



May 01, 2025

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# Lincoln

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Dear Reader:

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

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

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# Lincoln



Lincoln County Courthouse

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

**Updated By:** Elaine Turner, Paralegal, 2008

# Chapter I - Administration

## Budget System

### Private Acts of 1937 Chapter 320

**SECTION 1.** That it shall be the duty of the Lincoln County Board of Highway Commissioners on or before the first Monday in May of each year, to prepare and file with the County Court Clerk an itemized statement or budget of the funds which said Commission estimates to be necessary for the construction, maintenance, upkeep, and operation of the roads, bridges and county workhouse in Lincoln County, and expenses incident thereto, for the year commencing on the first day of September following the making of said report: The said budget shall show in detail and separate items the estimated amounts necessary for salaries and the office expenses, new equipment, maintenance or repair of old equipment, bridges, lumber, gravel, maintenance of the County Workhouse, Etc. The said budget shall likewise show in parallel columns the amounts expended the previous year for the respective purposes. That it shall likewise be the duty of the Lincoln Board of School Commissioners on or before the first Monday in May of each year to prepare and file with the County Court Clerk of Lincoln County an itemized statement or budget of the funds which said Board of Commissioners estimates to be necessary for the maintenance and operation of the schools in Lincoln County, and expenses thereto, for the year commencing on the first day of September following the making of said report: The said budget shall show in detail and in separate items the estimated amounts necessary for the office expenses and salaries of the County Superintendent of public instruction, salaries for the different county schools, the aggregate of the salaries for each individual school being shown, for the purchase of new equipment, for the maintenance and repair of old equipment and school buildings, janitor service, bus service, insurance and all other expenses of said department. The said budget shall likewise show in parallel columns the amounts expended the previous year for the respective purposes. That it shall likewise be the duty of the County Judge of Lincoln County on or before the first Monday in May of each year to prepare and file with the County Court Clerk of Lincoln County an itemized statement or budget of the funds which he estimates necessary to be expended from the general county fund during the year commencing on the first day of September following the making of his said report, for the payment of salaries, mothers pensions, maintenance of insane patients, jail bills, improvements and repairs of court house and jail, court costs, jail buildings, and Etc., and all expenses which are properly paid out of the general county fund. It shall also be the duty of the County Judge of Lincoln County at the same time to prepare and file with the Clerk a statement or budget showing the amounts that will be necessary to pay the various county bonds, together with interest thereon, which have been issued by the county which will mature or become due during the ensuing year. The budgets of the County Judge will likewise show in parallel columns the amounts expended the previous year for respective purposes. That it shall be the duty of all other County Agencies and parties nor herein above specifically mentioned, having authority to expend or expending county funds to file with said Clerk each year on or before the first Monday in May an itemized statement of the budget of the funds estimated to be necessary to be expended by said agencies or departments for the year commencing on the first day of September following: That it shall be the duty of the County Trustee on or before the first Monday in May of each year to prepare and file with the County Court Clerk an itemized statement or estimate of all funds, exclusive of the funds to be derived from the county on property, which he has reasonable grounds to believe will be paid into his office during the year commencing on the first of the following September, and which will be available for the purpose of defraying the expenses of the county government during said year: And said statement shall show the source of each fund and said Trustee shall likewise show in a parallel column the amount received for the same purposes from the same sources during the year ending on the preceding August 31, as near as may be practicable, and he shall likewise show in said statement the actual amount collected from the county tax on property during the year ending on the preceding August 31. It shall be the duty of the County Court Clerk to record the budgets herein referred to in a well bound book kept for that purpose and in a manner that shall make a permanent record of the same.

