive legislation and in order to come under its provisions, counties must adopt a resolution by 2/3 vote of the county legislative body or pass the proposal in a referendum. Section 5-13-111 of Tennessee Code Annotated specifically provides that the 1957 general law does not affect either private acts then in existence or prevent the enactment of private legislation for Tennessee counties creating central accounting systems, the position of budget director, or other budgeting procedures.

The County Financial Management System of 1981 is codified at T.C.A. § 5-21-101 et seq. This law provides an optional system and methods of controlling the financial affairs of a county, including budgeting, purchasing, and investment processes. This act is permissive in nature and can be activated by a two-thirds (2/3) vote of the county legislative body, or by a majority vote in a referendum election.

The Local Option Budgeting Law of 1993 is an optional general law located at T.C.A. §§ 5-12-201 through 5-12-217. This law may be adopted by a two-thirds (2/3) vote of the county legislative body. This law may be adopted and used in conjunction with the County Budgeting Law of 1957 or the County Financial Management System of 1981, or used alone. This optional law provides procedures for the formulation, adoption and amendment of an annual budget that includes deadlines for action. If a county legislative body operating under this law fails to adopt a budget by August 15, the portion of the budget prepared by the department of education goes into effect, and similarly, the remainder of the budget as proposed by the county executive or budget committee goes into effect.

The following acts once created a budgeting system for Polk County, but they have been specifically repealed or superseded by current law.

1. Private Acts of 1939, Chapter 102, established a Budget Commission consisting of 3 members to be elected by the Quarterly Court. The act detailed budget procedures to be

followed. While this act was never specially repealed, it is deemed to be superseded by the Private Acts of 1975, Chapter 192.

2. Private Acts of 1975, Chapter 192, established a budget system for Polk County in sections 17 through 29 of the act. The Budget Committee consisted of three members elected by the County Council, two of which were to be council members. Private Acts of 1980, Chapter 334, amended Private Acts of 1975, Chapter 192, specifically pertaining to the budget system by directing that the County Judge shall be an ex officio non-voting member of the committee. Private Acts of 1975, Chapter 192, and its amendments have been superseded by the Public Acts of 1978, Chapter 934, Section 35, which allowed for a transition period extending until January 1, 1982 from the County Council form of government which was created under the 1975 Private Act to the County Legislative Body form of government which was established under the Public Acts of 1978, Chapter 934, which is now codified in Tennessee Code Annotated Section 5-5-101 et. seq.

ADMINISTRATION

COUNTY ATTORNEY

PRIVATE ACTS OF 2009

CHAPTER 20

SECTION 1. There is created the position of county attorney for Polk County, Tennessee.

SECTION 2. The county attorney shall be elected to such position by two-thirds (2/3) majority vote of the county legislative body.

SECTION 3. The county attorney shall be elected at the regularly scheduled meeting one (1) month after this act's approval by the county legislative body (or when a vacancy occurs) and at the regularly called meeting each October thereafter.

SECTION 4. The county attorney shall serve on the first year elected until the following October and for a term of one (1) year thereafter as indicated in Section 3.

SECTION 5. Any vacancy in the office of county attorney shall be filled in interim at the discretion of the county executive of Polk County until the next regularly scheduled meeting of the county legislative body. The legislative body then will fill such position as prescribed in Sections 2, 3 and 4.

SECTION 6. The county attorney shall be compensated either by retainer or fee for service or both. The county legislative body shall fix the rate of compensation for the county attorney based upon the agreement of the person elected to service as county attorney and such body.

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

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

Passed: May 21, 2009.

## ADMINISTRATION

### COUNTY ATTORNEY

The office of county attorney is not a constitutional office nor is it an established office under general law. The office of county attorney may be set up by private act. The county mayor is authorized by T.C.A. § 5-6-112 to employ counsel where there is no county attorney established by private act or county or metropolitan government charter.

The general law at T.C.A. § 49-2-203 authorizes the board of education to employ legal counsel to advise or represent the board. The County Uniform Highway Law authorizes county highway departments subject to this general law (most counties) to employ legal counsel or to solicit the use of legal counsel retained by the county to prosecute or defend litigation caused by or necessary to the operation of the county highway department. T.C.A. § 54-7-110. There may be other private acts which allow other governmental departments to hire attorneys.

The following acts once affected the appointment, election, or office of the county attorney in Polk County. These acts are included for historical reference only. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1939, Chapter 100, created the office of Polk County Attorney and provided for the qualification, election, and duties of the office. The Private Acts of 1939, Chapter 100, was repealed by the Private Acts of 1947, Chapter 30.
2. Private Acts of 1941, Chapter 76, amended Private Acts of 1939, Chapter 100, by increasing the salary of the office to \$1,800 per year and enlarging the duties of the office to provide for collection of delinquent taxes.
3. Private Acts of 1951, Chapter 324, created the office of Polk County Attorney; this act was amended by Chapter 113 of the Private Acts of 1971 to raise the salary of this office. Both of these acts were repealed by Private Acts of 1975, Chapter 192.
4. Private Acts of 1975, Chapter 192, Section 15, authorized the County Judge to hire a county attorney. This act has been rendered ineffective by the Public Acts of 1978, Chapter 934, Section 35, which does away with the County Council type government.

## ADMINISTRATION

### COUNTY CLERK

The county clerk, formerly the county court clerk, is a constitutional office as provided by article VII, section I of the Constitution of Tennessee. The county clerk is popularly elected for a term of four years. T.C.A. § 18-6-101. The bond required for county clerks is \$50,000 in counties with a population greater than 15,000 and \$25,000 in counties with a population less than 15,000. T.C.A. § 18-2-201.

Most of the duties of the county clerk are specified in the general law (public acts) codified in Tennessee Code Annotated. The county clerk is the clerk of the county legislative body. The clerk keeps the official record (minutes) of the legislative body. The county clerk is responsible for the issuance of marriage licenses and pawnbrokers' licenses. The county clerk is the collector for a number of local and state taxes including local wheel taxes, local hotel/motel taxes, wholesale beer tax and vehicle registration fees. T.C.A. § 18-6-105. The clerk's salary is determined in accordance with T.C.A. § 8-24-102. The basic fee schedule for the county clerk is found at T.C.A. § 8-21-407.

ADMINISTRATION

COUNTY EXECUTIVE

PRIVATE ACTS OF 2005

CHAPTER 3

SECTION 1. Pursuant to Tennessee Code Annotated, Section 5-6-101, the title of “county mayor” in Polk County shall be redesignated as “county executive.”

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

SECTION 3. 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 2.

Passed: February 17, 2005.

## ADMINISTRATION

### COUNTY EXECUTIVE

All counties in Tennessee, except those with a metropolitan form of government, must have an elected county executive who is formally entitled county mayor unless entitled county executive by private act. T.C.A. § 5-6-101. The county mayor serves a four year term.

The county mayor is the chief executive officer of the county and has all of the powers and duties formerly exercised by the county judge except judicial powers. The county mayor serves as a nonvoting, ex officio member of the county legislative body, and the county mayor or a representative of the county mayor serves as a nonvoting member of all committees of the legislative body. T.C.A. § 5-6-106. The county legislative body may elect the county mayor as its chairman. However, the county mayor may refuse to serve as chairman. T.C.A. § 5-5-103. If the county mayor is not elected chairman, then the county mayor may veto legislative resolutions of the county legislative body. T.C.A. § 5-6-107.

Except as otherwise provided by law, the county mayor appoints members of county boards and commissions and county department heads. Such appointees are subject to confirmation by the county legislative body. T.C.A. § 5-6-106(c). It is important to recognize that most boards and department heads are provided for by general law or private act, and this residual appointive power of the county mayor may not be applicable.

The county mayor is authorized to employ one or more clerical assistants as may be necessary for the performance of his or her official duties. The county mayor sets the compensation for these clerical assistants within the amount appropriated for this purpose by the county legislative body. T.C.A. § 5-6-116.

The references below are of acts which once applied to the office of county judge, or county executive in Polk County. They are included herein for historical purposes only. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1929, Chapter 157, created the office of County Judge in Polk County and abolished the position of chairman of the county court. This was amended by Private Acts of 1931, Chapter 571, to provide that the Polk County Judge would also act as the purchasing agent of the county, with sole power to purchase the supplies and equipment needed by the county, but these powers were removed by Private Acts of 1935, Chapter 129. Private Acts of 1929, Chapter 157, was repealed by the Private Acts of 1949, Chapter 558.
2. Private Acts of 1935, Chapter 130, abolished the office of County Judge, by repealing Private Acts of 1929, Chapter 157.
3. Private Acts of 1939, Chapter 184, apparently revived Private Acts of 1929, Chapter 157, by amending the 1929 act to raise the salary of the County Judge, effective on the first Monday in September, 1950.

4. Private Acts of 1971, Chapter 112, provided for the election of a county judge, who would hold office for a term of six (6) years. The office of chairman of the county court was abolished and all the chairman's duties, powers and prerogatives were transferred to the county judge. The salary was determined by the quarterly court court not to exceed \$8,500 per annum.
5. Private Acts of 1975, Chapter 192, created a five member County Council in Polk County. The County Judge was also a voting member of the Council. The act and its 1980 amendment, while never specifically repealed, have been superseded by Public Acts of 1978, Chapter 934, Section 35, and codified in T.C.A. §§ 5-5-101, which does away with the Council type government.

## ADMINISTRATION

### COUNTY LEGISLATIVE BODY

Each county in Tennessee, except those with a metropolitan form of government, has a county legislative body, which is also formally known as the board of county commissioners, or informally known as the county commission.

The county legislative body, or board of county commissioners, is composed of not less than nine (9) nor more than twenty-five (25) members. The board reapportions the county into districts from which county commissioners are elected. These districts must be apportioned on the basis of population so that each commissioner represents substantially the same number of people. No more than three commissioners may be elected from the same district. T.C.A. § 5-1-108.

The county legislative body replaced the quarterly county court as provided in the Public Acts of 1978, Chapter 934, T.C.A. § 5-5-101 *et seq.* The county commissioners are vested with all the legislative powers and duties formerly vested in justices of the peace, but possess no judicial powers and are not charged with any judicial functions. Under T.C.A. § 36-3-301, members of county legislative bodies may solemnize marriages.

The following acts once applied to the quarterly court or the county legislative body of Polk County and are included herein for historical purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1921, Chapter 836, set the salary of justices of the peace at \$3.00 per day plus 10¢ per mile for their travel to and from meetings of the quarterly county court. This act was repealed by Private Acts of 1967-68, Chapter 179.
2. Private Acts of 1929, Chapter 203, authorized the employment of a deputy county court clerk at a salary of not more than \$100 per month. This is now covered by T.C.A. §§ 8-2001 and 8-2404.
3. Private Acts of 1935, Chapter 187, created the office of Chairman of the County Court, but his office was abolished by Private Acts of 1971, Chapter 112.
4. Private Acts of 1951, Chapter 577, set the per diem salary of the justices of the peace at \$4.50 plus \$.05 for each mile traveled to and from the place of the county court meeting.
5. Private Acts of 1951, Chapter 664, created the office of clerk to the chairman of the county court to be paid \$200 per month.
6. Private Acts of 1961, Chapter 210, attempted to amend Private Acts of 1951, Chapter 664, by raising the salary of the clerk to the chairman of the county court to \$250 per month, but this act did not receive local approval and never became effective.

7. Private Acts of 1963, Chapter 77, raised the monthly salary of the chairman's clerk to \$250.
8. Private Acts of 1967-68, Chapter 87, attempted to create the office of Polk County Judge. This act was amended by Private Acts of 1967-68, Chapter 165, to provide that the local ratification election would be held on voting machines, but the Polk County voters rejected Chapter 87 of its provisions, and it never became effective law.
9. Private Acts of 1967-68, Chapter 179, set the compensation of Justices of the Peace at \$25 per day and 10¢ per mile for up to eight meetings per year actually attended.
10. Private Acts of 1969, Chapter 17, raised the salary of the clerk of the chairman of the county court to \$3,600 per annum.
11. Private Acts of 1975, Chapter 129, Page 477, was almost a duplicate of Private Acts of 1975, Chapter 192, except in Section 3 where it was specified that the special elections would be called by the Election Commission instead of being held on the third Tuesday in July, 1975, and voting precinct 9(a) was omitted in the published act. This act was not only rejected by the Quarterly Court but was also repealed by Chapter 192.
12. Private Acts of 1975, Chapter 192, created a County Council in Polk County consisting of the County Judge and 5 elected members. The act also established a budget committee and purchasing agent for the county. This act was amended by Private Acts of 1980, Chapter 334, so as to remove the voting privileges of the County Judge in his official capacity as a member of the Council. The act and its amendment, were rendered ineffective by the Public Acts of 1978, Chapter 934, Section 35, which abolished the County Council form of government and is codified in T.C.A. §§ 5-5-101.

## ADMINISTRATION

### COUNTY REGISTER

The office of county register is a constitutional office, established by article VII, section 1 of the Constitution of Tennessee, and is regulated by the general statutes found in Tennessee Code Annotated, title 8, chapter 13; title 10, chapter 7 (public records); title 47, chapter 9 (U.C.C. Secured Transactions); and title 66 (real property and registration of instruments). The salary of the county register is determined in accordance with T.C.A. § 8-24-102.

The principal duty of the county register is the registration of instruments which the law requires to be, or allows to be, filed or recorded. These instruments include, but are not limited to: deeds of conveyance of real estate, powers of attorney, deeds of trust, mortgages, liens, land sale contracts, plats, leases, military discharges, and papers under the Uniform Commercial Code. The purposes of such registrations are also varied. The records of the register's office provide a public record of real property ownership, liens and various other transactions that affect the public interest. The basic fee schedule for the register is found at T.C.A. § 8-21-1001.

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

1. Private Acts of 1921, Chapter 441, set the annual salary of the Polk County register of deeds at \$1,500. Private Acts of 1921, Chapter 684 also set the register's salary at \$1,500 per annum, and it was amended by Private Acts of 1923, Chapter 638, and Private Acts of 1927, Chapter 621, to raise this salary. There was a discrepancy in the captions of these amendatory acts since they referred to the salary of the registrar, while the original act referred to the register. The maximum and minimum compensation of a county register is now regulated by Sections 8-24-102 and 8-24-104 of Tennessee Code Annotated, and set by the governing body of the county.

## ADMINISTRATION

### COUNTY TRUSTEE

The county trustee is one of the county officers established by article VII, section 1 of the Constitution of Tennessee. The office is regulated by title 8, chapter 11 of Tennessee Code Annotated. Duties of the county trustee regarding the collection of property taxes are codified in Tennessee Code Annotated, title 67, chapter 5. The county trustee is elected by the qualified voters of the county to serve a four year term. T.C.A. § 8-11-101. Upon election the trustee must take the required oath of office and enter into a surety bond. T.C.A. § 8-11-102. For other statutes pertaining to the many duties of the trustee as a fiscal officer, see volume 14 of the combined general index of T.C.A. under "County Trustee". The salary of the county trustee is determined in accordance with T.C.A. § 8-24-102.

The following acts once affected the office of county trustee in Polk 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 1927, Chapter 476, set the salary of the county trustee at \$4,000 per annum, but this act was repealed by Private Acts of 1929, Chapter 156.
2. Private Acts of 1929, Chapter 325, authorized the employment of a deputy trustee at a monthly salary of \$150. The authorization for hiring a deputy trustee is now found in T.C.A. §§ 8-20-101 and §§ 8-24-103 provides the method for compensating these deputies.

ADMINISTRATION

HIWASSEE RIVER TRI-COUNTY PORT AUTHORITY

PUBLIC ACTS OF 1963

CHAPTER 357

**COMPILER'S NOTE:** This Act is a "special" public act and is not printed in the Tennessee Code Annotated. It is published here as a service for our readers.

SECTION 1. That, in order to facilitate transportation in the Counties of Bradley, McMinn, and Polk in the State of Tennessee, and to promote navigation on the Hiwassee River, which traverses portions of the said counties; to facilitate the movement and transfer of people, goods and merchandise to, from and through the said counties; 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 counties, there is hereby established in Bradley, McMinn, and Polk Counties, Tennessee a Port Authority, to be known as "The Hiwassee River Tri-County Port Authority", "The Port Authority" or "The Port Authority Commissioners," for the purposes of (a) acquiring, constructing, operating and maintaining ports and navigation terminals on the Hiwassee River, 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 Hiwassee River in their operations; and (c) acquiring, constructing, operating, and maintaining railroads, switchyards, 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 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 herein granted, in connection therewith, are declared to be public and corporate purposes and matters of public necessity.

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

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

(a) To acquire, construct, purchase, operate, maintain, replace, repair, rebuild, extend, and improve, within the boundaries of Bradley, McMinn, and Polk Counties, Tennessee (except not within the present corporate limits of any other municipality now within said area, 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 accept donations to the Authority of cash, lands or other property to be used in the furtherance of the purposes of this Act.

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

(d) To purchase, rent, lease, or otherwise acquire any and all kinds of property, real, personal or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges, or other encumbrances, for the said counties 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 Hiwassee River in their operations.

(e) 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 for; to make all other contracts and execute all other instruments including, without limitation, licenses, long or short term leases, mortgages and deeds of trust, and other agreements relating to property and facilities under its jurisdiction, and the construction, operation, maintenance, repair, and improvement thereof, as in the judgment of said Board of Commissioners may be necessary, proper, or advisable for the furtherance of the purposes of this Act, and the full exercise of the powers herein granted; and to carry out and perform the covenants, terms, and conditions of all such contracts or instruments.

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

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

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

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

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

SECTION 6. That the Port Authority is hereby authorized and empowered to condemn on behalf of and in the name of the Counties of Bradley, McMinn, and Polk in the State of Tennessee, any land, easements, or rights of way in said counties 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 county containing said property, and the property shall thereafter be entrusted to said Authority, as the agent of the county, 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 on behalf of the county 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 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 Counties of Bradley, McMinn, and Polk, Tennessee, such property, and income therefrom, shall be exempt from all state, county, and municipal taxation, provided, however, that such exemption shall not extend the leasehold or other interest in such property which may be held by any private person or private corporation.