**SECTION 2.** That the present committee composed of Larry L. Groce, Donny Ogle, Howard Capshaw, Mary L. Conger, Hugh D. Dickey, Peggy G. Bevels, G. Stephen Graham and Esther Flemmings, or their successors should a vacancy occur prior to the November, 1989 term, shall continue to be and constitute the Budget Commission of Lincoln County Commissioners or Lincoln County, Tennessee or until their successors are appointed as hereinafter provided. It shall be the duty of the county legislative body of Lincoln County, Tennessee, at its November term 1989, and each odd year thereafter, to appoint a committee of eight (8) persons from the membership of the county legislative body who shall constitute the budget commission of Lincoln County and who shall serve for a term of two (2) years and until their

successors are duly elected and qualified. The county legislative body in appointing said committee shall appoint one (1) member from each of the eight (8) county legislative districts and said members so appointed shall receive compensation for every day actually required in the performance of their duties; and said commission shall certify to the county legislative body at the time it submits a budget as hereinafter provided for, the number of days said budget commission has been actually engaged in the performance of their duties. The budget commission shall elect one (1) of its members as chairman. Five (5) members of said commission shall constitute a quorum for the transaction of business. That the duties of the Secretary shall be to keep all records of the commission, including a complete record of the proceedings thereof, assist it in the compilation of the data necessary for the commission to prepare the budget herein provided for and to assist in the preparation of said budget, and he shall perform such other duties as shall be prescribed by said budget commission. That the Quarterly Court may in its discretion allow such compensation for the services of said Secretary as said Court may deem right and proper: That each year prior to the meeting of the July term of the Quarterly Court of Lincoln County, it shall be the duty of said budget commission to consider and examine the budgets referred to in Section One hereof and such other records and data as may be necessary, and to prepare on appropriate forms a complete itemized budget covering all of the proposed expenditures of every kind and description to be made by or on behalf of the county of the year beginning September 1, following. And in preparing said budget, said commission is not to be bound by the amounts fixed in the several budgets of the various departments of the county referred to in Section One hereof, but shall make such changes therein as in the opinion of said commission are to the best interest of the county. That immediately upon its organization, said budget commission shall cause to be prepared appropriate printed forms on which the budgets of the various departments of the county referred to in Section One hereof are to be submitted by said commission. That said forms shall be of such a nature as to enable said commission to submit to the Quarterly Court as hereinafter provided a complete itemized budget and financial statement of the county in simple intelligible form, to the end that the Quarterly Court shall have before it in said budget all the data necessary to enable it to intelligently determine the proper amount to be allowed the various departments of the county during the year for which the budget is proposed and the amount of revenue that will be available to pay the amounts so allowed. And in determining the nature and kind of said forms, said budget commission shall seek such expert advise in respect to this matter as will enable it to accomplish the desired end. That such budget, when prepared by said budget commission, shall be filed with the County Court Clerk and by him recorded along with the budgets prepared by the several departments of the county, as hereinabove provided for, in a well bound book and kept as a permanent record in the office of the County Court Clerk: And shall be submitted by the Chairman of the commission each year to the July term of the Quarterly Court of Lincoln County: and it shall be the duty of said court before fixing the tax rate for the current year to fully consider in open court said budget prepared by said budget commission. That said tax rate may be so fixed as to acquire sufficient revenue to provide funds to the amount as allotted by the budget commission to the various departments of the county government. No warrants drawn against county funds after September 1, 1937, shall be binding on the county unless the items or expense for which said warrant is issued shall have been included in a budget adopted by said budget commission as herein provided for: And no warrant shall be valid or binding on the county after the aggregate amount of warrants theretofore drawn during the fiscal year by or on behalf of any department of the county government, shall equal the amount allowed said department in the budget adopted for that year. That in preparing said budget herein provided for, it shall be the duty of said budget commission to take into consideration any unexpended balances that may remain at the end of the year to the credit of any department from the amount allowed such department for the previous year. That as nearly as may be practicable, said commission shall show in its budget the amount of actual expenditures of each department of the county government during the preceding year covering each item or head in the budget, said amounts for such previous year to be shown in a column parallel to that containing the amounts proposed for the ensuing year, so that when completed said budget will show not only the proposed expenditures for the ensuing year, but the actual expenditures under each head for the preceding year. That from the data and information herein required to be prepared and filed by the County Trustee and such other data as it may be necessary to examine, said budget commission shall likewise show in its budgets an itemized statement or estimate of all funds, exclusive of the funds derived from the county tax on property, which said commission has reasonable grounds to believe will be available during the year for the payment of the amount allowed in its said budget for said year, and it shall also show as nearly as may be practicable the amounts of revenue derived from the same sources during the preceding year, together with the amount actually collected from the county tax on property during such preceding year. That said budget commission shall, along with its budget, submit a recommendation to the Court with respect to the tax rate on property for the current year together with its estimate of the amount that will be actually collected during the year beginning on the first day of the following September from the tax so recommended. That at the same time and in the same report said budget commission shall submit to the Quarterly Court a full and complete statement of all outstanding