SECTION 8. That Bradley, McMinn, and Polk Counties, The 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 9. That neither the Tennessee Public Service Commission nor any other board or commission of like character hereafter created shall have jurisdiction over The Port Authority 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 10. That the Board of Commissioners of the Port Authority shall consist of nine members. Three of the nine initial members of the Board of Commissioners of the Port Authority shall be elected by a majority vote of the members of each of the County Courts of Bradley and Polk Counties and the County Council of McMinn County on the first Thursday of March, 1963, or as soon as practicable, and their respective terms of office shall be as follows: The term of office of the first member selected by each respective county court or council shall expire the first Thursday of March 1965; the term of office of the second member selected by each respective county court or council shall expire the first Thursday of March 1967; the term of office of the third member selected by each respective county court or council shall expire the first Thursday of March 1969.

The successors in office, for each of the respective nine initial members of the Board of Commissioners of the Port authority whose full terms of office have expired, shall be elected by the county court or council which originally selected such initial member, as hereinafter provided, for regular terms of office of six years each thereafter, whose respective terms of office shall expire on the first Thursday of March of the respective years applicable.

The County Court or Council of each of the said counties, approximately thirty days prior to the expiration of the respective terms of office of the respective members of the Board of Commissioners of the Port Authority elected by it, shall elect their respective successors from among three nominees for the office, whose names shall be submitted to the respective county courts or council of the said counties by the Board of Commissioners of The Port Authority, and whose names shall be filed with the clerks of the County Courts of Bradley and Polk counties and the County Manager of McMinn County not less than sixty days prior to the expiration of the term of the respective member and Commissioner; provided, however, that the county court or council by a two-thirds vote of all of the members of said court or council, may elect as said successor some person not nominated by the Board of Commissioners of The Port Authority. 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 county court or council originally electing him in the same manner last above provided, except that the names of the three nominees for the office shall be submitted to the clerks of the county courts of Bradley and Polk counties and the County Manager of McMinn County not less than thirty days prior to the election of said successor by said county court or council and such successor Commissioner shall be elected for the unexpired term of the deceased or retiring Commissioner, whose office is vacant.

Any person at least twenty-one years of age who has resided within the boundaries of the county whose court or council may elect him, 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 Courts of Bradley and Polk Counties and the members of the County Council of McMinn County shall not be eligible to serve as a member of said Board of Commissioners. Any Commissioner who ceases to regularly reside within the boundaries of the county electing him 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 his respective county, and additional copies of the oaths of the commissioners elected by the McMinn County Council shall be filed with the County Manager of said County.

A majority of the Commissioners shall constitute a quorum and the Commissioners shall act by vote of a majority present at any meeting attended by a quorum, and vacancies among the Commissioners shall not affect their power and authority, so long as a quorum remains. Within thirty days after 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 resolution, determine. Save as otherwise expressly provided, the Board of Commissioners shall establish their own rules of procedure.

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

The Board of Commissioners, by resolution, shall require the Treasurer or Secretary-Treasurer, if he is one and the same person, to execute a bond with approved corporate surety, for the faithful performance of his duties and the accounting of all monies and revenues that may come 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, but they shall be allowed necessary traveling and other expenses while engaged in the business of the Authority, as may be provided and approved by the Board, payable from the funds of the Authority, or such funds as may be appropriated by the County Courts of Bradley and Polk Counties and the County Council of McMinn County.

SECTION 11. 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 12. That the Port Authority Commissioners shall be authorized to employ and fix the compensation of such architects, attorneys, engineers, superintendents, consultants, professional advisors and other subordinate officers and employees, as may be necessary for the efficient management and operation of the Port Authority, and the operation of the facilities provided for in this Act, and who shall continue in the employment of the Authority, at the will and pleasure of the Board of Commissioners.

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

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

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

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

regard to the requirements of any other general or special statute, including requirements as to elections for the approval of such bonds.

In the case of bonds payable solely out of the revenues of The Port Authority, it shall be the duty of the County Courts or Council, as the case may be, of Bradley, McMinn, and Polk Counties to provide, by resolution, for the issuance of such bonds, as requested by the Port Authority Commissioners.

Prior to a vote by the County Courts and Council of said counties authorizing the issuance of bonds to be financed wholly or in part through tax levies by the said County Courts and Council, the Port Authority Commissioners shall prepare and submit to the County Courts of each of the counties of Bradley and Polk and to the County Council of McMinn County, a recommendation that bonds in a stated amount be issued hereunder, and the equal pro rata amount to be issued by each county, supported by a report on the need for, and projected use of the facilities for the financing of which such bonds issue is proposed, including a review of alternate solutions, if any, and a justification of the solution proposed.

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

SECTION 14. That in order to secure the payment of any of the bonds issued pursuant to this Act, the interest thereon, or in connection with such bonds, the County Courts of Bradley and Polk Counties, and the County Council of McMinn County shall have power, as to such bonds, to the extent not inconsistent with the mandatory provisions of this Act;

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

(b) To pledge all or any part of the revenue derived from the operation of the facilities herein authorized, and to pledge all or any part of the proceeds derived from the sale, transfer, lease, or other disposition of any land or other facilities as provided for in this Act.

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

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

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

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

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

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

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

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

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

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

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

(a) By mandamus or other suit, action or proceeding in any court of competent jurisdiction, to enforce his or their rights against the County Court or Council authorizing and issuing said bonds, the Port Authority, the Port Authority Commissioners, or any other proper officer, agent or employee of any of them, including, but without limitation, the right to require the County Court or Council authorizing and issuing said bonds, the Port Authority, the Port Authority Commissioners, and any proper officer, agent or employee of any of them, to assess,

levy and collect taxes, and to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of taxes or Authority revenues, and to require the County Court or Council authorizing and issuing said bonds, the Port Authority, the Port Authority Commissioners, and any officer, agent or employee of them, to carry out any other covenants and agreements and to perform its and their duties under this Act.

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

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

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

(b) By suit, action or proceedings in any court of competent jurisdiction, to require the County Court or Council, as the case may be, authorizing and issuing said bonds, or the Port Authority Commissioners, to act as if they were the trustees of an express trust.

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

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

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

SECTION 18. That the County Courts of Bradley and Polk Counties and the County Council of McMinn County are 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 Courts or Council 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 19. That all monies derived from the issuance of bonds hereunder, together with any federal or other grant or loan made, for the purposes of this Act, shall be paid to the Treasurer of the Port Authority. The Treasurer shall deposit such monies, together with all the receipts from the Authority operations, in a separate bank account or accounts, separate from all other county funds, and shall keep adequate 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 20. 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, lease 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 said 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.

SECTION 21. That, except as otherwise herein expressly provided, all contracts of the Port Authority shall be entered into and executed in such manner as may be prescribed by the Board of Commissioners, but no contract or acquisition by purchase, of equipment, apparatus, materials or supplies, involving more than Five Hundred Dollars (\$500.00), or for construction, installation, repair or improvement of the property or facilities, under the jurisdiction of the

Board of Commissioners, involving more than 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 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 this Act with its own employees.

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

SECTION 23. 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 counties of Bradley, McMinn, and Polk, sell, transfer, lease, or otherwise dispose of any real property in the custody and control of the Port Authority, except that any land that has been acquired through condemnation proceeding may be sold, transferred, leased or otherwise disposed of only with the approval of the County Court or Council of the County containing such property, and any vote as to such approval shall

be taken at a meeting duly and regularly called for the purpose of considering the question of the disposition of such property.

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

SECTION 25. That if any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional 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 26. That this Act is remedial in nature, and shall be liberally construed to effect its purposes of promoting navigation on the Hiwassee River, facilitating the movement and transfer of goods and merchandise to, from and through the counties of Bradley, McMinn and Polk, encouraging utilization of the natural and recreational resources therein, and promoting the growth and development of commerce and industry in said counties.

SECTION 27. That this Act shall have no effect unless the same shall have been approved by a two-thirds vote of each of the County Courts of Bradley and Polk Counties and the County Council of McMinn County, except that failure to approve this Act by one or more of the said county courts or council within 90 days after enactment of this Act shall not prevent the one or more of said county courts or council remaining from approving this Act which shall take effect as though written for the one or more counties approving it. Its approval or non-approval shall be proclaimed and countersigned by the clerks of each of the County Courts of Bradley and Polk Counties, and the County Manager of McMinn County, and shall be duly certified by them to the Secretary of State of the State of Tennessee.

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

Passed: March 21, 1963.

## ADMINISTRATION

### PURCHASING

The laws regarding purchasing for county governments are not uniform and several options exist. The county education department has its own purchasing law (T.C.A. § 49-2-203(A)(4)), but this law is superseded in those counties that adopt the statutes of the optional County Financial Management System of 1981. T.C.A. § 5-21-106 *et seq.* Further, in counties that have adopted the County Purchasing Law of 1957, another optional general law, the county board of education may or may not use the central county purchasing system depending upon the approval of the state commissioner of education. T.C.A. § 5-14-115.

The County Uniform Highway Law, at T.C.A. § 54-7-113, provides a purchasing law for the county highway department when purchasing for the department is not governed by private act or when the county has not adopted either the County Purchasing Law of 1957 or the County Financial Management System of 1981. Nevertheless, even where private acts generally govern the purchases of the county highway department, purchases of less than \$10,000 do not have to be publicly advertised and competitively bid. The purchasing provisions of the County Uniform Highway Law do not apply to Shelby, Davidson, Knox, and Hamilton counties.

Purchases from the general fund are governed by the County Purchasing Law of 1983, T.C.A. § 5-14-201 *et seq.*, unless the county operates under a county or metropolitan government charter, or has adopted the County Financial Management System of 1981 or the County Purchasing Law of 1957. Also, this general law does not apply to counties with private acts if the private act provides for public advertising and competitive bidding for purchases over \$5,000 or a lesser amount.

The County Purchasing Law of 1957, found in T.C.A. §§ 5-14-101 through 5-14-116, may be adopted by the voters in a referendum or by a two-thirds (2/3) vote of the county legislative body. This act is one of the three companion Fiscal Control Acts of 1957. Under this act the county executive appoints a purchasing agent subject to the approval of the county legislative body. T.C.A. § 5-14-103. The purchasing agent must be qualified by training and experience to perform the required duties. T.C.A. § 5-14-103.

The person appointed as purchasing agent must have a corporate surety bond of not less than \$10,000 nor more than \$25,000. The salary is not to be in excess of other county officials as prescribed in T.C.A. §§ 8-24-101 and 8-24-102. T.C.A. § 5-14-103(b). The director of accounts and budgets also serves as the purchasing agent in some counties. The primary duties of the purchasing agent are to: (1) purchase all supplies, materials, equipment and contractual services, (2) arrange for rental of all machinery, buildings and equipment, (3) transfer materials, supplies and equipment between county departments, and (4) supervise the central storeroom. T.C.A. § 5-14-105 *et seq.*

The County Financial Management System of 1981 is found in T.C.A. §§ 5-21-101 through 5-21-129. This law provides for the consolidation and establishment of a financial management system for all county funds operated through the county trustee, including purchasing. The system is similar in scope to the 1957 acts; however, under this act the county

operates under one act rather than three. This system must be approved by a two-thirds (2/3) vote of the county legislative body or a majority of the voters in order to be effective in any county. T.C.A. § 5-21-126.

Under the County Financial Management System of 1981, a finance department is created to administer the finances of the county and all funds handled by the county trustee, in conformity with generally accepted principles of governmental accounting and rules and regulations established by the state comptroller of the treasury and state commissioner of education. T.C.A. § 5-21-103. Unlike the 1957 laws, school funds are managed under this system just like all other county funds. The commissioner of education may remove the school department from the system if records are not maintained properly and timely. T.C.A. § 5-21-124.

The County Purchasing Law of 1983, T.C.A. § 5-14-201 et seq., applies to purchases by authorized officials using county funds, except that it does not apply to purchases from county highway funds, county education funds, or purchases by counties that have adopted the County Purchasing Law of 1957 or the County Financial Management System of 1981. Neither does this act apply in counties operating under a county or metropolitan government charter. Furthermore, the act does not apply to counties with private acts if the private act provides for public advertising and competitive bidding for purchases in excess of \$5,000 or a lesser amount as established by the private act.

Tennessee Code Annotated § 5-14-204 requires that all purchases and leases or lease-purchase agreements made under the County Purchasing Law of 1983 shall be made or entered into only after public advertisement and competitive bidding, except for (1) purchases costing less than \$5,000, (2) goods or services which may not be procured by competitive means because of the existence of a single source or because of a proprietary product, (3) supplies, materials or equipment needed in an emergency situation, subject to reporting requirements of the county legislative body and the county executive, (4) leases or lease-purchase agreements requiring payments of less than \$5,000 per year, and (5) fuel and fuel products purchased in the open market by governmental bodies. County legislative bodies may lower the dollar amount required in this act and may also adopt regulations providing procedures for implementing this act.

Counties with populations over 150,000 are authorized to make purchases under \$10,000 without competitive bids or proposals, but these counties may retain their present competitive bidding requirements or establish different limits by private act or charter provision. T.C.A. § 12-3-1007.

County governments may use pricing discounts obtained by the National Association of Counties (NACo) Purchasing Alliance by considering the NACo price in the same manner as a formal bid or informal quotation under the county's bidding laws. T.C.A. § 12-3-1008. The Tennessee Department of General Services (TDGS) may upon request, purchase supplies and equipment for any county. Counties, without public advertisement and competitive bidding, may purchase under the provisions of contracts or price agreements entered into by TDGS. Also, county governments may purchase goods, except motor vehicles, under federal General Services Administration (GSA) contracts, to the extent permitted by federal law or regulations. T.C.A. § 12-3-1001.

Counties are authorized to distribute and receive bids, proposals and other offers electronically, but are prohibited from requiring small or minority owned businesses to receive or respond electronically. T.C.A. § 12-3-704.

The following acts once affected the purchasing procedures of Polk County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1931, Chapter 571, added Section 8 of the Private Acts of 1929, Chapter 157, so as to make the County Judge the purchasing agent in Polk County. This act was repealed by the Private Acts of 1935, Chapter 129.
2. Private Acts of 1975, Chapter 192, which established the County Council, also provided for a County Purchasing Department and a Purchasing Agent. This act has been rendered ineffective by the Public Acts of 1978, Chapter 934, Section 35, which abolished the County Council form of government.

ADMINISTRATION

WORKERS' COMPENSATION

PRIVATE ACTS OF 1955

CHAPTER 39

SECTION 1. That quarterly county courts in counties having a population of not less than 14,000 and not more than 14,900 inhabitants according to the Federal Census of 1950, or any subsequent Federal Census, be and they are hereby authorized to pay out of the ordinary funds of the county all claims for money damages now accumulated, or which may hereafter accumulate, growing out of the injury or death of any employee of any department, division, bureau, commission or agency of said county, received by such employee in the line of duty and in the course of employment, whether such injury shall be accidental or otherwise. Said counties are hereby authorized to pay and compensate dependents of such employee (as defined in the Workmen's Compensation Laws of this State) in cash for death arising out of such injury; provided however, that any award or settlement made under this Act shall in no event exceed the amount which would be allowable under the provisions of the Workmen's Compensation Law of this State.

Said Counties may allow less than the amount provided by the Workmens' Compensation Law, or, if the claim is not deemed meritorious, may disallow the same entirely.

SECTION 2. That any settlement or award made by any such county courts shall be made after a careful and thorough investigation of all the facts and circumstances in controversy, and no award or settlement shall be made unless the facts found by said court or its duly authorized committee as hereafter provided, shall establish such a case of liability on the part of the county as would entitle the claimant to a judgment in an action at law, if the county were amenable to such.

No claim provided for under this Act may be considered by the quarterly county court which has not been presented to it by sworn petition duly filed within four years from the date on which the claim first accrued.

SECTION 3. That such quarterly county courts be and the same are hereby authorized to establish and promulgate such rules, not inconsistent with the provisions of this Act, as may be necessary for the ordinary procedure in the filing, investigation, hearing and disposition of such claims before them.

Such quarterly county courts shall designate a standing committee of not more than three members, composed of the members of said courts, to hear evidence and make recommendations to the court with respect to the disposition of any such claim, and such court or its said standing committee is authorized to promulgate rules for the taking of evidence at such times and places

as may be conducive to economy of expenses and convenience of the witnesses for both the claimant and the county, insofar as possible.

The claimant shall be given written notice of such hearing at least five days prior to the date set therefor. The members of such standing committee shall be chosen and vacancies shall be filled according to the procedure of the county courts for the selection and appointment of the members of its regular standing committees.

SECTION 4. That the decision of such quarterly county court upon any claims filed hereunder shall be final.

SECTION 5. That this Act shall have no effect unless the same shall have been approved by a two-thirds vote of the quarterly county court of any county to which it may apply on or before the next regular meeting of such quarterly county court occurring more than thirty days after its approval by the Chief Executive of this State. Its approval or non-approval shall be proclaimed by the county judge or chairman, and shall be certified by him to the Secretary of State.

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

Passed: February 3, 1955.

## ADMINISTRATION

### GENERAL REFERENCE

The administration of county government is placed, through a coordination of duties and responsibilities, in various elected or appointed officials, plus various boards, agencies and commissions. For general law on county administration, see Tennessee Code Annotated, title 5 (Counties) and title 8 (Public Officers and Employees). Specific subject headings in the combined general index in volumes 14, 15, and 16 of T.C.A. may be checked for other statutes relating to county administration. These duties are summarized in the Tennessee County Government Handbook, a CTAS publication.

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

1. Acts of 1839-40, Chapter 81, authorized the county court to appoint a county surveyor. This is now covered by T.C.A. §§ 8-1201.
2. Acts of 1842 (Ex. Sess.), Chapter 11, directed the state treasurer to pay William A. Eichbaum \$225 for the 45 copies of Nicholson and Caruther's Digest of the Statute Laws of Tennessee, which were to be supplied to the counties of Polk and Van Buren.
3. Acts of 1843-44, Chapter 80, provided that the militia in the Seventh and Eighth Civil Districts of Polk County were to constitute a battalion and were to be attached to the 152nd Regiment but were not to be compelled to attend battalion muster.
4. Acts of 1843-44, Chapter 202, ordered the commissioners of Polk County to pay over to the county trustee all monies received from the sale of lots in Benton which had not been expended on county improvements.
5. Acts of 1866-67, Chapter 30, incorporated for ninety-nine years the Polk County and Caney Fork Petroleum Oil and Land Company.
6. Private Acts of 1933, Chapter 65, removed the disabilities of infancy and minority from Jessie Clayton.
7. Private Acts of 1935, Chapter 576, authorized Polk County to contract with the Public Works Administration and/or any other federal agencies, for funds or not more than \$300,000 which were to be used for acquiring the necessary lands, constructing and equipping school buildings and facilities. This was repealed by Private Acts of 1937, Chapter 327.
8. Private Acts of 1935, Chapter 577, authorized Polk County to contract with the federal Public Works Administration or any other federal agencies for funds of not more than

\$75,000 to be used for remodeling, repairing and building additions to the county courthouse and jail.

9. Private Acts of 1947, Chapter 367, restructured the Polk County government by forming a three member Board of County Commissioners and dividing the county government into the divisions of Highways and Public Works, Purchasing and Finance, and Welfare and Institutions. This act was amended by Private Acts of 1949, Chapter 79, to place additional duties in the County Commission, by Private Acts of 1949, Chapter 561, to extend the term of the County Commissioners to six years and by Private Acts of 1947, Chapter 747, to require the secretary of the Board of County Commissioners to sign all county warrants. All of these acts were repealed by Private Acts of 1951, Chapter 167.
10. Private Acts of 1951, Chapter 663, required the Chairman of the County Court to advertise in newspapers, notifying all holders of Polk County warrants which were dated prior to September 1, 1950, that they must register such warrants within ninety days after the newspaper publication in order to have them honored as valid obligations of the county.

## **CHAPTER II - ANIMALS AND FISH**

ANIMALS - FISH

LIVESTOCK INSPECTOR

PRIVATE ACTS OF 1951

CHAPTER 622

SECTION 1. That in counties of this State with a population of not less than 19,828 nor more than 19,848 by the Federal Census of 1940, or any subsequent Federal Census, the Quarterly County Court is hereby authorized to elect for a term of four years, not exceeding two animal inspectors.

It shall be the duty of such livestock 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 infections or contagious diseases. Such animal inspectors may contract with the owner or owners of any diseased or ailing 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 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, or any called session, and the person or persons so elected shall hold office for a period of four (4) years from the date of such election and until his and/or their successors shall be duly elected and qualified. The said County shall not be liable for the default or negligence of any such livestock inspectors where the 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 take effect from and after its passage, the public welfare requiring it.

Passed: March 15, 1951.

## ANIMALS - FISH

In Tennessee, the wildlife resources agency has exclusive jurisdiction of the duties and functions formerly held by the game and fish commission or of any other law relating to the management, protection, propagation, and conservation of wildlife, including hunting and fishing. T.C.A. § 70-1-301. The general statutes dealing with wildlife resources are found in title 70 of the Tennessee Code Annotated.

Stock laws or fence laws were for many years a source of bitter controversy in Tennessee counties. The general fence law for the state is now contained in T.C.A. title 44, chapter 8.

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

1. Acts of 1899, Chapter 63, excluded Polk County from the general fishing law with the provision that fish could not be killed by poison, dynamite or other explosives and no trap could be constructed which would prevent the free passage of fish up and down streams.
2. Acts of 1901, Chapter 337, made it unlawful to hunt deer with dogs for five years after the passage of this act, with violators being subject to a fine of not less than \$5.00 nor more than \$25.
3. Acts of 1909, Chapter 402, defined a lawful fence in Polk County as three wires, barbed or smooth, fastened to posts or stays not more than fifteen feet apart with the bottom wire 12" from the ground and the other two wires at distances of 24" and 36" from the ground. This act also included a three plank or board fence in its definition of lawful fence and made it illegal for owners of sheep, goats, swine, geese, or duck to allow their livestock to run at large.
4. Private Acts of 1911, Chapter 136, was the next act defining a lawful fence in Polk County. This one required a four wire fence, with the wires at distances from the ground of 12", 24", 38" and 52", or a four plank or rail fence. This act also prohibited sheep, goats, swine, geese or ducks from running at large. Private Acts of 1911, Chapter 211, is identical to this act. Private Acts of 1915, Chapter 381, was amendatory to Private Acts of 1911, Chapter 136, by exempting certain portions of Polk County from the provisions of the lawful fence requirements.
5. Private Acts of 1917, Chapter 169, made it lawful to gig fish for home consumption in all streams in Monroe and Polk Counties.
6. Private Acts of 1921, Chapter 405, exempted Polk County from the provisions of the General statute regulating the ownership and possession of dogs.
7. Private Acts of 1925, Chapter 130, called for an election to ascertain the will of Polk County voters with regard to a fence law.

8. Private Acts of 1935, Chapter 368, was a fairly comprehensive act which regulated the killing, pursuing and capturing of deer in Polk County. It has been superseded by the general statutes found in Title 51, Chapter 4 of Tennessee Code Annotated, but it is an example of an early effort to protect and preserve the deer population in Polk County.

## **CHAPTER III - BOND ISSUES**

## BOND ISSUES

Bond issues have been authorized by private legislation, but general law now has provisions covering bond issues needed by counties. Most of the private legislation authorizing counties to issue bonds, or to borrow money on short term notes, contained similar provisions. Generally, these common provisions concerned limitations on the rate of interest to be paid, the maximum number of years for the maturity period, and an additional tax levy for general obligation bonds, the proceeds of which were placed in a sinking fund and used to amortize the bonds and interest over the specified maturity period.

For many years the authority of counties to issue bonds was contained in many different chapters of Tennessee Code Annotated. Recently, the authority to issue bonds and notes has been consolidated in the Local Government Public Obligations Act of 1986, T.C.A. § 9-21-101 et seq. However, the older authority to issue bonds for school purposes remains in title 49, chapter 3 of Tennessee Code Annotated.

A listing of the acts which authorized various bond issues for Polk County is included below for reference purposes, although these acts are no longer current.

### BUILDING - MEMORIALS

1. Acts of 1895, Chapter 181, authorized a bond issue of \$15,000 to build a courthouse. These bonds had an annual interest rate of 6% and were payable in from one to twenty years.
2. Private Acts of 1919, Chapter 136, was a bond issue of \$20,000 to build and equip a courthouse at Ducktown. These bonds were to have a maximum interest rate of 6% per annum and were to be payable at the rate of \$2,000 every two years.

### DEBTS

1. Private Acts of 1915, Chapter 147, authorized the issuance of bonds in the amount of \$85,000, maximum interest rate of 6%, to mature within thirty years. These bonds were to be used to pay outstanding indebtedness for the construction of roads and school buildings in the county.
2. Private Acts of 1935, Chapter 367, authorized a bond issue of \$200,000 to be used to fund outstanding indebtedness of Polk County. These bonds were to have a maximum interest rate of 6% per annum and were to mature within thirty years.
3. Private Acts of 1939, Chapter 101, provided for a bond issue of \$450,000 for outstanding indebtedness, with a maximum annual interest rate of 6% and a maturity date within thirty years.

### REFUNDING

1. Private Acts of 1913, Chapter 80, authorized an \$80,000 bond issue for refunding outstanding highway warrants. These bonds were to be issued in denominations of \$1,000 to mature within thirty years with a maximum interest rate of 6% per year.

2. Private Acts of 1927, Chapter 823, authorized a bond issue of \$100,000 for refunding indebtedness of the Polk County school system. These bonds were to have a yearly interest rate of 6% and were to mature in ten years, beginning March 1, 1929.
3. Private Acts of 1929, Chapter 5, validated the issuance of funding bonds in the amount of \$100,000, dated October 7, 1929. These bonds had an annual interest rate of 5% and were redeemable at any time after January 1, 1950, maturing by October 7, 1960.
4. Private Acts of 1929, Chapter 77, validated \$170,000 of funding bonds of Polk County dated January 1, 1929, bearing interest at the rate of 5% annually.
5. Private Acts of 1931, Chapter 307, validated funding bonds in the amount of \$85,000 dated March 1, 1931 and maturing by 1958 with an annual interest rate of 6%.
6. Private Acts of 1931 (Ex. Sess.), Chapter 54, authorized the issuance of refunding bonds in the amount of \$100,000 to have a maximum interest rate of 6% and to mature within twenty years.
7. Private Acts of 1933, Chapter 792, validated funding bonds which had been issued in the amount of \$80,000, with an annual interest rate of 6% and maturing within the years 1953 to 1960.

#### ROADS - BRIDGES

1. Acts of 1899, Chapter 334, was a bond issue of \$25,000 maximum interest rate of 6%, to mature within twenty years. The proceeds from the sale of these bonds were to be issued to be used to build bridges and highways.
2. Acts of 1901, Chapter 241, authorized a bond issue of \$75,000 to be used for improving certain Polk County roads specified in this act. These bonds were to mature within twenty years at an annual interest rate not to exceed 6%. This act also provided for the appointment of a three member road commission to oversee the sale of the bonds and the expenditure of the proceeds on the road improvements.
3. Acts of 1903, Chapter 476, provided for a bond issue of \$100,000 to be used for improving public roads. These bonds were to mature within thirty-three years at an annual interest rate of 5%. This act also provided for the appointment of a five member road commission to sell the bonds and to expend the proceeds on the improvement of certain roads named in the act.
4. Private Acts of 1911, Chapter 59, authorized a bond issue of \$50,000, \$50,000 maximum annual interest rate of 6%, maturing within thirty years, to be used to build bridges and highways in Polk County.
5. Private Acts of 1911, Chapter 240, was a bond issue of \$50,000, to be issued in denominations of \$1,000, bearing interest at an annual rate of 6% and maturing within thirty years. The proceeds from the sale of these bonds were to be used to construct bridges and public highways.

6. Private Acts of 1911, Chapter 619, authorized a bond issue in the amount of \$250,000 subject to voter approval. These bonds were to bear interest at an annual rate of 6% and were to mature at times set by the quarterly county court. A road commission was to be appointed to oversee the expenditure of funds from the sale of these bonds on the construction and improvement of public roads in the county.

### SCHOOLS

1. Private Acts of 1911, Chapter 3, authorized a \$25,000 bond issue to be used for purchasing lands and constructing high schools in Benton and Ducktown. These bonds were to be issued in \$500 denominations, with a maximum interest rate of 5%, maturing at a time to be determined by the quarterly county court.
2. Private Acts of 1911, Chapter 137, had provisions identical to Private Acts of 1911, Chapter 3, noted above.
3. Private Acts of 1913, Chapter 188, authorized a bond issue of \$25,000 to be issued in denominations of \$500 bearing an annual interest rate of 5%. The proceeds from this bond issue were to be used in the construction of a high school at Copperhill.
4. Private Acts of 1915, Chapter 363, authorized a bond issue of \$25,000 to be used to build, repair and furnish school buildings in Polk County. These bonds were to mature within thirty years and were to bear interest "at a rate sufficient to secure the sale of the bonds."
5. Private Acts of 1927, Chapter 767, authorized a bond issue of \$180,000 to be used to build grammar and high school buildings. These bonds were to mature within thirty years and were to bear interest at a maximum annual rate of 6%.
6. Private Acts of 1947, Chapter 671, authorized a \$520,000 bond issue, with a maximum annual interest rate of 3%, to mature within forty years, and to be used for the purpose of constructing school buildings.

## **CHAPTER IV - BOUNDARIES**

BOUNDARIES

CREATION OF THE COUNTY

ACTS OF 1839-40

CHAPTER 10

SECTION 1. That a new county be, and the same is hereby established, by taking a part of the counties of M'Minn and Bradley, to be known and distinguished by the name of Polk County, in honor of his Excellency James K. Polk, Governor of the State of Tennessee.

SECTION 2. That the beginning corner of the county of Polk, hereby established, shall commence at the Georgia line, due south of the Boat Yard, on Conasauga river, then to the Boat Yard, thence in a north-easterly direction, in a straight line to James Foreman's old place, in Bradley county, then with the Armstrong ferry road to Armstrong's ferry, on Hiwassee river, then across the river and running with said road to the place where the line of the seventeenth civil district crosses the road in M'Minn county, then running with said district line until it strikes the boundary line between the Ocoee district and the Hiwassee district, then north to the corner of fractional township one and two north in range three east of the base line in said Ocoee district, then with said fractional township line south seventy degrees east to the North Carolina boundary line, then with said line to the Georgia line, then with the Georgia line to the beginning.

SECTION 3. That for the administration of justice for the said county of Polk, the several courts thereof shall be held therein at the town of Columbus, until the seat of justice for said county shall be located; and after the seat of justice shall be established, as hereinafter provided, for said county, the justices of the peace within said county, a majority being present, may at any county court thereafter held in said county, adjourn the sessions of said court to meet at the county seat to be so established, and the county courts and circuit courts shall thereafter be held at the county seat so adjourned to at such times as shall be prescribed by law. And all writs, recognizances, and other process made returnable to either of said courts at the town of Columbus, shall, after such adjournment made as aforesaid, be returned to said courts respectively at said county seat, and shall be as good and valid, and have all the legal effect as if on the face thereof they, any, or either of them had been made returnable to such county seat; and the said courts to be holden in and for said county of Polk, shall be under the same rules, regulations, and restrictions, and shall have, hold, exercise and possess the same powers and jurisdictions as are incident by law to the same courts in other counties in this State; and said county shall be attached to and form a part of the third Judicial circuit, and the circuit courts of said county shall be holden on the second Mondays of February, June and October, and at each term shall continue in session for one week, unless the business on the docket thereof shall be sooner disposed of: Provided, nothing in this act contained shall be so construed as to prevent the several courts of McMinn and Bradley counties from entertaining and exercising jurisdiction in all causes now pending or shall be pending in said courts at the time said county of Polk shall be organized as herein provided.

SECTION 4. That it shall be lawful for all officers, civil and military, within the bounds of said county of Polk, to hold their offices, and to exercise all the powers and authority by law appertaining thereto, until other officers shall be elected as provided by this act. The county of Polk shall elect her officers on the same day, and under the same rules and regulations, and in the manner provided by law for the election of such officers in other counties in this State, and shall be placed on equal footing, and possess equal powers and privileges in all respects with other counties in this State: Provided, nothing in this act contained shall be so construed as to deprive said counties of Bradley and M'Minn from having and exercising jurisdiction, as heretofore, over the territory included within the bounds of said county of Polk until the organization thereof as provided in this act: and provided further, that nothing herein contained shall be so construed as to prevent the sheriffs of M'Minn and Bradley counties from levying within said county of Polk, so taken from either county respectively, for taxes that may be due them, and selling for the same; and provided, the courts of M'Minn and Bradley counties shall, as heretofore, have power and authority to enter up judgments and condemn lands to sale within the limits of Polk county aforesaid for any taxes that may be due on the same to said sheriffs of M'Minn and Bradley respectively.

SECTION 5. That John Towns, Jonas Hoyl, James Hawkins, Andrew Stevenson, Erbey Boyd, John Williams, Allen Armstrong, Thomas Harper and John F. Hannah be, and they are hereby appointed commissioners, a majority of whom shall have authority to act, who shall, on the first Saturday of February, 1840, first giving twenty days notice at four of the most public places in the said county of Polk, open and hold an election for the purpose of fixing upon a suitable site for the county seat of said county; all those residing within the bounds of said county, who are entitled to vote for members of the General Assembly, shall be entitled to vote in selecting said site, and said election shall be held at seven several places, to be designated in said county, for the convenience of voters, by said commissioners in the notice of the election herein required to be given; and it shall be the duty of the commissioners to select and put in nomination, to be voted for, two of the most eligible sites in their estimation for such county seat in said county, and the place receiving a majority of all the votes taken shall be, and the same is hereby established the county seat of said county of Polk, and said commissioners are hereby authorized to appoint suitable persons, and to administer to them the proper oaths, as officers and judges, to open and hold the election at the several places that may be appointed to vote, and to make return of the polls to the town of Columbus, where they shall be compared on the Monday next succeeding the day of election.

SECTION 6. That said commissioners are hereby authorized to purchase or otherwise procure a sufficient quantity of land, upon which to lay off a town, and to erect all necessary public buildings for said county, at the place selected by the qualified voters as aforesaid, and the commissioners shall take, to themselves as commissioners of the county of Polk, and their successors in office, a deed or deeds of conveyance, with general warranty, for the lands by them so purchased or otherwise obtained.

SECTION 7. That it shall be the duty of the commissioners herein appointed to cause a town to be laid off at said county seat into lots, streets and alleys, of such size and width as they may deem necessary and proper, reserving a sufficient quantity of land for a public square and for the public buildings, and when so laid off the town shall be called and known by the name of

Benton, in honor of the Honorable Thomas H. Benton, a Senator in the Congress of the United States.

SECTION 8. That it shall be the duty of the commissioners of said county of Polk to sell all the lots in said town of Benton upon a credit of twelve months, after first giving thirty days notice of the time and terms of said sale in one newspaper at Athens, and one in Knoxville; and the commissioners shall take bond, with sufficient security, from the purchasers of said lots, payable to themselves as commissioners as aforesaid, and their successors in office, and they are hereby authorized and empowered to make to the purchasers of said lots titles in fee simple for the same.