and unpaid warrants and the outstanding bonded indebtedness of the county, showing the amounts and maturities of all outstanding bonds, the purpose for which issued and any other information relative thereto which said commission shall deem pertinent. That along with its budget and report said commission shall submit to said court such other data, information and recommendations as it may deem advisable and necessary to enable the said Quarterly Court and the public to fully understand the financial condition of the county and the necessity for the amounts fixed in said budget and the tax rate on property recommended by said commission. That the Secretary of said commission shall mail a full and complete copy of the report and budget prepared by said commission to each member of the Quarterly Court at least ten days before the July term of said Court, and shall also cause said report and budget to be published twice in a newspaper published in Lincoln County, said publication to be at least ten days before each July term of said Court.

As amended by: Private Acts of 1939, Chapter 9  
Private Acts of 1943, Chapter 50  
Private Acts of 1981, Chapter 41  
Private Acts of 1989, Chapter 68

**SECTION 3.** That the budget as finally adopted by the budget commission, shall be submitted to the Quarterly Court at its July term each year and said budget shall be adopted by said Quarterly Court at the July term and said budget shall be spread on the minutes of said Court, and from and after September 1, 1937, no warrants shall be drawn against any funds of Lincoln County by any official of said county unless and until a budget has been adopted by said Quarterly Court as herein required: Provided that warrants may be issued prior to September 1, 1937, covering any obligation or indebtedness of said county actually incurred prior to said date.

**SECTION 4.** That it shall be the duty of each department of the county government that disburses public funds, including the Lincoln County Board of School Commissioners, Lincoln County Board of Highway Commissioners and the County Court Clerk, and County Judge in regard to the fund designated as the general county fund, to keep all such books and records as will enable them to fully and specifically comply with the provisions of this Act. Each of said departments and officials shall close the books kept by it or him as of the 31st day of August each year showing the balance to its or his credit, said balance to represent the difference between the amount allowed said department or fund in the budget for the year ending on that date and the aggregate amount of the warrants issued and chargeable against said amount allowed in said budget, regardless of whether said warrants have been paid or not: And it shall likewise be the duty of each of said departments and said officials to open its or his books on the first day of September of each year bringing forward and balance, if any, arrived at in the manner herein provided for, remaining to the credit of said department or fund from the previous year, to which shall be added the amount allowed said department or fund in the budget adopted by the Quarterly Court at its July term next preceding. That said books shall be kept in such a manner as to at all times show the amount allowed that department or fund in said budget adopted at the July term of the Quarterly Court and the amount of all warrants drawn and chargeable against said fund, regardless of whether said warrants have been paid or not, said warrants to be posted in said books as the same are issued. That on the first day of each September hereafter the amount allowed each department or disbursing agency of the county government or county fund in said budget shall also be placed at an appropriate place on the stubs in the several warrant books containing the warrants to be used by said department or county agency in drawing on county funds and said amount shall be added to any balance remaining from the previous year: And at the end of each day it shall be the duty of every official issuing warrants of any kind against any such funds to subtract the aggregate of the warrants issued that day from the previous balance thus arrived at shall be brought forward each day at an appropriate place on the stubs remaining in said warrant books: And at the end of each month it shall be the duty of every official drawing warrants against any fund of Lincoln County to reconcile the balance to the credit of the fund drawn against as shown by the books required to be kept by said official: Provided that for the year beginning the first day of September 1937, the books of each department shall be opened by placing to the credit of each department the amount allowed it in the budget adopted at the July term, 1937, of the Quarterly Court without regard to the number of warrants theretofore issued by said department or the head thereof which have not been paid: And said amount so allowed said department for the year beginning September 1, 1937, shall also be placed at an appropriate place on the stubs of the warrant book used by said department before any warrants are drawn or issued by said department after the beginning of said year, and thereafter the balance from day to day shall be arrived at and carried in said warrant stubs as herein provided for.