SECTION 9. That the proceeds of the sales of the lots aforesaid shall be a fund in the hands of said commissioners to defray the expenses incurred in the purchase of the lands upon which said town may be located, and also the expenses of erecting the public buildings of said county.

SECTION 10. That said commissioners shall superintend the erection of the court-house and jail, and other necessary public buildings in said county; and they are hereby authorized and empowered to let out and make contracts for the erection of such public buildings as shall be ordered by the county court of said county, a majority of said justices being present, and upon such terms and conditions as said court, a majority being present, shall direct; and the commissioners aforesaid shall take bond, with sufficient security, from the contractor or contractors, in such penalties as said court shall prescribe, payable to themselves as commissioners of the county of Polk as aforesaid, and their successors in office, conditioned for the faithful performance of such contract or contracts as the case may be.

SECTION 11. That it shall be the duty of said commissioners to report all proceedings by them had under this act to the first county court of said county of Polk, to be holden therein after the first day of September next, and it shall be the duty of said court to enter the same upon their records.

SECTION 12. That said commissioners, before they enter upon the duties of their office, shall take an oath before some judge or justice of the peace, to honestly and faithfully perform the duties assigned them by this act, to the best of their judgment, and they shall moreover enter into bond, with approved security, in the penalty of five thousand dollars, payable to the chairman of the county court of Polk county, and his successors in office, conditioned for the due and faithful performance of the duties enjoined upon them by this act, and for the just application or forthcoming of such funds as shall come to their hands as commissioners aforesaid.

SECTION 13. That said commissioners shall keep a regular and fair statement and account of all monies by them received and expended, which statement shall, from time to time, when required by the county court of Polk county, be laid before said court, and when the public buildings of said county shall be completed, said commissioners shall, by order of said court, pay over any surplus money that may be in their hands, to the county trustee of said county, for county purposes, and they shall be allowed for their services such reasonable compensation as shall be adjudged them by said county court.

SECTION 14. That should any vacancy happen in the board of commissioners hereby appointed, by death, resignation, or refusal to act, of any one or more of said commissioners, the county court of said county, a majority of the justices being present, is hereby authorized, from time to time, to fill such vacancy by appointing another, who shall take a similar oath and enter into a similar bond to that herein prescribed for the other commissioners.

SECTION 15. That Abram Lillard, James M'Kamy, William Shields, Samuel Parks, John S. O'Neal, \_\_\_\_\_Wells and Jacob Moore, or a majority of them, shall have power and authority, and they are hereby appointed commissioners to lay off said county into seven civil districts, in which there shall be elected justices of the peace and constables at the time prescribed by law for electing such officers in other counties in this State.

SECTION 16. That David Ragan is hereby authorized and empowered to open and hold an election in each civil district in said county of Polk for sheriff, county and circuit court clerks, county trustee, county register, and other county officers authorized by the constitution to be elected by the people, on the same day prescribed by law for the election of such officers in other counties; and before he enters upon the duties of his appointment, he shall take an oath faithfully and honestly to perform the duties herein enjoined upon him, and he is hereby authorized and empowered to appoint as may deputies as may be necessary to assist him in holding said election, the polls of which shall be compared at the town of Columbus.

SECTION 17. [That] the commissioners of the county of Polk be, and they are hereby authorized, at any time after the passage of this act, to select two quarter sections of land in said county of Polk, which may be vacant and unappropriated, and to which there may be no bona fide occupant claimant or claimants, and said commissioners shall notify the entry taker of the Ocoee district of such selection, and it shall be the duty of said entry taker to mark such quarter sections upon his general plan, as selected by said commissioners, and said quarters shall not thereafter be subject to the entry of any other person or persons, but said commissioners may, at any time before the first day of August, 1841, enter said quarter sections in said entry office in their names, as commissioners of the county of Polk, upon paying to the entry taker at the time of such entry twenty-five cents per acre for land so entered; and it shall be the duty of the register of the Ocoee district, upon such entry, to issue to said commissioners, and their successors in office, a grant or grants for said lands, which lands the commissioners aforesaid are hereby authorized to dispose of or appropriate in such manner as they may deem most advisable for the purpose of aiding in making the public buildings in said county.

SECTION 18. That James M'Kamy be, and he is hereby appointed, to run and mark the lines in this act designated dividing the counties of Bradley and M'Minn from the county of Polk, and he shall receive for his services such compensation as shall be allowed him by the county court of Polk, to be paid him by the commissioners of said county, out of any monies that may be in their hands belonging to said county of Polk.

Passed: November 28, 1839.

BOUNDARIES

COUNTY LINES

PRIVATE ACTS OF 1935

CHAPTER 295

SECTION 1. That the boundary line between the counties of Polk and McMinn be so changed and re-established as to be in part, as follows; Beginning on the North bank of the Hiwassee River and on the Westerly line of the right-of-way of the new main line of the Louisville & Nashville Railroad Company, and extending thence in a Northerly direction with the West line of said right-of-way to a point on the West line of Section 8, in Fractional Township 1, South of Range 1, West of Hiwassee District, the same being the West boundary line of the G. L. Williams farm; thence North with said section line and West boundary of said Williams farm about one (1) mile to the Northwest corner of said Section 8 and a corner with said Williams land; thence East with the section line and boundary line of the Williams and Calhoun farms to the intersection of the North and South middle section line of Section 5; thence North with the said middle section line to the county road leading from J. C. Carter's store to Linsdale and Patty Station; thence East with the county road to the cross-roads at J. C. Carter's store; thence in a Northerly direction with the County road from J. C. Carter's store to the old Polk and McMinn County line near the residence of G. P. Nichols.

SECTION 2. That the lands and territory lying between the boundary line of said counties as fixed and re-established by Section 1 of this Act and the former line between said counties be detached from Polk County and attached to and made a part of the Sixth (6th) Civil District of McMinn County, to constitute and be known as the Seventeenth (17th) voting precinct of said county, with its voting place at Linsdale School House.

SECTION 3. That, in order to avoid interference with the school now being conducted at said Linsdale School House, by and at the expense of Polk County, this Act take effect forty (40) days from the date of its passage, the public welfare requiring it.

SECTION 4. That, pending the effective date of this Act as fixed by Section 3 hereof, the County Board of Education of Polk County be, and it is hereby authorized to continue the operation of said Linsdale School to the expiration of the present school term.

SECTION 5. That all laws or parts of laws in conflict herewith be, and the same are, hereby repealed.

Passed: April 5, 1935.

## BOUNDARIES

The private act has often been used as a means for transferring parcels of land from one county to another, often because the boundary lines would bisect an individual landowner's property, placing the landowner under the jurisdiction of two counties. This type of boundary change was often very general in its description of the land transferred, without any metes and bounds description. The following is a summary of acts which authorized boundary changes for Polk County.

1. Acts of 1853-54, Chapter 177, Section 2, added the land of Charles McClary to Polk County from McMinn County.
2. Acts of 1859-60, Chapter 135, changed the boundary between Polk and Bradley Counties by moving into Polk County the houses and lands of James B. Cook, William J. Dowell, R. S. Warren, J. Y. Davison, W. S. Noriss, John Cate, F. M. Cate, Matthew McNabb, A. Breadwell and William Singleton.
3. Acts of 1873, Chapter 69, changed the Polk and McMinn County line to place the land of M. L. Phillips, known as the Phillips Ferry farm, in McMinn County.
4. Acts of 1889, Chapter 65, placed all the lands of N. S. Price in Polk County, out of McMinn County. This act was amended by Acts of 1893, Chapter 1, to place the lands of Levina Price, the wife of N. S. Price, in Polk county also.
5. Acts of 1905, Chapter 178, placed the lands of John M. Dunn and Charlie Smith in the First Civil District of Polk County, out of the Seventeenth Civil District of McMinn County.
6. Private Acts of 1935, Chapter 239, added a portion of Polk County to McMinn County to be known as the 6th civil district of McMinn and the voting in said district was to be done at the Linsdale School House.
7. Private Acts of 1937, Chapter 305, changed the boundary between Polk and McMinn County to detach all of the land of Charles Melton from Polk County and place it in McMinn.

## **CHAPTER V - COURT SYSTEM**

## COURT SYSTEM

### BOARD OF JURY COMMISSIONERS - JURORS

All private acts creating county boards of jury commissioners were repealed by § 22-2-201 of Tennessee Code Annotated, except in Davidson, Knox and Hamilton counties. The general statutes dealing with jurors and juries can be found in T.C.A. title 22. County boards of jury commissioners are described in T.C.A. § 22-2-201, and the qualifications of a juror are listed in T.C.A. § 22-1-101.

The following acts once affected jurors or boards of jury commissioners in Polk 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 1925, Chapter 521, created a Board of Jury Commissioners for a number of counties, among them Polk County; but Private Acts of 1949, Chapter 351, removed the applicability of this act to Polk County.
2. Private Acts of 1931, Chapter 556, established a Board of Jury Commissioners for Polk County, with provisions very similar to those now found in the general law. This Board was to be composed of three "discreet" members, appointed by the Circuit and Chancery Judges, and the method of preparing jury lists and selecting those for jury duty were made by this act.
3. Private Acts of 1949, Chapter 353, was the next act creating a Board of Jury Commissioners for Polk County. This act provided that the three member commission would be appointed by and serve at the pleasure of the Quarterly County Court. This was repealed by Private Acts of 1951, Chapter 217.
4. Private Acts of 1951, Chapter 418, was the last private act establishing a Board of Jury Commissioners for Polk County before the enactment of the general statutes. This act provided that the three member commission would be appointed by the Circuit and Criminal Court Judges and that no attorneys could serve on the commission nor could any more than two members belong to the same political party.
5. Private Acts of 1951, Chapter 419, created the office of Clerk to the Chairman of the Quarterly County Court and provided said Clerk with an annual salary of \$2,400.

## COURT SYSTEM

### CHANCERY COURT

The chancery courts are the traditional trial level equity courts in Tennessee. Equity law deals with matters not traditionally addressed by the common law (case law) of the law courts or the statutory law. Equity acts when a traditional law court remedy is not adequate to reach a just result. In Tennessee, chancery courts have exclusive jurisdiction over some matters that are traditionally considered to be equity cases, but the statutory law has given chancery courts concurrent jurisdiction with the circuit courts over most civil cases.

Polk County, under the provisions of § 16-2-506 of Tennessee Code Annotated, is part of the 10th judicial district. The general law on chancery courts is found in title 16, chapter 11 of Tennessee Code Annotated, and title 17 applies to judges and chancellors.

The following acts form an outline of the development of equity jurisdiction in Polk 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 1851-52, Chapter 293, provided that the county of Polk was to form a separate chancery division and court was to be held in Benton on the first Mondays in February and March. This was amended by Acts of 1853-54, Chapter 110, to provide that all disputes in chancery, which concerned property within the bounds of the chancery district composed of Polk County, were to be instituted in Benton as long as any of the defendants resided in Polk County.
2. Acts of 1903, Chapter 232, set the time for beginning the chancery court terms on the fourth Mondays in April and October.
3. Public Acts of 1931 (Ex. Sess.), Chapter 38, placed Polk County in the Twelfth Chancery Division.

COURT SYSTEM

CHANCERY COURT

CLERK AND MASTER

The office of clerk and master of the chancery court is covered by title 18, chapter 5 of Tennessee Code Annotated and mentioned in article VI, section 13 of the Constitution of Tennessee, which provides that the clerk and master will be appointed by the chancellor. The salary of the clerk and master is determined in accordance with T.C.A. § 8-24-102.

The basic fee schedule for clerks of court, including the clerk and master, is found at T.C.A. § 8-21-401. Tennessee Code Annotated § 16-16-203 provides the authority for the clerks and masters who are serving as the clerks of probate courts to accomplish a variety of clerical and judicial acts involving the probate of wills and the administration of estates.

The reference below is an act which once applied to the clerk and master in Polk County.

1. Private Acts of 1923, Chapter 25, set the salary of the Clerk and Master at \$2,100 per year, and this act was amended by Private Acts of 1925, Chapter 476, to raise this salary to \$3,000 annually.

## COURT SYSTEM

### CIRCUIT COURT

The circuit court is the traditional trial level “law” court (as opposed to equity court) with broad civil and criminal law jurisdiction. Traditionally, the circuit courts (the “law” courts) applied the common law (case law) and the statutory law. The circuit courts continue to act as law courts, but Tennessee’s statutory law has given the circuit courts concurrent jurisdiction with the chancery courts in most civil matters. Circuit courts exercise criminal law jurisdiction as well as civil law jurisdiction in most counties in Tennessee, but in some counties a separate criminal court has been established.

Polk County, by general law found in § 16-2-506 of Tennessee Code Annotated, is part of the 10th judicial district. Title 16, chapter 10 of Tennessee Code Annotated contains the general law applicable to the circuit court. Judges and chancellors are covered by title 17 of Tennessee Code Annotated.

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

1. Acts of 1841-42, Chapter 50, transferred from the circuit court in Bradley County to the circuit court in Polk County those civil suits which had been pending at the time of the creation of Polk County.
2. Acts of 1847-48, Chapter 134, provided that the circuit court session in Polk county would be allowed to continue for longer than one week, if additional time was necessary for the court to complete its docket.
3. Acts of 1855-56, Chapter 150, set the time for holding circuit court on the third Mondays in May, January, and September of each year.
4. Acts of 1855-56, Chapter 156, set the time for holding court to the third Monday of February of 1856, and the fourth Monday of May, September, and January of in each year.
5. Acts of 1870, Chapter 120, was the original act establishing the Ducktown Law Court. It was superseded by Private Acts of 1911, Chapter 413.
6. Acts of 1895, Chapter 207, set the time for holding circuit court on the third Mondays in March and September.
7. Acts of 1897, Chapter 143, provided that supreme court reports were to be furnished to the Polk County Circuit Court Clerk's office.
8. Acts of 1903, Chapter 354, set the time for holding circuit court on the first Mondays in March, July and November.

9. Acts of 1905, Chapter 204, changed the time for holding circuit court in Polk County to the third Mondays in March, July and November.
10. Private Acts of 1911, Chapter 413, described the Ducktown Law Court and gave it all the powers of a Circuit Court within the Seventh, Eighth, and Tenth Civil Districts of Polk County.
11. Private Acts of 1919, Chapter 145, set the annual salary of the circuit court clerk at \$1,800; this was raised to \$2,100 by an amendment in Private Acts of 1927, Chapter 608.
12. Private Acts of 1923, Chapter 58, created a criminal court for the Fourth Judicial Circuit, composed of the counties of Blunt, Monroe, Loudon, McMinn, Bradley, and Polk (where it was to be held in both Benton and Ducktown).
13. Private Acts of 1925, Chapter 105, set the time for holding the criminal court in Ducktown on the first Mondays in May and September.
14. Private Acts of 1925, Chapter 218, provided that the law court in Ducktown was to meet on the first Monday in March, July and November.
15. Private Acts of 1925, Chapter 553, changed the time for holding the law court at Ducktown to the first Mondays in January, May and September.
16. Public Acts of 1931 (Ex. Sess.), Chapter 38, created a new court system in Tennessee. Polk County was originally in the fourth judicial circuit.
17. Private Acts of 1933, Chapter 758, set the salary of the circuit court clerk at \$1,200 per year and declared that this salary increase was necessary because of the expense of serving in two different courts, in Benton and Ducktown, which were approximately forty-two miles apart. This was repealed by Private Acts of 1947, Chapter 31. This salary is now set by the quarterly county court and regulated by §§ 8-24-102 and §§ 8-24-104 of Tennessee Code Annotated.

COURT SYSTEM

CIRCUIT COURT

CLERK

The office of circuit court clerk is governed by the general statutes found in Tennessee Code Annotated, title 18, chapter 4. The salary of this office is determined in accordance with T.C.A. § 8-24-102.

## COURT SYSTEM

### CRIMINAL COURT

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

The criminal court of Polk County, by general law found in § 16-2-506 of Tennessee Code Annotated, is part of the 10th judicial district.

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

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

1. Private Acts of 1925, Chapter 58, created a Criminal Court in the Fourth Judicial Circuit for the counties of Blunt, Monroe, Loudon, Roane, McMinn, Bradley and Polk (in Polk at Benton and Ducktown). Court would be held in Monroe County at Madisonville beginning on the second Mondays in March, July and November.
2. Public Acts of 1931 (Ex. Sess.), Chapter 38, Page 267, provided for the Criminal Courts of the Fourth Judicial Circuit which included the counties of Bradley, Roane, Loudon, Blunt, McMinn, Polk and Monroe in which county the terms of the Criminal Court would begin on the first Monday in January, May and September.
3. Public Acts of 1965, Chapter 188, created the Twenty-fourth Judicial Circuit consisting of the counties of Bradley, McMinn, Monroe, and Polk.

COURT SYSTEM

DISTRICT ATTORNEY GENERAL

ASSISTANTS AND CRIMINAL INVESTIGATORS

The office of district attorney general, including assistant district attorneys and criminal investigators, is covered by title 8, chapter 7 of Tennessee Code Annotated. Section 16-2-506 of T.C.A. establishes the judicial districts of the trial courts and establishes the number of assistant district attorneys general and criminal investigators in each judicial district. According to T.C.A. § 16-2-506, Polk County is in the 10th judicial district. Secretarial assistance to district attorneys is authorized, but subject to the approval of the executive director of the district attorneys general conference, the comptroller of the treasury, and the commissioner of finance and administration. T.C.A. § 8-26-101(2)(G) - (1)(K).

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

1. Public Acts of 1939, Chapter 228, Page 890, created the position of Criminal Investigator for the Fourth Judicial Circuit who must be a resident of the circuit, an attorney, and over 21 years of age. The Governor would appoint the first Investigator and the Criminal Court Judge would appoint one every two years thereafter. The salary was fixed at \$1,200 per year. This Act was repealed by Public Acts of 1965, Chapter 189, Page 579.
2. Public Acts of 1965, Chapter 188, authorized the District Attorney General for the Twenty-Fourth Judicial Circuit to appoint two suitable persons as Assistant Attorneys General or one Assistant District Attorney General and one Criminal Investigator.
3. Public Acts of 1967, Chapter 385, created the office of an additional Assistant District Attorney General for the Twenty-Fourth Judicial Circuit.
4. Public Acts of 1977, Chapter 356, created the office of an additional Criminal Investigator for the District Attorney General of the Twenty-fourth Judicial Circuit.

## COURT SYSTEM

### GENERAL SESSIONS COURT

The general statutes on courts of general sessions are found in title 16, chapter 15 of Tennessee Code Annotated. The purpose of this general law is to create a statewide system of general sessions courts, but T.C.A. § 16-15-501(c) expressly provides that counties may create general sessions courts by private act, giving them both the jurisdiction and powers conferred by general law and such further jurisdiction and power as each county may require. The salary of the general sessions judge is governed by T.C.A. § 16-15-5003. The compensation received by the general sessions court clerk is set by T.C.A. § 8-24-102.

The following act once affected the general sessions court of Polk County, but is no longer in effect and is included herein for reference purposes.

1. Private Acts of 1959, Chapter 328, attempted to create a Court of General Sessions for Polk County, but the provisions of this act were rejected by local authorities and never became effective law.

## COURT SYSTEM

### JUVENILE COURT

The Juvenile Court Restructure Act of 1982, as amended, is codified in Tennessee Code Annotated §§ 37-1-201 through 37-1-214. Its purpose is to provide adequate juvenile court services in every county. Tennessee Code Annotated § 37-1-203 provides that the general sessions courts shall exercise juvenile court jurisdiction except in counties or municipalities wherein juvenile courts are specially provided for by law.

Special juvenile courts may be created by law (private act) to exercise juvenile court jurisdiction in a county or in contiguous counties. Counties must provide funding for such special juvenile courts. T.C.A. § 37-1-205.

Clerks of general sessions courts are required to maintain separate minutes, dockets, and records for all juvenile matters in those counties in which the general sessions court is also the juvenile court. T.C.A. § 37-1-210. The clerk of a special juvenile court is a duly elected clerk of another court in the county designated by resolution of the county legislative body, except where a duly elected clerk is provided by law (private act or charter). Clerks of the special juvenile courts are given the same duties, authority and obligations provided for clerks of other courts of record. T.C.A. § 37-1-211.

Tennessee Code Annotated § 37-1-159 provides that the juvenile court shall be a court of record. Any appeal from final disposition of a case, except the transfer of a child to be dealt with as an adult under T.C.A. § 37-1-134, may be made to the circuit court for a trial de novo.

## COURT SYSTEM

### SECRETARIAL ASSISTANCE

Secretarial assistance to judges and chancellors is now provided on the basis of need by the administrative director of the courts, under the provisions of Tennessee Code Annotated § 17-1-401. Their salaries are set by the administrative director of the courts and the commissioner of finance and administration with the approval of the chief justice of the supreme court, under T.C.A. § 17-1-402. The general law provisions are now the sole authority for providing secretarial assistance to trial judges and chancellors.

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

1. Public Acts of 1963, Chapter 231, created the position of Secretary for the Fourth Judicial Circuit, of which Polk County was then a part.

## **CHAPTER VI - EDUCATION/SCHOOLS**

EDUCATION - SCHOOLS

BOARD OF EDUCATION

PRIVATE ACTS OF 2002

CHAPTER 118

SECTION 1. Chapter 190 of the Private Acts of 1975, as amended by Chapter 114 of the Private Acts of 1977, Chapter 71 of the Private Acts of 1981, Chapter 197 of the Private Acts of 1982, and all other acts amendatory thereto, are hereby repealed.

SECTION 2. Polk County shall be divided into three (3) school districts of substantially equal population, which shall be coextensive with the three (3) county commissioner districts as established by resolution of the county legislative body of Polk County.

SECTION 3. The Polk County Board of Education shall consist of nine (9) members. Three (3) members of the Polk County Board of Education shall be elected by the qualified voters in each school district. Board members shall be elected to staggered four (4) year terms so that every two (2) years the terms of approximately one-half ( $\frac{1}{2}$ ) of the members of the Board shall expire. Persons elected in the regular August election shall take office on September 1 following the elections and shall serve until their successors are duly elected and qualified.

SECTION 4. The current terms of incumbent members of the Polk County Board of Education shall not be cut short as a result of changes in the school districts as provided in this act. In order to establish staggered four (4) year terms and to reduce the number of board members from eleven (11) to nine (9), board members shall be elected to four (4) year terms as follows: At the August 2002 election, one (1) board member shall be elected from each of School Districts 1 and 3, and two (2) board members shall be elected from School District 2. At the August 2004 election, two (2) board members shall be elected from each of School Districts 1 and 3, and one (1) board member shall be elected from School District 2. Thereafter, board members shall be elected to four (4) year terms as each respective board member's term expires.

SECTION 5. The Polk County Board of Education shall have the same powers, duties, privileges and qualification as other county boards of education established pursuant to Tennessee Code Annotated, Title 49.

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

SECTION 7. This act shall have no effect unless it is approved by a two-thirds ( $\frac{2}{3}$ ) vote of the Polk County Board of Commissioners. Its approval or nonapproval shall be proclaimed

by the presiding officer of the county legislative body of Polk County and certified by such officer to the Secretary of State.

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

Passed: April 3, 2002.

EDUCATION - SCHOOLS

BOARD OF EDUCATION

POWER TO CONVEY EASEMENTS

PRIVATE ACTS OF 1911

CHAPTER 659

SECTION 1. That the County Board of Education of Polk County, Tennessee, be, and is, hereby authorized to sell and convey and grant rights of way and other easements to facilitate the construction, operation, and maintenance of railways, bridges, and water power plants, through and over the school lands in Polk County, Tennessee.

SECTION 2. That whatever money may be derived from grants of rights of way and easements shall be paid to the County Trustee of Polk County, and shall be used by said County Board of Education for public school purposes in the school district wherein said school land is situated.

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

Passed: July 7, 1911.

## EDUCATION - SCHOOLS

### BOARD OF EDUCATION

General statutes regulating county boards of education and elementary and secondary education in the public schools may be found in T.C.A. title 49, chapters 1 through 6. Public Acts of 1992, Chapter 535, the Education Improvement Act of 1991, substantially revised many aspects of the education statutes. County boards of education are mandated to be popularly elected. The county legislative bodies, from July 1, 1992, were given authority to establish districts for county board of education members by resolution instead of having to rely on private acts for reapportionment. The new education general law provides for board members to be elected to staggered four-year terms.

Members of county boards of education must have a high school diploma or general education equivalent. However, a few counties are purported to be excluded by narrow population exception. Board members who fail to participate in state sponsored training are subject to removal by the commissioner of education. T.C.A. § 49-2-202.

The following acts once affected the board of education in Polk 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 1951, Chapter 421, established a County Board of Education comprised of seven members who would be elected at the July 1951 session of the Quarterly County Court of Polk County.
2. Private Acts of 1975, Chapter 111, repealed the Private Acts of 1951, Chapter 421, and established the Board of Education of Polk County by popular election. The Board of Education would be composed of nine (9) members elected by the qualified voters of the respective educational districts.
3. Private Acts of 1982, Chapter 197, Section 2, authorized the Polk County Election Commission to modify the filing deadline for nominating petitions for the office of County School Board for the 1982 election only.
4. Private Acts of 2002, Chapter 118, repealed Private Acts of 1975, Chapter 190, as amended by Private Acts of 1977, Chapter 114, Private Acts of 1981, Chapter 71, and Private Acts of 1982, Chapter 197.

## EDUCATION - SCHOOLS

### SUPERINTENDENT OR DIRECTOR OF SCHOOLS

After the passage of the Education Improvement Act of 1991, the elected office of superintendent of public instruction (county superintendent of education) was phased out. Replacing the superintendent is a director of schools, who is an employee of the county board of education; however, the continued use of the title superintendent is permitted. The director of schools is employed by the board under a written contract of up to four years duration under T.C.A. § 49-2-203(a). The duties of the director of schools are enumerated in T.C.A. § 49-2-301.

The act referenced below once affected the office of superintendent of education in Polk County, but is no longer operative.

1. Private Acts of 1975, Chapter 109, is identical in content to the Private Acts of 1975, Chapter 191, which contains the provisions for electing the county Superintendent of Education. Private Acts of 1975, Chapter 109, was never acted upon locally and was repealed by the Private Acts of 1975, Chapter 191.
2. Private Acts of 1975, Chapter 191, provided that the county superintendent of education be elected by the qualified voters of Polk County for a four (4) year term beginning September 1, 1976.

## EDUCATION - SCHOOLS

### GENERAL REFERENCE

The general state statutes regulating education are found in title 49 of Tennessee Code Annotated. Of particular interest to county officials are chapter 2 (Local Administration); chapter 3 (Finances); chapter 6, part 20 (School Property); chapter 6, part 3 (Elementary and Middle Schools); and chapter 6, part 4 (Junior and Senior High Schools).

The following acts constitute part of the administrative and political heritage of the educational structure of Polk County but are no longer operative since they have either been superseded, repealed, or failed to receive local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1849-50, Chapter 181, authorized the common school commission in Polk County to lease any unsold school lands for mining purposes. This was amended by Acts of 1853-54, Chapter 303, to require lessees to pay their annual rents to the Trustee, to be held as part of the school fund. The Polk County Trustee and his sureties were made liable for non-compliance with this act.
2. Acts of 1901, Chapter 196, authorized the sale of the timber on school lands in the 5th, 7th, 9th, and 11th districts of Polk County by the school commissioners in those districts and also authorized them to lease unused school lands for grazing purposes, though those leases could not extend for more than five years.
3. Private Acts of 1905, Chapter 334, provided for the protection and application of the funds arising from leases of the school lands in fractional township four.
4. Private Acts of 1917, Chapter 523, provided that elementary schools in Polk County were to have the same length of term as high schools, when the two were operated in conjunction.
5. Private Acts of 1929, Chapter 326, authorized the sale of part of fractional township two to the Tennessee Electric Power Company.
6. Private Acts of 1929, Chapter 896, authorized land that was set aside in Polk County by an act of the U.S. Congress in 1806, Chapter 31, to be sold except for any lands in the Fourth Fractional Township. Any proceeds that were made from the sale of these lands were to be put into the County's Grammar School Fund.
7. Private Acts of 1929, Chapter 897, established that the commissioners for the Fourth Fractional Township of Polk County would be Kimsey, Clouts, and Mitchell. An election was to be held every four years for the position of commissioner for the Fourth Fractional Township. The act further stated that any funds belonging to the Fourth Fractional Township could be expended by said commissioners for the erection of a Junior College in the district.

8. Private Acts of 1931, Chapter 104, was identical in content to the Private Acts of 1929, Chapter 897, except that it replaced Commissioners Clouts and Mitchell with Commissioners Lanning and Quinn.
9. Private Acts of 1933, Chapter 793, created the office of chairman of the Board of Education, to be elected from the members of the Board of Education by the quarterly county court for a four year term.
10. Private Acts of 1935, Chapter 110, renewed the lease that applied to the Fourth Fractional Township and extended it until June 29, 1973.
11. Private Acts of 1935, Chapter 127, abolished the offices of the Fourth Fraction Township Commissioners entirely.
12. Private Acts of 1935, Chapter 138, deals with the Fourth Fractional Township of Polk County and authorized the Township School Commissioners to execute a lease contract leasing school properties to the County School Board of Polk County for the purpose of conducting school as will most benefit the children of the township. This act further reinstates the offices of township commissioners and calls for an election to be held for the positions every four years. Further, school commissioners are required to deposit all monies coming into the district in a bank and file a report with the Polk County Trustee and County Chairman disclosing all assets. Finally, Private Acts of 1935, Chapter 138, required Kimsey, Kirkpatric, and Quinn to vacate their offices, surrender any claim they had to the offices, and to account for all property which they were responsible for while they served as commissioners.
13. Private Acts of 1939, Chapter 185, created the position of Business Manager of the Department of Education, to be elected by the quarterly county court for a term of four years. The business manager was to prepare all budgets, supervise all bookkeeping, and keep the Polk County Board of Education advised on its financial condition. This act was repealed by Private Acts of 1947, Chapter 21.
14. Private Act of 1941, Chapter 142, authorized the Board of Education to sell certain school lands within Fractional Township 4 South, Range 5 East, Ocoee Land District to the United States of America for National Forest Purposes.
15. Private Acts of 1943, Chapter 385, authorized the Polk County Board of Education to sell certain school lands in the Ocoee Land District which were no longer valuable for any educational purposes, providing that the voters first approved of any such sale.
16. Private Acts of 1947, Chapter 467, established a county board of education of seven members to be elected by the voters for terms of four years. Membership on this board was apportioned among the three civil districts of the county, with the first and third districts having more representation. This board was abolished by Private Acts of 1951, Chapter 420.

17. Private Acts of 1949, Chapter 786, authorized public school authorities to establish a program for providing free textbooks to all students in the Polk County public school system.
18. Private Acts of 1949, Chapter 834, providing tenure for most employees of the Polk County school system, was repealed by Private Acts of 1951, Chapter 422.
19. Private Acts of 1951, Chapter 421, created a Board of Education for Polk County, of seven members, to be elected by the quarterly county court for terms of seven years. There were numerous attempts to repeal this act, and it was finally repealed by Private Acts of 1975, Chapter 190, which was approved by the Polk County voters on July 29, 1975.
20. Private Acts of 1967-68, Chapter 86, attempted to create a new Board of Education to be elected by popular vote. This act was amended by Private Acts of 1967-68, Chapter 167 to provide that voting machines were to be used in the referendum for local approval of Chapter 86, but the voters rejected the act and it never became operative.
21. Private Acts of 1971, Chapter 193, would also have repealed the 1951 County Board of Education act, but it also was rejected by local officials and never became an operative law.
22. Private Acts of 1971, Chapter 194, was another attempt to repeal the 1951 act creating the Board of Education and to replace it with a seven-member board elected by the voters of Polk County. This act was apparently rejected on the local level and never took effect, although no local action has been certified by the Secretary of State.
23. Private Acts of 1972, Chapter 313, was the next attempt to replace the Board of Education, appointed by the quarterly county court with one elected by the voters, but like previous attempts, this act was not ratified on the local level and never became an effective law.
24. Private Acts of 1974, Chapter 285, was the last unsuccessful attempt to repeal the 1951 Board of Education act which like the ones before it, did not gain local approval and never became an operative law.

## **CHAPTER VII - ELECTIONS**

ELECTIONS

DISTRICTS - REAPPORTIONMENT

PRIVATE ACTS OF 1931

CHAPTER 678

SECTION 1. That from and after the passage of this Act, there shall be and exist three (3) civil districts in Polk County, as follows:

The boundaries of the First Civil District shall be as follows:

Beginning at the northeast corner of Section 5 in Fractional Township 2 North of Range 3 East; thence with the Monroe County line to the top of Starrs Mountain and McMinn County line; thence with McMinn County line to Hiwassee River and Bradley County line; thence with the Bradley County line to the Georgia State line; thence east with the Georgia State line to the north and south middle line of Fractional Section 22 in Fractional Township 1 South of Range 3 East; thence northward with the middle section line to the middle point of the north line of Section 3 in Township 2 of Range 3 East; thence west with township line to the southeast corner of Section 32 in Town 1 of Range 3 East; thence northward with section line to the Monroe County line at the beginning.

The boundaries of the Second Civil District shall be as follows:

Beginning at the northeast corner on Monroe County line, being at the middle point on east line of Section 12 in Township 1 of Range 4 East; thence westwardly with the Monroe County line to the line of the First District at the northwest corner of Section 4 in Fractional Township 2 North of Range 3 East; thence southwardly with the line of the First District as previously described to the Georgia State line; thence east with the Georgia State line to the line of Sections 3 and 4 in Fractional Township 1 South of Range 4 East; thence northwardly to the northeast corner of Section 9 in Fractional Township 2 South of Range 4 East; thence east with section line 2 miles to the southeast corner of Section 2 in said township; thence northwardly with the section line 2 miles to the northeast corner of Section 35 in Township 2 of Range 4 East; thence eastwardly with section line one mile to the range line between Ranges 4 and 5; thence northwardly with range line 5 miles to the northeast corner of said township; thence westwardly with the township line 3 miles to the northwest corner of Section 3 in said township; thence northwardly with section line 3 miles to the northeast corner of Section 21 in Township 1 of Range 4 East; thence eastwardly 3 miles to southeast corner of Section 13 in said township; thence northwardly 1½ miles to the beginning.

The boundaries of the Third Civil District shall be as follows:

Beginning at the northeast corner of Polk County at the junction of the Monroe and Polk County line with the North Carolina State line; thence westwardly with the Monroe County line

to the northwest corner of Section 6 in Fraction Township 2 South of Range 5 East; thence southwardly with section line and the line of the Second District as previously described to the Georgia State line; thence east with the Georgia State line to the North Carolina State line; thence north with the North Carolina State line to the beginning.

SECTION 2. That the present magistrates and constables for the existing First, Second and Third Civil Districts of Polk County shall continue in office for the respective civil districts as created by this Act; provided, however, that all magistrates elected from incorporated towns shall continue to hold office as at present.

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

Passed: July 1, 1931.

## ELECTIONS

### DISTRICTS - REAPPORTIONMENT

The general provisions concerning county organization are found in title 5, chapter 1 of Tennessee Code Annotated. Section 5-1-101 enumerates the counties and § 5-1-108 deals with the apportionment of the county legislative bodies into a maximum of twenty-five county commissioner districts within each county that is not under a metropolitan government charter. Under T.C.A. § 5-1-111, the county legislative bodies must make necessary district boundary changes or completely redistrict a county so that the members represent substantially equal populations based on the most recent federal census at least every ten years. Upon application of any citizen affected, the chancery court of such county has original jurisdiction to review and amend the apportionment or to order an apportionment where none has been made.