**SECTION 5.** That it shall be unlawful and a misdemeanor in office for any official or employee of Lincoln County to draw, sign, issue, deliver, or to authorize the drawing, signing, issuance or delivery of any warrant against any fund or said county, when the aggregate of the warrants theretofore issued or signed, whether the same have been paid by the Trustee or not, equals the amount allowed in the budget adopted by the Quarterly Court to that department or fund of the county against which said warrant would

otherwise be chargeable, plus the balance, if any, that may have been brought forward to the credit of such department or fund from the previous year, and it shall also be a misdemeanor in office for any official to sign or issue, or authorize the signing or issuance of a warrant or warrants against any county fund, in excess of the amount allowed said fund in the budget adopted by the Quarterly Court plus any balance remaining to the credit of such fund from the previous year. That it shall be the mandatory duty of every official drawing warrants against any county fund to keep advised and know before he signs, issues or delivers any warrant, whether or not the aggregate of the warrants theretofore issued against said fund out of which said warrant is payable equals the amount allowed said fund or department in the budget for that year plus any balance brought forward from the previous year, and it shall be the duty of said budget commission before submitting its annual report to the Quarterly Court to examine the books and records of each department of the county government for the purpose of ascertaining whether or not the warrants issued by or on behalf of any said departments during the year ending on the preceding August 31, have exceeded the amount allowed said departments in the budget adopted for that year, and said commission shall show in its report to be filed with its budget each year the departments, if any, that have issued warrants in excess of the amounts allowed such department in the budget for said year, and it shall be the mandatory duty of the Quarterly Court to certify the facts to the District Attorney General for presentation to the Grand Jury at the next term of the Circuit Court: And it shall be the duty of the District Attorney General to present the facts to the said Grand Jury to institute such other proceedings as may be necessary to give full effect to the provisions of this Act.

**SECTION 6.** That it shall be a misdemeanor in office for any county officer or agent or employee, including the members of the Lincoln County Board of Highway Commissioners. The members of the Lincoln County Board of School Commissioners, the County Superintendent of Education, the County Judge and the County Court Clerk, to violate any provision of this Act or to fail or refuse to do so or perform any of the duties placed upon them or any of them by this Act, and any such officer or officers failing to perform the duties imposed by this Act shall be subject to a fine of \$500.00, and be subject to removal from office, in any appropriate legal proceeding brought for that purpose.

**SECTION 7.** That all laws or parts of laws in conflict with this Act be, and the same are hereby repealed.

**SECTION 8.** That this Act shall take effect from and after its passage, the public welfare requiring it.

PASSED: February 26, 1937.

## Private Acts of 1937 Chapter 48

**SECTION 1.** As follows:

(a) The term "County Judge or Chairman," when used in this Act, shall mean the County Judge or Chairman for Lincoln County.

(b) The term "County Court Clerk," when used in this Act, shall mean the County Court Clerk of Lincoln County.

(c) The term "Sheriff," when used in this Act, shall mean the Sheriff of Lincoln County.

(d) The term "Trustee," when used in this Act, shall mean the Trustee of Lincoln County.

(e) The term "Circuit Court Clerk," when used in this Act, shall mean the Circuit Court Clerk of Lincoln County.

(f) The term "Register of Deeds," when used in this Act, shall mean the Register of Deeds of Lincoln County.