Maps and legal descriptions of the boundaries of the county commissioner districts may be found in one of the following offices: County clerk, the county election commission, the state coordinator of elections, secretary of state, and the division of local government, office of the comptroller of the treasury.

Civil districts by that name are no longer used as district boundaries for election of legislative body members. These civil district boundaries have been left undisturbed as they existed prior to the first reapportionment of the quarterly county courts for real property record-keeping purposes only. T.C.A. § 5-1-112.

## ELECTIONS

Elections in Tennessee are now governed by the general statutes found in Tennessee Code Annotated title 2, chapters 1 through 19. Of particular interest to county officials is chapter 12, which covers the county election commission. The employment of administrator of elections and deputies by the county election commission is authorized by T.C.A. § 2-12-201. Tennessee Code Annotated, Section 2-12-208 sets a minimum salary for certified administrators of elections based on a percentage of the assessor's salary, and provides for certification tests, state contribution to each certified administrator's salary and other budget requirements.

Title 3, chapter 1 of Tennessee Code Annotated reapportions the state into senatorial and representative districts for the general assembly. Tennessee Code Annotated § 3-1-102 places Polk County in the 9<sup>th</sup> state senatorial district (along with Bradley, Loudon, and Monroe counties), while T.C.A. § 3-1-103 places it in the 22<sup>nd</sup> representative district. Polk County is part of the 3<sup>rd</sup> U.S. congressional district, under the provisions of T.C.A. § 2-16-103.

The following is a listing of acts for Polk County which affected the elective process, but which have been superseded or repealed. They are listed here for historical and reference purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1842 (Ex. Sess.), Chapter 1, provided that Polk, McMinn and Monroe Counties were to elect one state representative and the polls were to be compared at Athens.
2. Acts of 1842 (Ex. Sess.), Chapter 7, placed Polk County in the Third Congressional District, along with Knox, Roane, Bledsoe, Rhea, Meigs, McMinn, Bradley, Hamilton and Marion.
3. Private Acts of 1917, Chapter 142, made the 1897 general election law applicable to Polk County.
4. Private Acts of 1927, Chapter 802, created a Commission of Elections for Polk County, composed of three members who were to receive an annual compensation of \$100.
5. Private Acts of 1929, Chapter 360, repealed any requirement that Polk County voters register before voting in any election.
6. Private Acts of 1929, Chapter 475, provided that if any voter was unable to mark his ballot, the election officer could do so in the presence of not less than two election judges, provided that all the judges could not be of the same political party. This was repealed by Private Acts of 1933, Chapter 425.
7. Private Acts of 1949, Chapter 531, provided a system of permanent registration for the voters of Polk County.
8. Private Acts of 1967-68, Chapter 479, attempted to amend the Private Acts of 1931, Chapter 678, by adding to the end of Section One that the County Court of Polk County

may change the boundary of any civil district and make new districts or redistrict the county entirely when necessary. The Commissioners were to redistrict the county as nearly as possible in accordance with the principal of one man, one vote. The Private Acts of 1967-68, Chapter 479, did not, however, receive local approval and therefore had no effect upon the Private Acts of 1931, Chapter 678.

## **CHAPTER VIII - HEALTH**

HEALTH

COPPER BASIN GENERAL HOSPITAL DISTRICT

PRIVATE ACTS OF 1953

CHAPTER 225

SECTION 1. That a joint, non profit Hospital District, to be known as the COPPER BASIN GENERAL HOSPITAL DISTRICT, is hereby created and established for and in behalf of the City of Copperhill, Tennessee; the City of Ducktown, Tennessee, and Polk County, Tennessee.

SECTION 2. That said Hospital District shall comprise and consist of the following described tract or parcel of land, together with all buildings and other improvements thereon and all appurtenances thereunto belonging, located in the Third Civil District of Polk County, Tennessee, and being in the South half of Section 9, Fractional Township 4 South, Range 5 East of the Ocoee Base Line and more particularly described as follows, to-wit:

Beginning at the southwest corner of the lot, which point of beginning is N 33° - 58' - 20" W a distance of 2874.6 feet from the southeast corner of the south half of Section 9; thence N 85° - 46' - 30" E a distance of 450.0 feet; thence N 7° - 05' E a distance of 509.9 feet; thence S 85° - 46' - 30" W a distance of 600.0 feet; thence S 9° - 56' E a distance of 502.49 feet to the point of beginning, containing 6.02 acres, more or less, as surveyed by John R. Hankin and Walter Marlette January 14, 1953, and shown as described on Map N - 162 in the Tennessee Copper Company's files.

SECTION 3. That said Hospital District shall be operated and controlled by a Board of Trustees, seven (7) in number, who shall serve without compensation and who shall be elected in the manner and for the terms hereinafter provided.

SECTION 4. That the initial members of the Board of Trustees shall be John Jabaley, who shall serve for a term of two (2) years; Carl E. Panter, Jr., who shall serve for a term of two (2) years; Frederick M. Kimsey, who shall serve for a term of three (3) years; Oliver Hawk, who shall serve for a term of three (3) years; Ed. D. Oldham, who shall serve for a term of four (4) years; Sam E. Sharp, who shall serve for a term of five (5) years; and Windom Hensley, who shall serve for a term of six (6) years. The said terms of said initial Board of Trustee members shall commence on the first day of February, 1953, and shall continue for the terms herein stated and/or until their successors are duly elected and qualified.

SECTION 5. That upon the expiration of the two year term of John Jabaley, his successor shall be elected for a term of six (6) years by the Mayor and City Council of the City of Copperhill, Tennessee, in the manner hereinafter provided; upon the expiration of the two year term of Carl E. Panter, Jr., his successor shall be elected for a term of six (6) years by the City Commissioners of the City of Ducktown, Tennessee, in the manner hereinafter provided;

upon the expiration of the three year term of Frederick M. Kimsey, his successor shall be elected for a term of six (6) years by the City Commissioners of the City of Ducktown, Tennessee, in the manner hereinafter provided; upon the expiration of the three year term of Oliver Hawk, his successor shall be elected for a term of six (6) years by the Mayor and City Council of the City of Copperhill, Tennessee, in the manner hereinafter provided; upon the expiration of the four year term of Ed L. Oldham, his successor shall be elected for a term of six (6) years by the Quarterly County Court of Polk County, Tennessee, in the manner hereinafter provided; upon the expiration of the five year term of Sam L. Sharp, his successor shall be elected for a term of six (6) years by the Mayor and City Council of the City of Copperhill, Tennessee, in the manner hereinafter provided; upon the expiration of the six year term of Windom Hensley, his successor shall be elected for a term of six (6) years by the Quarterly County Court of Polk County, Tennessee, in the manner hereinafter provided. Thereafter, the Mayor and City Council, the City Commis-sioners, and the Quarterly County Court, simultaneously and/or alternately, shall elect for a six (6) year term, in the manner hereinafter provided, a successor to that member or those members of the Board of Trustees whose term has expired.

SECTION 6. That the Mayor and City Council, City Commissioners and Quarterly County Court shall be required to elect a successor Trustee from among three (3) nominees for the office, whose names shall be submitted to the Mayor and City Council, the City Commissioners and/or the Quarterly County Court, by the remaining Trustees; not less than thirty (30) days prior to the expiration of the term of that Trustee whose successor is to be elected; provided, however, that the Mayor and City Council of the City of Copperhill or the City Commissioners of the City of Ducktown, by a unanimous vote, or the Quarterly County Court of Polk County, by a two-thirds vote, may elect a successor Trustee not nominated by the remaining Trustees. Provided further that when the next vacancy occurs in the position of a trustee elected by the City of Copperhill, the County Council of Polk County shall elect the successor trustee for that position and thereafter that position shall be filled by the County Council of Polk County.

As amended by: Private Acts of 1977, Chapter 115.

SECTION 7. That a Trustee whose term of office has expired shall, in any event, serve until his successor shall have been duly elected in the manner herein provided. In the event of the death, resignation or removal of a Trustee prior to the expiration of his designated term of office, his successor shall be elected for the unexpired term in the same manner as the deceased, retiring or removed Trustee was elected. Any Trustee herein named is eligible for re-election. The Board of Trustees shall elect a Chairman and Secretary from its membership; shall meet at least once a month, and more often if necessary; and shall keep complete, permanent public records and minutes reflecting all business and transactions of the Board of Trustees. The transaction of any business shall require the affirmative vote of at least four (4) trustees.

As amended by: Private Acts of 1977, Chapter 115.

SECTION 8. That the Board of Trustees shall be vested with full, absolute and complete authority and responsibility for the operation, management, conduct and control for the hospital district, however, its actions shall not be inconsistent with existing contractual obligations of the cities and county. The board's authority and responsibility shall include, but shall not be limited

to, the establishment, promulgation and enforcement of the rules, regulations, and policies of the hospital district, upkeep, expansion and maintenance of all property and equipment, administration of all financial affairs including issuance of bonds or notes to finance capital additions, alterations, or equipment for the hospital district, execution of all contracts, agreements and other instruments, and the employment, compensation, supervision and discharge of all personnel.

As amended by: Private Acts of 1975, Chapter 69.

SECTION 9. That the Board of Trustees shall have authority to employ and fix the compensation of a Hospital Administrator, whose duties and responsibilities shall be determined and prescribed by the Board of Trustees.

SECTION 10. That said Board of Trustees shall annually prepare and submit to the Mayor and City Council, the City Commissioners and the Quarterly County Court, a budget, reflecting in detail all estimated receipts and disbursements of the Hospital District. Said budget shall be for the fiscal year July 1, to June 30, and shall be submitted by the Board of Trustees not later than April 1, prior to the commencement of said fiscal year. The initial Board of Trustees shall prepare and submit such budget as soon after the effective date of this Act as may be practicable, but, in any event, not more than sixty (60) days after the commencement of the terms of the members of said initial Board of Trustees.

SECTION 11. That the Board of Trustees shall prepare and submit to the Mayor and City Council, the City Commissioners and the Quarterly County Court, during each quarter of each fiscal year, a complete financial statement and report which, among other things, shall reflect a comparison of actual receipts and disbursements as of the dates of such financial statements.

SECTION 12. That the Mayor and City Council of Copperhill, Tennessee, is hereby authorized to appropriate to said Hospital District from the General Fund of said City, one-fourth ( $\frac{1}{4}$ ) of such sums as may be required to commence the operation of said Hospital District; and thereafter one fourth ( $\frac{1}{4}$ ) of such sums as may be required to pay any deficits arising in the operation and maintenance of said Hospital District; and are authorized and empowered, also, to levy a tax sufficient for this purpose upon all taxable property within said City.

SECTION 13. That the City Commissioners of the City of Ducktown, Tennessee, are hereby authorized to appropriate to said Hospital District, from the General Fund of said City, one-fourth ( $\frac{1}{4}$ ) as such sums as may be required one-fourth ( $\frac{1}{4}$ ) of such sums as may be required (sic) to commence the operation of said Hospital District; and thereafter one-fourth ( $\frac{1}{4}$ ) of such sums as may be required to pay any deficits arising in the operation and maintenance of said Hospital District; and are authorized and empowered, also, to levy a tax sufficient for this purpose upon all taxable property within said City.

SECTION 14. That the Quarterly County Court of Polk County, Tennessee, is hereby authorized to appropriate to the Hospital District from the General Fund of the County, one-half ( $\frac{1}{2}$ ) of such sums as may be required to commence the operation of said Hospital District, and thereafter one-half ( $\frac{1}{2}$ ) of such sums as may be required to pay any deficits arising in the

operation and maintenance of said Hospital District; and are authorized and empowered, also, to levy a tax sufficient for this purpose upon all taxable property within said County.

SECTION 15. That each section, subdivision and paragraph of this Act is hereby declared to be a separate and independent clause from any other section, subdivision or paragraph hereof, and the illegality or invalidity of any section, or of any subdivision, or of any paragraph thereof, shall not affect any other section, subdivision, or paragraph hereof.

SECTION 16. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 24, 1953.

## HEALTH

For the general statutes relating to health, see Tennessee Code Annotated title 68, with particular reference to chapter 2 (Local Health Services). Chapter 2 provides for the creation of county and district health departments, boards of health, and cooperation between counties and cities in the establishment of such departments and boards. It also details the operation and financing of local health services. See volumes 14, 15 and 16 (Combined General Index) of T.C.A. for reference to statutes on specific health topics.

## **CHAPTER IX - HIGHWAYS AND ROADS**

HIGHWAYS - ROADS

ROAD LAW

PRIVATE ACTS OF 1976

CHAPTER 270

SECTION 1. There is hereby created the office of Superintendent of Roads for Polk County. The qualifications shall be identical to those qualifications as set out in T.C.A. 54-1004.

SECTION 2. The Superintendent of Roads shall be elected in the August, 1976 General Election for a term of four (4) years and every four (4) years thereafter at the August General Election.

SECTION 3. The salary of the Superintendent of Roads for Polk County shall be equal to the salary of the County Court Clerk of Polk County and shall be paid in equal monthly installments from county highway funds.

SECTION 4. The Superintendent of Roads shall be the chief administrative officer of the County Roads. The chief administrative officer shall be the head of the county highway department and shall have the responsibility and authority, subject to the approval of the County Council, for all location, relocation, construction, reconstruction, repair and maintenance of the county road systems of his county, including bridges and ferries but not including roads and bridges under the supervision of the state department of highways.

SECTION 5. Before entering into the discharge of his duties, the chief administrative officer shall take and subscribe to an oath in writing before the County Court Clerk that he will perform with fidelity the duties of his office as chief administrative officer and shall enter into a bond of One Hundred Thousand Dollars (\$100,000.00).

SECTION 6. It shall be the duty of the Superintendent of Roads to employ a qualified secretary and other office personnel as required to handle all correspondence, maintain accurate records of receipts and expenditures, equipment, supplies, materials, maintenance performed, and other items necessary for the operation of the county highway department.

SECTION 7. The Superintendent of Roads is authorized to determine the total number of employees of the county highway department, to determine personnel policies and wages within the classifications. The compensation established by him should be in keeping with that paid for similar services in the county and surrounding area.

SECTION 8. The Superintendent of Roads shall have prepared and submit to the County Council of Polk County, and to the state rural roads division a five (5) year improvement program to be financed under the state rural road program and the federal aid secondary road program. This plan shall be revised and updated at the beginning of each succeeding fiscal year.

The priorities for proposed improvements contained in the five (5) year program funded by state rural road and federal aid secondary funds shall be established based on traffic, functional classifications, and desirable levels of service necessary for schools, religious institutions, industry, recreational facilities and other major uses.

SECTION 9. The Superintendent of Roads shall have supervision and control over and shall be responsible for all the machinery, equipment, tools, supplies, and materials owned or used by the county in the construction, reconstruction, repair, and maintenance of the county roads and bridges. He shall make or cause to be made a complete inventory of all machinery, equipment, tools, supplies, and materials and file copies of the complete inventory with the county governing body, the comptroller of the treasury and the state rural roads division within sixty (60) days after taking office and thereafter a revised current inventory shall be submitted by September 1 of each year. All machinery, equipment, and tools shall be plainly marked as the property of the county road department and each item shall be numbered and the number entered on the inventory filed by the chief administrative officer. It shall be the duty of the county judge of the county to examine the inventories for compliance with this provision and upon his determination that the inventory does not comply with the requirements of this chapter, he shall cause to be withheld from the chief administrative officer any funds due him until the chief administrative officer complies with this provision.

SECTION 10. All funds received by any person for the county for road or highway purposes shall be promptly deposited with the county trustee and shall be expended only upon disbursement warrant drawn upon the trustee in accordance with law. Expenditures of funds for the operation of the county road department shall be made within the limits of the approved budget and the appropriations made for the department, in accordance with law.

SECTION 11. The Superintendent of Roads is authorized to remove or cause to be removed any fence, gate, or other obstruction from the roads, bridges and ditches of the county and to clean out and clear all fences and ditches along or adjacent to the county roads.

SECTION 12. The Superintendent of Roads shall not authorize nor knowingly permit the trucks or road equipment, the rock, crushed stone, or any other road materials to be used for any private use or for the use of any individual for private purposes and his failure to see that this provision is enforced shall be grounds for removal from office.

SECTION 13. Any employee of the county road department who shall use any truck or any other road equipment or any rock, crushed stone or other road material for his personal use, or sell, or give away the same, shall be immediately discharged. No truck or other road equipment, nor any rock, crushed stone, or any road material shall be used to work private roads or for private purposes of owners thereof.

SECTION 14. Neither the Superintendent of Roads nor any other official or employee of the county may use any county vehicle, equipment, supplies or road materials for other than official county road purposes. Provided, however, that the county governing body shall have the authority to authorize the county road department to perform work for other governmental entities provided that the cost of the projects so authorized are to be reimbursed to the county road department.

SECTION 15. Neither the Superintendent of Roads, any member of the county governing body nor any employee of the county road department shall be financially interested in or have any personal interest, either directly or indirectly, in the purchase of any supplies, machinery, materials, or equipment for the department or system of roads for the county, nor in any firm, corporation, partnership, association or individual selling or furnishing such machinery, equipment, supplies, and materials.

SECTION 16. If a vacancy occurs in the office of Superintendent of Roads for Polk County, the County Council shall, at the next regular or special meeting name a successor to serve as Superintendent of Roads until the next general election, at which time a Superintendent of Roads shall be elected to a full term or to finish out the remaining term as the case may be.

SECTION 17. Private Acts of 1971, Chapter 114 is repealed provided, however, that nothing in this act shall be interpreted as abolishing the office of county road superintendent for Polk County prior to the expiration of the present incumbent's term of office.

SECTION 18. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Council of Polk County, Tennessee. Its approval or non-approval shall be proclaimed by the presiding officer of the County Council of Polk County and certified by him to the Secretary of State.

SECTION 19. This act is declared severable in its construction, and if any section or provision of said act should be declared unconstitutional by a court of competent jurisdiction, the remaining sections or provisions will have full force and effect; it being the legislative intent that this Act would have been enacted without the inclusion of the unconstitutional provisions or sections thereof.

SECTION 20. For the purpose of approving or rejecting the provisions of this Act as provided in Section 18, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect upon approval as provided in Section 18.

Passed: March 18, 1976.

## HIGHWAYS - ROADS

General law on highways and roads can be found in title 54 of Tennessee Code Annotated. In 1974, the general assembly enacted the "County Uniform Highway Law," which has had a substantial effect on road law in Tennessee's counties. Found in title 54, chapter 7 of Tennessee Code Annotated, the County Uniform Highway Law applies to most counties in the state. The counties with a population in excess of 200,000 (Shelby, Davidson, Knox and Hamilton) are excluded from this law.

The County Uniform Highway Law deals extensively with the position of "Chief Administrative Officer" of the county road department. The chief administrative officer is defined in T.C.A. § 54-7-103 as a county road superintendent, county road supervisor, county engineer, director of public works, or any similar elected or appointed official. The qualifications of the chief administrative officer are set out in T.C.A. § 54-7-104. The qualifications of candidates for elected and appointed offices are reviewed by the Tennessee highway officials certification board. Qualified candidates for popular election are certified by this board to the state coordinator of elections who forwards this certification to the county election commission. T.C.A. § 54-7-104(a).

The term of office is set at four years by T.C.A. § 54-7-105, and the minimum salary of the chief administrative officer is set by T.C.A. § 8-24-102. T.C.A. § 54-7-106. The bond of the chief administrative officer is now set at \$100,000 by T.C.A. § 54-7-108.

Most of the duties of the chief administrative officer are specified in T.C.A. § 54-7-109. This section names the chief administrative officer as the head of the county highway department and gives this officer general control over the road system and the personnel employed by the county road department. However, in those counties with popularly elected highway commissions (provided by private act), the general policy decisions over the highway system remain with the elected highway commission. The chief administrative officer annually submits a county road list which includes a summary of all changes approved the previous year by the county legislative body and the reason for the change, and makes recommendations to the county legislative body respecting proposed changes to the county road list and the classification of roads. T.C.A. § 54-10-103.

The County Uniform Highway Law also gives the chief administrative officer authority to employ legal counsel (T.C.A. § 54-7-110), requires the preparation of an annual plan for road improvement (T.C.A. 54-7-111), and provides for the supervision and control of all equipment and materials owned by the county highway department (T.C.A. § 54-7-112).

The use of county equipment or materials for private purposes is prohibited by T.C.A. § 54-7-202. Any personal financial interest in the purchase of any supplies, machinery, materials or equipment by any chief administrative officer, county highway commissioner, member of the county governing body, or any employee of the county highway department is expressly forbidden by T.C.A. § 54-7-203.

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

1. Acts of 1853-54, Chapter 264, authorized Hiram Phillips of Polk County to build a bridge over the Conasauga River at Kennedy's old stand with the requirement that this bridge be constructed substantially above the high water mark.
2. Acts of 1859-60, Chapter 114, directed the County Court to classify public roads into three different classes and to assess a tax upon the property and polls of the county for the repair and upkeep on the county roads.
3. Private Acts of 1951, Chapter 416, was a general road law for Polk County, setting up the County Superintendent of Roads as the executive head of the Department of Roads. There was an attempt to amend this act by Private Acts of 1961, Chapter 211, which would have raised the salaries of both the Road Superintendent and his secretary; but this act was rejected by the Polk County Quarterly Court.
4. Private Acts of 1967-68, Chapter 88, was an attempt to create a new road law for Polk County, which was amended by Private Acts of 1967-68, Chapter 166, to provide that voting machines should be used in the ratification referendum. This new road law was rejected by the Polk County voters and never became effective.
5. The Private Acts of 1969, Chapter 18, amended the Private Acts of 1951, Chapter 416, by adding to Section 7 that the superintendent of Roads be empowered to employ a secretary and that the position would pay \$3,000 per year.
6. Private Acts of 1971, Chapter 114, created the office of County Road Superintendent who was to receive a salary of \$7,800 per annum. This act was repealed by Private Acts of 1976, Chapter 270.

## **CHAPTER X - LAW ENFORCEMENT**

## LAW ENFORCEMENT

### JAILS AND PRISONERS

The general law on jails and prisoners can be found in Tennessee Code Annotated title 41. Of particular interest to county officials are chapter 2 (County Workhouse), chapter 4 (Jails and Jailers), and chapter 8 (County Correctional Incentives Act). For the state law on jailers fees, see T.C.A. §§ 8-26-105 and 41-8-106. 1999 Public Chapter 190 authorizes two or more counties to enter into an interlocal agreement providing for a jail and/or workhouse to serve the contracting counties. Each county that is a party to an interlocal agreement for a jointly operated jail would no longer be required to maintain a separate jail.

## LAW ENFORCEMENT

### MILITIA

For many years during the early portion of Tennessee's history, the county units of the state militia were a vital part of the peace keeping and law enforcement arm of the state, being subject to call when certain conditions existed.

## LAW ENFORCEMENT

### OFFENSES

Some counties in Tennessee have made various activities illegal within their boundaries by the enactment of private legislation. Some of these were billiard playing, operating dance halls, shooting fireworks, and things of a similar nature.

LAW ENFORCEMENT

SHERIFF

ROAD PATROL

PRIVATE ACTS OF 1949

CHAPTER 726

SECTION 1. That Quarterly County Courts and the Sheriffs of all Counties of this State having a population of not less than 15,470 nor more than 15,480 according to the Federal Census of 1940 or any subsequent Federal Census, are hereby authorized and empowered to contract with each other in writing for the maintenance and operation of uniform county road patrols. Under the said contract the Sheriff is authorized to obligate himself to patrol all or certain roads or classes of roads in the county with an agree (sic) number of deputy sheriffs whose primary duty shall be the enforcement of traffic laws and the arrest of all persons observed violating any criminal laws. The said contracts shall obligate the counties which enter into such agreements to reimburse the sheriff conducting any such patrol for all out-of-pocket expense incident to the maintenance and operation thereof, including salaries of the deputies assigned exclusively to this work, motor vehicle expenses, uniform and other equipment costs, fuel costs, repair and upkeep costs for the motor vehicles used, and all other costs incidental to the performance of such services; provided, however, that no county shall maintain such a sheriff's road patrol unless the patrol cars used in such work are equipped with radio receiving sets or transmitting and receiving sets capable of keeping said cars in contact with the sheriff's office or a system is arranged whereby said patrols report into the sheriff's office at intervals not exceeding thirty minutes by telephone or otherwise. And provided further, that the personnel employed as deputy sheriffs in such patrol work shall at all times wear a uniform adopted and approved by the sheriff for such deputies.

SECTION 2. That the conduct of such sheriff's road patrol is hereby declared a public purpose in the counties to which this Act applies and whenever any such written contracts between Quarterly County Courts and sheriffs have been made in accordance with this statute and have been approved by a decree of a court of record of this State in a proceeding authorized by the Code of Tennessee for approving the employment of deputies and assistants to county officers, such services shall be deemed as ex officio services performed by the sheriffs and funds for reimbursing the sheriff for the costs of operating and maintaining such patrols may be paid for by said counties as are other ex officio duties under the provisions of Code Section 10708; and any funds necessary for such county expenditure may be raised by a tax levy.

SECTION 3. That in the case of any county having a County Commission form of government, the agreements herein may be executed in behalf of such a county by the County Commission thereof in the place and stead of a Quarterly County Court.

SECTION 4. That all laws and parts of laws in conflict with this Act be, and the same are, hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: April 12, 1949.

## LAW ENFORCEMENT

### SHERIFF

The office of sheriff is one of the county offices established by article VII, section 1 of the Constitution of Tennessee, and it is regulated by the general statutes found in title 8, chapter 8 of Tennessee Code Annotated. The qualifications for the office of sheriff are more stringent than for most county offices. These qualifications are detailed in T.C.A. § 8-8-102. Many of the duties of the sheriff are specified in T.C.A. § 8-8-201. The sheriff's salary is determined in accordance with T.C.A. § 8-24-102. The statutes authorizing the sheriff to petition the court with criminal jurisdiction for the employment of deputies and assistants and the setting of salaries for deputies and assistants are found in T.C.A. § 8-20-101 et seq. Also, the sheriff may appoint such personnel as may be provided for in the budget adopted for the sheriff's department. T.C.A. § 8-20-120. For additional statutes relating to the sheriff, refer to the combined general index of Tennessee Code Annotated, volumes 14, 15, and 16, under specific topics relating to law enforcement, county jails and workhouses.

The following acts have no current effect but are included here for reference purposes since they once applied to the Polk County Sheriff's Office. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1859-60, Chapter 113, authorized the state Comptroller to pay Major H. Hancock, the sheriff of Polk County, the amount of \$32.91 which had been overpaid through mistake as the tax assessed on the school land in the Ducktown District of Polk County.
2. Private Acts of 1913, Chapter 129, provided that law enforcement officers were to receive 10¢ per mile for conveying prisoners under work-house mittimus.
3. Private Acts of 1921, Chapter 438, set the salary of the sheriff at \$2,000 per year, in lieu of all fees collected by his office. This was amended by Private Acts of 1927, Chapter 103, to raise the annual salary to \$3,000.
4. Private Acts of 1927, Chapter 730, provided that workhouse bond was to be received, approved and collected by the Criminal Court Clerk. This was amended by Private Acts of 1929, Chapter 720, to provide that such workhouse bonds were to insure payment of attorney's fees. The applicability of these acts to Polk County was repealed by Private Acts of 1935, Chapter 279.
5. Private Acts of 1931, Chapter 750, created the office of chief deputy sheriff, at an annual salary of \$1,800, to be appointed by the sheriff. The chief deputy was to devote his entire time to his duties and was subject to removal at the pleasure of the sheriff. This was amended by Private Acts of 1933, Chapter 570, to lower the annual salary of the chief deputy to \$1,200, and these acts were repealed by Private Acts of 1947, Chapter 22.

6. Private Acts of 1933, Chapter 571, set the salary of the Polk County sheriff at \$2,400 per annum, in addition to the fees of the office. This act was repealed by Private Acts of 1947, Chapter 29.
7. Private Acts of 1935, Chapter 369, provided that all workhouse bond was to be received, approved and collected by the sheriff.
8. Private Acts of 1967-68, Chapter 217, attempted to place the Polk County sheriff on salary, removing that office from the fee system, but this act was rejected by the voters of Polk County and never became effective.

## **CHAPTER XI - PUBLIC UTILITIES**

PUBLIC UTILITIES

HIWASSEE SOLID WASTE UTILITY DISTRICT

PUBLIC ACTS OF 1969

CHAPTER 289

**COMPILER'S NOTE:** This is a "special" public act and is therefore not printed in the Tennessee Code Annotated. It is provided here as a service to our readers.

SECTION 1. This Act shall be known and may be cited as the "Hiwassee Solid Waste Utility District Act."

SECTION 2. In order to protect and promote the public health, safety and welfare, to prevent the spread of disease and creation of nuisances, to conserve the natural resources, and to enhance the beauty and improve the quality of the environment in the area of Bradley and Polk Counties, this Act authorizes the creation of a Bi-County District to be known as the Hiwassee Solid Waste Utility District. This District is authorized to establish, construct, install, acquire, operate, improve, and maintain a solid waste disposal system in any area or areas within the borders of Bradley and Polk Counties, and to exercise all powers necessary or convenient thereto, including powers to contract, to sue and be sued in its own name, and to make regulations not inconsistent herewith.

SECTION 3. For the exercise of the powers conferred by this Act, each County shall authorize same and affirm its participation by resolution adopted by a two-thirds majority of the County Court, and the powers conferred herein shall not be exercised unless both Counties so resolve. Such resolution shall provide for the exercise of such powers by a Board established as hereafter provided.

SECTION 4. Subject to confirmation by the County Court, the County Judge or Chairman of each of the participating Counties shall appoint three (3) persons to serve on the Hiwassee Solid Waste Utility District Board. At the time of the initial appointments, at least one of the three members from each County shall be a member of the appointing County's governing body. Each County's appointees shall be initially appointed for terms of one (1), two (2), and three (3) years respectively, and their successors shall be appointed for terms of three years, subject to confirmation as aforesaid. A member may be reappointed for as many terms as the appointing body determines. The County Judge or Chairman shall in like manner fill vacancies which may occur for the unexpired terms thereof.

Each member shall give bond as may be required by resolution of the County Court which appointed him. Such members shall serve without compensation except for necessary expenses incurred in the performance of their duties.

A majority of the Board shall constitute a quorum. The Board shall elect its own Chairman, and shall be authorized to employ such clerical help as may be necessary. The Board shall hold public meetings at least once every quarter (or more frequently if the Board deems necessary), at such regular time and place as it may determine, and special meetings shall be held upon the call of the Chairman. The Board shall establish its own rules of procedure.

Any member of the Board may be removed from office for cause upon a vote of two-thirds (2/3) of the members of the County Court which appointed him, but only after preferment of formal charges by a resolution of a majority of such County Court following a public hearing before it.

Before the Board shall adopt any proposed budget or salary plan for its employees, it shall submit same to the County Courts of Bradley and Polk Counties for approval or rejection of the pro-rata share which each County will contribute, as hereinafter provided.

SECTION 5. The general administration and control of the acquisition, improvement, operation and maintenance of the Solid Waste Disposal District herein provided for shall be under the control of the Board. However, the Board shall employ a superintendent to directly supervise the operations of the Solid Waste Disposal System.

The superintendent shall be a person who shall be qualified by training and experience for supervision over the maintenance and operation of the facilities provided for herein. Such person need not be a resident of the State or either of the participating Counties at the time of his selection. The salary of the superintendent shall be determined by the Board and approved by the County Courts of the participating Counties. All employees shall serve at the pleasure of the appointing authority and shall be subject to removal by that authority at any time. Notwithstanding, the Board, if it chooses, shall be authorized to enter into a binding employment contract with the superintendent.

Within the limits of the funds available therefor, all powers to establish, construct, install, acquire, operate, improve, and maintain the facilities provided for herein, and all powers necessary or convenient thereto, conferred by this Act shall be exercised by the Board of the Hiwassee Solid Waste Utility District. The Board may delegate the actual conduct of these matters to the superintendent.

SECTION 6. The superintendent shall have charge of all actual construction, the immediate management and operation of all facilities provided for herein, and the enforcement of all rules, regulations, programs, plans and decisions of the Board. He shall hire all employees and fix their duties excepting that the appointment of all technical consultants, advisers and legal assistants which shall be subject to the approval of the Board and the governing bodies of the respective Counties. With the approval of the Board, the superintendent may fix compensation of all employees and acquire and dispose of all property, real and personal, necessary to effectuate the purposes of this Act. Title to all such property shall be taken in the name of the Hiwassee Solid Waste Utility District. Subject to the approval of the Board, the superintendent shall let all contracts. However, he may make purchases of personalty up to a cost of Five Hundred Dollars (\$500) without the approval of the Board, but subject to such regulations as it

may prescribe. Any contract for construction exceeding Two Thousand Dollars (\$2,000) shall be advertised for bids by the superintendent.

The superintendent shall make and keep full and proper books and records, which shall be audited annually and presented to the Board and the County Courts of the participating Counties.

SECTION 7. The Counties of Bradley and Polk shall be empowered to levy and collect ad valorem taxes for the purposes set forth in this Act, which purposes are declared to be for county, public purposes; and said counties are further empowered, through their County Courts, to appropriate moneys for the operation of the Hiwassee Solid Waste Utility District. The annual pro rata share of each County shall be determined by the Board based upon considerations including the population, anticipated users, length of route and number of storage containers located in each County. The Board is authorized but not required, to establish user fees. Any such fees shall be for the use of the Board.

The Board is further authorized to accept donations and gifts of real and personal property on behalf of Hiwassee Solid Waste Utility District.

SECTION 8. In connection with the operation of this District, the Board is authorized to enter into contracts with private persons and with other governmental units or agencies, federal, state, or local, including municipalities, towns, and other utility and improvement districts within this Bi-County area, for the furnishing of services and facilities within the purview of this Act. The Board may also enter into cooperative arrangements and agreements for providing such services and facilities upon terms determined advantageous by the Board.

In any cooperative undertaking by the Board with any other governmental unit or entity for the furnishing of the facilities or services contemplated herein, the Hiwassee Solid Waste Utility District's share of the cost may be financed from the funds received by it from the participating Counties.

SECTION 9. The Board is hereby authorized to require that private collectors operating within the Bi-County area shall be required to use the landfills established by the Board for the disposal of solid waste materials. The Board is further authorized and directed to make and publish reasonable rules and regulations covering the use by any individual, firm or corporation, of the facilities provided under this Act. Such rules and regulations shall comply with the standards recommended by the Solid Waste Section, Division of Sanitary Engineers, Tennessee Department of Public Health.

SECTION 10. This Act shall take effect from and after its passage, the public welfare requiring it.

Passed: May 8, 1969.

## PUBLIC UTILITIES

The following act no longer pertains to public utilities in Polk County.

1. Public Acts of 1977, Chapter 489, amended Section 6-2614, Tennessee Code Annotated to provide a method whereby the member of a Board of Directors of a water district could be removed. The Act applied only to water districts and involved the filing of a petition with the County Judge and the confirmation of such action by the people in a referendum election. Several counties, including Polk County, exempted themselves from the application of that act.