(g) The term "Highway Commissioner" when used in this Act, shall mean the Commissioner of Highways in Lincoln County.

(h) The term "Tax Assessor," when used in this Act, shall mean the Tax Assessor of Lincoln County.

(i) The term "Commissioner," when used in this Act, shall mean any superintendent, or person or persons appointed and/or elected by the people or by the County Court over any department or institution for Lincoln County.

(j) The term "Quarterly County Court," when used in this Act, shall mean any Justice of the Peace that is a member of the County Court of Lincoln County.

(k) The term "County Superintendent," when used in this Act, shall mean the County Superintendent of Schools for Lincoln County.

(l) The term "School Commissioners," when used in this Act, shall mean the members of the school

board of Lincoln County.

(m) The term "Budget," when used in this Act, shall mean the appropriation of money appropriated by the County Court for each department or activity of Lincoln County for the period shown by the adoption of the budget by the Quarterly County Court, and/or any appropriation authorized by statute.

(n) The term "Official of the County," when used in this Act, shall mean any official authorized by the Quarterly County Court and/or the Statutes of the State of Tennessee to draw from the County Treasury and expend money of Lincoln County.

**SECTION 2.** That in all counties of the State of Tennessee having a population of not less than 25,400, nor more than 24,450, according to the Federal Census of 1930, or any subsequent Federal census it shall be unlawful for any official of Lincoln County, enumerated in this Act, who has the power, right and authority to contract for and/or purchase any materials goods or supplies for his or her department of county government, and/or to contract for, or purchase any materials, supplies, or employ labor or services by contract or on a quantum meruit basis in excess of the amount of money appropriated by the Quarterly County Court, out of the County Treasury, as shown by the County budget adopted, and covering his or her department of the county government, for that certain period of time. That the Board of School Commissioners may, in their discretion issue warrants and perform all other duties as such school board not to exceed the amount set out to them by the Budget Committee, the Board of School Commissioners shall and will have discretionary power to issue warrants or perform all other obligations necessary to the operation of the schools in counties of Tennessee of not less than 25,400 or more than 25,540.

**SECTION 3.** That any official of Lincoln County who has the power, right and authority to expend county funds for county purposes from the treasury of the county, and/or funds coming into the county treasury from the State treasury for county purposes, in excess of the monies or funds then and there actually in the treasury of the county, to the credit of his or her department of county government, and/or in excess of the budget adopted by the Quarterly County Court of Lincoln County covering that certain period of time as shown by the budget, such county official, making any over-drafts on the County treasury for his or her department of county government, shall be personally liable, together with his or her sureties on his or her official bond, to Lincoln County for such overdrafts, and the county shall have a cause of action of debt to recover from such official or officials and their bondsmen the amount of the overdrafts with interest from date.

**SECTION 4.** That each county official enumerated in this Act is hereby placed on actual notice and charged with the duties of knowing at all times of the amount or sums of money appropriated by the Quarterly County Court in the county budget for his or her department, and/or money coming to any department to be expended for county government under State laws for county purposes as the status of the fund in dollars and cents that may be expended for his or her department, and the amount that has been drawn from said fund and the balance subject to be drawn, so that each county official may know when he or she may lawfully draw or not draw warrants on the county treasury under the terms and provisions of this Act.

**SECTION 5.** That every county official who violates or fails to comply with, or who procures, aide or abets in the violation of any provision of this Act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$500.00, or by imprisonment for a period not exceeding one year, or both, in the discretion of the Court, provided, further that any county official who is convicted under this Act shall be subject to removal from office under the ouster laws of the State of Tennessee, and it shall be the duties of the District Attorney General prosecuting on behalf of the State of Tennessee to institute ouster proceedings against such official and prosecute the case to a final termination.

**SECTION 6.** That the holding of any section or part thereof, or any sub-section, sentence, clause or phrase of this Act, to be void or ineffective for any cause, shall not affect any other section or part thereof of this Act. It is hereby declared, and shall be conclusively presumed, that this Act and each section, subsection, sentence, clause and phrase thereof would have been passed and enacted, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof be declared unconstitutional or void or ineffective for any cause.