## **CHAPTER XII - TAXATION**

TAXATION

AMUSEMENT TAX

PRIVATE ACTS OF 1981

CHAPTER 2

WHEREAS, The vast majority of the land area in Polk County is included in the Cherokee National Forest; and

WHEREAS, Two of Tennessee's rivers which attract whitewater canoeing and rafting enthusiasts flow through Polk County and the Cherokee National Forest; and

WHEREAS, An increasing number of whitewater canoeists and rafters are accepting the challenge of the Ocoee and Hiwassee Rivers; and

WHEREAS, The influx of these enthusiasts has placed an increased burden on Polk County's local inhabitants to provide law enforcement, traffic control, and first-aid and ambulance services out of proportion to the needs of the local citizenry; and

WHEREAS, At least a portion of the expenses of this greater service burden should be borne by the tourists for whose use and protection the needed services are provided; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

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

(1) "amusement" means any ride, excursion, or float trip by canoe, raft, or similar floating device on a whitewater river where a fee is charged by any person for such ride, excursion, or float trip, which charge is otherwise not included as a taxable privilege under the "Retailers' Sales Tax Act" imposed by Tennessee Code Annotated, Title 67, Chapter 30;

(2) "person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other entity, or group or combination acting as a unit;

(3) "admission" means admission for an amusement for a consideration and shall apply on admission fees or charges, whether or not a ticket is actually issued;

(4) "consumer" means any person who pays consideration for an amusement;

(5) "consideration" means the consideration charged whether or not received for an admission for an amusement 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 there from whatsoever; provided that nothing in this definition shall be construed to imply that consideration is charged when the service provided is complimentary and no consideration is charged to or received from any person by an operator;

(6) "operator" means the person operating an amusement.

SECTION 2. The Legislative Body of Polk County is hereby authorized to levy a privilege tax upon the privilege of a consumer participating in an amusement for which an admission fee is charged. Such tax shall be imposed on the consideration charged by the operator at a rate of ten percent (10%). Such tax so imposed is a privilege tax upon the consumer enjoying the amusement, and is to be collected and distributed as provided in this act.

As amended by: Private Acts of 1991, Chapter 135.  
Private Acts of 1997, Chapter 44.

SECTION 3. Such tax shall be added by each operator to the consideration charged for admission for such amusement, and shall be collected by such operator from the consumer and remitted by such operator to the county trustee. Where the tax calculated on any admission includes any fraction of a cent, the next highest full cent shall be charged.

As amended by: Private Acts of 1984, Chapter 196.

SECTION 4. The tax hereby levied shall be remitted to the county trustee not later than the twentieth (20th) day of each month next following the month in which the amusement service was delivered. The county trustee may promulgate reasonable rules and regulations for the enforcement and collection of such tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods.

In any month when no taxes are collected by an operator, such operator shall not be required to file any statement, report, or return with the county trustee, and no penalty or interest under the provisions of this act shall be imposed for failing to file such statement, report, or returns in any such month.

As amended by: Private Acts of 1984, Chapter 196.

SECTION 5. This Section was deleted by Private Acts of 1984, Chapter 196.

SECTION 6. This Section was deleted by Private Acts of 1984, Chapter 196.

SECTION 7. Taxes collected by an operator which are not remitted to the county trustee on or before the due dates as provided in this act are delinquent. When an operator fails to remit the tax due, or any portion thereof, required by this act on or before such due date there shall be imposed a specific penalty, to be added to the amount of the tax which is delinquent, in the amount of five percent (5%), if the failure is for not more than thirty (30) days, with an additional five percent (5%), for each additional thirty (30) days, or fraction thereof, during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate. Provided,

however, where a return is delinquent at the time it is filed or becomes delinquent, the minimum penalty may be five dollars (\$5.00) regardless of the amount of tax due or whether there is any tax due. When an operator fails to remit such tax, or any portion thereof on or before such due date, there shall be added to the amount due interest at the rate of twelve percent (12%) per annum from such date due until paid. Such interest and penalty shall become a part of the tax required to be remitted.

Willful refusal of an operator to collect or remit the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving an amusement taxable by this act when such operator willfully fails or refuses to collect or remit the tax payable to the county trustee.

SECTION 8. It shall be the duty of every operator to keep and preserve for a period of three (3) years all records necessary to determine the amount of the tax levied under the authority granted by this act, for which such operator may have been liable for collecting and remitting to the county trustee under the provisions of this act. The county trustee shall have the right to inspect such records at all reasonable times.

All statements, reports or returns of operators and all audits of their records and files made as authorized by this act are confidential; and it shall be unlawful for anyone to make known in any manner any information contained therein except as follows:

- (1) to the operator personally;
- (2) to an attorney or other agent duly authorized by the operator;
- (3) to the county executive;
- (4) to the county fiscal agent;
- (5) to the trustee of such county or the employees in the office of such trustee; or
- (6) in accordance with proper judicial order, or as otherwise required by law.

As amended by: Private Acts of 1984, Chapter 196.

SECTION 9. In administering and enforcing the provisions of this act, the county trustee shall have as additional powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, Title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the operator liable for collecting and remitting the tax shall have the remedy provided in Tennessee Code Annotated, Title 67, Chapter 23 for recovery of erroneous tax payments, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this act; provided, the county trustee shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, with respect to the

adjustment and settlement with such operators of all errors of taxes collected by him under the authority of this act and direct the refunding of the same. Notice of any tax paid under protest shall be paid to the county trustee, and suit for recovery shall be brought against him.

SECTION 10. The proceeds from the tax levied by this act shall be deposited in the general fund. Proceeds of this tax may not be used to provide a subsidy to such amusement.

SECTION 11. The tax herein levied 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.

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 provisions 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 county legislative body of Polk County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him 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 either May 1, 1981, or the first day of the second month following approval by the legislative body of Polk County, whichever is later.

Passed: February 9, 1981.

TAXATION

AMUSEMENT TAX

PRIVATE ACTS OF 2001

CHAPTER 32

SECTION 1. Chapter 2 of the Private Acts of 1981, as amended by Chapter 196 of the Private Acts of 1984, Chapter 135 of the Private Acts of 1991, Chapter 44 of the Private Acts of 1997, and all other acts amendatory thereto, relative to the amusement tax in Polk County, authorizing Polk County to levy a privilege tax on certain amusements; providing for its collection and administration; providing penalties; and providing for the disposition of such tax.

WHEREAS, the vast majority of the land area in Polk County is included in the Cherokee National Forest; and

WHEREAS, two of Tennessee's rivers which attract whitewater canoeing and rafting enthusiasts flow through Polk County and the Cherokee National Forest; and

WHEREAS, an increasing number of whitewater canoeists and rafters are accepting the challenge of the Ocoee and Hiwassee rivers; and

WHEREAS, the influx of these enthusiasts has placed an increased burden on Polk County's local inhabitants to provide law enforcement, traffic control, and first-aid and ambulance services out of proportion to the needs of the local citizenry; and

WHEREAS, at least a portion of the expenses of this greater service burden should be borne by the tourists for whose use and protection the needed services are provided; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

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

(1) "Admission" means admission for an amusement for a consideration and shall apply on admission fees or charges, whether or not a ticket is actually issued, even if no specific amount is charged or if complimentary;

(2) "Amusement" means any ride, excursion, or float trip by canoe, raft, or similar floating device on a whitewater river provided by a person authorized, licensed or permitted by TVA and/or the U.S. Forest Service to conduct such amusement and which is not taxed by the state of Tennessee under the "Retailer's Sales Tax Act" in accordance with Tennessee Code Annotated, Sections 67-6-212 and 67-6-330;

(3) "Consideration" means the consideration charged whether or not received for an admission for an amusement 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;

(4) "Consumer" means any person who participates in the amusement other than guides and bona fide trainees of the operator;

(5) "Operator" means the person operating the amusement.

(6) "Person" means any individual, firm, partnership, joint venture, association, sociable club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other entity, or group or combination acting as a unit.

(7) "Upper Ocoee River" means that section of the Ocoee River between Ocoee Dam Three (3) and Ocoee Dam Two (2).

SECTION 2. The legislative body of Polk County is hereby authorized to levy a privilege tax upon the privilege of a consumer participating in an amusement. Such tax shall be imposed at the rate of two dollars fifty cents (\$2.50) per person participating in the amusement, exclusive of guides and bona fide trainees of the operator providing the amusement. Such tax so imposed is a privilege tax upon the consumer enjoying the amusement, and is to be collected and distributed as provided in this act. However, no privilege tax shall be levied upon consumers participating in amusements on the Upper Ocoee River until January 1, 2009.

As amended by: Private Acts of 2003, Chapter 44.

SECTION 3. Such tax shall may be added by each operator to any other consideration charged for admission for such amusement and may be collected by such operator from the consumer and remitted by such operator to the county trustee.

SECTION 4. The tax hereby levied shall be remitted to the county trustee not later than the twentieth (20th) day of each month next following the month in which the amusement service was delivered. The county trustee may promulgate reasonable rules and regulations for the enforcement and collection of such tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods.

In any month when no amusements are provided by an operator, such operator shall not be required to file any statement, report, or return with the county trustee, and no penalty or interest under the provisions of this act shall be imposed for failing to file such statement, report, or returns in any such month.

SECTION 5. Taxes due by an operator which are not remitted to the county trustee on or before the due dates as provided in this act are delinquent. When an operator fails to remit the tax due, or any portion thereof, required by this act on or before such due date, there shall be imposed a specific penalty, to be added to the amount of the tax which is delinquent, in the

amount of five percent (5%), if the failure is not more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days or fraction thereof, during which the failure continues, not to exceed twenty-five percent (25%) in the aggregate. Provided, however, where a return is delinquent at the time it is filed or becomes delinquent, the minimum penalty may be five dollars (\$5.00) regardless of the amount of tax due or whether there is any tax due. When an operator fails to remit such tax due, or any portion thereof on or before such due date, there shall be added to the amount due interest at the rate of twelve percent (12%) per annum from such date due until paid. Such interest and penalty shall become a part of the tax required to be remitted.

It is a violation of this act for an operator to willfully fail or refuse to collect or remit the tax imposed by this act. Such willful failure or refusal shall subject the operator to a fine not to exceed fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving an amusement taxable by this act when such operator willfully fails or refuses to collect or remit the tax payable to the county trustee.

SECTION 6. It shall be the duty of every operator to keep and preserve for a period of six (6) years all records necessary to determine the amount of the tax levied under the authority granted by this act, for which such operator may have been liable for remitting to the county trustee under the provisions of this act. The county trustee shall have the right to inspect such records at all reasonable times.

All statements, reports or returns of operators and all audits of their records and files made as authorized by this act are confidential; and it shall be unlawful for anyone to make known in any manner any information contained herein except as follows:

- (1) to the operator personally;
- (2) to an attorney or other agent duly authorized by the operator;
- (3) to the county executive;
- (4) to the county fiscal agent;
- (5) to the trustee of such county or the employees in the office of such trustee; or
- (6) in accordance with proper judicial order, or as otherwise required by law.

SECTION 7. In administering and enforcing the provisions of this act, the county trustee shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, Title 67, or otherwise provided by law. Such powers shall include, without limiting the foregoing, those powers of enforcement set forth in Tennessee Code Annotated, Sections 67-1-1405 and 67-4-716.

Upon any claim of illegal assessment and collection, the operator liable for collecting and remitting the tax shall have the remedy provided in Tennessee Code Annotated, Title 67, Chapter 1, Part 9, for recovery of erroneous tax payments, it being

the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this act; provided, the county trustee shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, with respect to the adjustment and settlement with such operators of all errors of taxes collected by him under the authority of this act and direct the refunding of the same. Notice of any tax paid under protest shall be paid to the county trustee, and suit for recovery shall be brought against him.

SECTION 8. The proceeds from the tax levied by this act shall be deposited in the general fund.

SECTION 9. The tax herein levied 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.

SECTION 10. If any provisions 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 provisions or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Polk County. Any amendment or modification of this tax as so approved by the legislative body of Polk County shall also require approval by a two-thirds (2/3) vote of the county legislative body of Polk County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State. Upon becoming effective hereunder the provisions of the amended and restated act shall apply to all covered amusement activities on and after the date this act is approved as herein provided. Nothing contained herein shall limit the effect of the existing act, as amended, to all covered activities prior to the date this act is so approved.

SECTION 12. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 11.

Passed: April 5, 2001.

## TAXATION

### ASSESSOR OF PROPERTY

The assessor of property is a constitutional officer provided for in article VII, section 1 of the Constitution of Tennessee to be elected by the qualified voters for a term of four years. For general law on the office of county assessor of property, see Tennessee Code Annotated title 67, chapter 1, part 5.

The salary of the assessor is set by the county legislative body in accordance with T.C.A. § 67-1-508 at an amount not less than the salary provided for the assessor by T.C.A. § 8-24-102. Also, T.C.A. § 67-1-508 provides that any assessor of property who has been trained and designated as a "Certified Assessment Evaluator" will be paid additional compensation by the state. Further, any assessor of property who has earned the title of "Tennessee Certified Assessor" or "Residential Evaluation Specialist" will be paid additional compensation by the state. The assessor is authorized by T.C.A. § 67-1-506 to appoint a deputy assessor for each 4,500 parcels of property over and above the first 4,500 parcels.

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

1. Private Acts of 1913, Chapter 256, set the salary of the Polk County Tax Assessor at \$1,500 per year.
2. Private Acts of 1921, Chapter 439 and 641, set the salary of the Tax Assessor at \$2,000 per annum. This salary is now regulated by Tennessee Code Annotated 67-1-508.

TAXATION

HOTEL/MOTEL TAX

PRIVATE ACTS OF 2005

CHAPTER 52

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

(a) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel "or other place of lodging" 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.

(b) "County" means Polk County, Tennessee.

(c) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any establishment covered under Tennessee Department of Revenue Code SIC Major Group 70, which includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodging, or accommodations, are furnished to transients for a consideration.

(d) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in any hotel.

(e) "Operator (sic) means the person operating the hotel whether as owner, lessee or otherwise, and shall include governmental entities.

(f) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(g) "Tax collection official" means the County Clerk of Polk County, or any other officer designated by the legislative body of Polk County.

(h) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

(i) "Chamber" means the Polk County-Cooper Basin Chamber of Commerce.

SECTION 2. The legislative body of Polk County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, in the amount of three percent (3%) of the rate charged by the operator.

SECTION 3. The proceeds received by the county from the tax shall be designated and used as follows:

(a) The county shall retain one-third (1/3) of the tax proceeds to be applied to the county debt service fund.

(b) The county shall provide two-thirds (2/3) of the tax proceeds to the Chamber for the purposes of promoting tourism, furthering economic development and providing the Chamber with operating capital in order to do the same.

The act shall be made effective on the first (1<sup>st</sup>) day of July, 2005 to coincide with the first date of the fiscal year. All reservations taken prior to the effective date of this act shall be deemed exempt from said taxation. Any reservations taken after the effective date of this act for July 1, 2005 or any period thereafter shall be subject to such taxation.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his or her hotel and be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to Polk County.

When a person has maintained occupancy for more than thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him or her, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

SECTION 5. 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 county clerk or other such officer as any be charged with the duty of collection thereof, said tax to be remitted to such officer not later than the twentieth (20<sup>th</sup>) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the county entitled to such tax shall be that of the operator.

SECTION 6. The clerk, or other authorized collector of the tax, shall be responsible for the collection of said tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the clerk by the operator with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the clerk and approved by the county legislative body prior to use. The clerk shall audit each operator in the

county at least once 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. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part hereof will be assumed or absorbed by the operator or that it will be added to the rent, or that if added, any part will be refunded.

SECTION 8. Taxes collected by an operator which are not remitted to the county clerk on or before the due dates shall be 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 in addition shall be liable for a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become part of the tax therein required to be remitted. 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 hereby declared to be a violation of this act and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00) for each occurrence. As used in this section "each occurrence" means each day.

SECTION 9. It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the county, which records the county clerk shall have the right to inspect at all reasonable times.

SECTION 10. The county clerk in administering and enforcing the provisions of this 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 shall have 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 under the authority of this act, provided further, the county clerk shall possess those powers and duties as provided in Tennessee Code Annotated § 67-1-707 for the county clerks.

With respect and adjustment and settlement with taxpayers, all errors of county taxes collected by the county clerk under the authority of this Act shall be refunded by the county clerk.

Notice of any tax paid under protest shall be given to the county clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 11. The proceeds of the tax authorization by this act shall be allocated to and placed in the General Fund of Polk County to be used for the purposes stated in Section 3 of this act.

SECTION 12. The privilege tax levied by this act shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes.

SECTION 13. 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 14. 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 15. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the county legislative body of Polk County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body of Polk County to the Secretary of State.

SECTION 16. 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 purposes, it shall become effective upon being approved as provided by Section 15.

Passed: May 4, 2005.

## TAXATION

Most of the general law on taxation can be found in title 67 of Tennessee Code Annotated. The chief revenue source for county government is the ad valorem tax on real and personal property. The statutes dealing with the county property tax, including assessment, levy, collection, and enforcement, are found in title 67, chapter 5. Assessments are reviewed by the county board of equalization, which is covered by title 67, chapter 5, part 14. Another large source of county revenue is the local option sales tax. The authority for the local option sales tax is codified at T.C.A. title 67, chapter 6, part 7. While the property tax may be levied by the county legislative body alone, the local sales tax must be approved by the qualified voters in a referendum. Other general law granting taxing authority for counties may be found in other sections of the code. These may be found through use of the combined general index to the Tennessee Code Annotated. In some areas private acts may be used for authority to levy a tax at the county level. The revenue sources available to county governments, and the authority for such taxes and fees either in general law or private acts, are summarized in the CTAS publication County Revenue Manual.

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

1. Private Acts of 1917, Chapter 673, authorized Polk County to contract for the maintenance of a Carnegie Library and to levy a special tax to meet payment of any annual fund requirements under that contract.
2. Private Acts of 1927, Chapter 227, exempted Polk County from the general assessment law.
3. Private Acts of 1955, Chapter 200, validated the 1953 tax levy of Polk County, to the extent that it exceeded the limitation fixed by Public Acts of 1931 (Ex. Sess.), Chapter 3.

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