**SECTION 7.** That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

**SECTION 8.** That this Act take effect from and after its passage, the public welfare requiring it.

PASSED: January 20, 1937.

## County Attorney

### Private Acts of 1969 Chapter 55

**SECTION 1.** That there is hereby created and established the office of County Attorney for Lincoln County, Tennessee.

**SECTION 2.** That such County Attorney shall be at least twenty-one years (21) of age, a resident and citizen of Lincoln County, Tennessee, and licensed to practice law in all of the Courts of this State.

**SECTION 3.** That the regular term of the office of County Attorney shall be for two years from and after his or her appointment or election by the Quarterly County Court of said County, and the filling of any vacancy in such office shall be by said Quarterly County Court for a period of two years thereafter.

**SECTION 4.** The compensation of the County Attorney shall be a monthly salary in an amount to be fixed from time to time by the county legislative body. In addition to the monthly salary, the County Attorney may also be compensated in an amount to be fixed by the county legislative body for travel and office expense and for matters involving or concerning bond issues, litigated cases or other matters requiring a significant amount of time.

As amended by: Private Acts of 1993, Chapter 9.

**SECTION 5.** That it shall be the function and duty of the County Attorney to render all legal services to said County and/or any of its officials, departments, offices, branches and boards, and to prosecute and defend all suits instituted by or against said County or any of its departments, branches or boards affecting the public revenues of said County or the conduct of the business of the County.

**SECTION 6.** That no official, agent, department, branch or board of said County shall employ other attorneys to be paid out of the public revenues of said County without the approval of the Quarterly County Court of said County in advance of such employment.

**SECTION 7.** That the County Attorney shall take and subscribe to an oath to well and faithfully perform the duties of such office, to the best of his ability and to support the Constitutions of the United States and the State of Tennessee.

**SECTION 8.** That this Act shall have no effect unless the same shall be submitted to the Quarterly County Court of Lincoln County, Tennessee, and approved by a two-thirds vote of said Quarterly County Court. Its approval or non-approval shall be proclaimed by the Presiding Officer of the Quarterly County Court and shall be certified by him to the Secretary of State of Tennessee.

**SECTION 9.** That this Act shall take effect from and after its passage, the public welfare requiring it.

PASSED: April 8, 1969.

## County Funds

### Private Acts of 1937 Chapter 792

**COMPILER'S NOTE:** See Tennessee Code Annotated Section 11-22-101 for the general law on using county funds to build lakes.

WHEREAS, There has been a measure presented to the General Assembly for passage, enabling the County court to take from the general funds of the counties of the State, at their discretion, funds for the building of lakes:

**SECTION 1.** That it shall be unlawful for the County Court of Lincoln County to take any funds from any source, belonging to the county, without a referendum vote of the people, for the purpose of building any lakes or for any other purposes not specified by law.

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

PASSED: May 20, 1937.

## County Legislative Body

### Private Acts of 1911 Chapter 298

**SECTION 1.** That the several Counties of this State having a population of not more than 25,909 nor less

than 25, 809, by the Federal Census, are hereby authorized, acting by and through their County Courts at regular quarterly terms, to borrow money, and to order execution of note or notes therefor, for the purpose of liquidation, settling and adjusting any outstanding and impaired indebtedness that may be hereafter created, provided, such County however, shall not at any time execute, under the provisions of this Act, or have outstanding and unpaid its note or notes for borrowed money for a greater sum than Fifty Thousand (\$50,000.00) Dollars.

As amended by: Private Acts of 1921, Chapter 900.

**SECTION 2.** That the amount authorized to be borrowed by any such court under the provisions of this Act, shall be set out in an entry on its minutes stating the length of time for which the same is to be borrowed and the rate of interest the same is to bear, such rate of interest, however, not to exceed six per cent per annum.

**SECTION 3.** That such note or notes may be executed in the name of the county, the same to be signed by the Judge or Chairman of the County Court, and attested by the clerk of the court under the seal of the court.

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

PASSED: April 5, 1911.

## County Mayor

### Private Acts of 2008 Chapter 67

**SECTION 1.** Chapter 79 of the Private Acts of 2006 is repealed.

**SECTION 2.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Lincoln County. Its approval or nonapproval 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 21, 2008.

## Electric System

### Private Acts of 1941 Chapter 440

**SECTION 1.** That any rural electric membership corporations or any rural electric membership cooperatives heretofore chartered and organized and doing business in Counties having a population of not less than 27,200, nor more than 27,250, according to the Federal Census of 1940, or any subsequent Federal Census, be, and the same are, hereby authorized, permitted and vested with the exclusive right, privilege and franchise of serving, transmitting, distributing, selling and supplying with electric energy and power all territories located within said Counties outside of any incorporated City or Town now being served by other electric membership corporations, cooperatives, or local City electric distribution systems.

**SECTION 2.** That said rural electric membership corporations, or cooperatives, now operating or doing business in said Counties coming under the provisions of this Act, shall have the exclusive right, privilege and franchise to promote, extend, construct, maintain and operate electric transmissions and distribution lines, along, upon, under and across all public thoroughfares, including without limitation all roads, highways, alleys and causeways, and upon, under and across all public owned lands located in said territories outside of any City, Town and Municipal corporation now being served by some other electric membership cooperative or City distribution system; provided, however, that the respective authorities having jurisdiction thereof shall consent thereto.

**SECTION 3.** That any said rural electric membership corporation, cooperative or City electric distribution system now operating in said territory coming under the provisions of this Act is hereby permitted by mutual agreement in writing to permit any other City electric distribution system, rural electric membership corporation or cooperative to encroach upon said territories herein described coming within the provision of this Act and by said mutual agreement in writing permit said other rural electric membership corporation, cooperative, or City electric distribution system to construct electric lines and to serve with electric energy or power any person, firm or corporation located within said territories so

described herein and coming within the provisions of this Act.

**SECTION 4.** That should any section, paragraph, clause, phrase or word of this Act be held unconstitutional, the same shall not affect the constitutionality of any portion of this Act other than the part so held to be unconstitutional.

**SECTION 5.** That all laws, or parts of laws, in conflict with this Act, be, and the same are, hereby repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

PASSED: February 15, 1941.

## Private Acts of 1963 Chapter 8

**SECTION 1.** That it is hereby found and declared that the public interest will be served by the consolidation of the electric distribution system of the City of Fayetteville (hereinafter referred to as "Municipality"), which serves within its corporate limits, with the electric system of the Lincoln County Electric Membership Corporation (hereinafter referred to as "Cooperative"), which serves outside the corporate limits of the Municipality. Accordingly, Municipality, acting by and through its Board of Public Utilities, is hereby expressly authorized to make such arrangements with the Cooperative and any other interested public or private agencies or entities for such consolidation and to stipulate and agree to such covenants, terms and conditions in connection therewith as it may deem appropriate to effect such consolidation, subject, however, to the provisions hereof. Any such arrangements, covenants, terms and conditions heretofore agreed to by Municipality not inconsistent with the provisions hereof or with the Constitution of the State of Tennessee are hereby expressly validated.

**SECTION 2.** That any such consolidation of the aforesaid electric systems shall be effected by the transfer to Municipality of all of the Cooperative's property, assets, liabilities, and obligations of every kind and description in accordance with applicable laws and under voluntary arrangements heretofore or hereafter made among the Cooperative, Municipality and any other interested parties; and that, from and after the effective date of any such transfer, such consolidated electric system shall be owned by the Municipality and shall be known as the "Fayetteville Electric System."

As amended by: Private Acts of 1970, Chapter 300

**SECTION 3.** That the Mayor and Alderman of the Municipality shall create and establish a Board of Public Utilities to supervise and control the management and operation of the consolidated system, which Board shall have all the rights, powers, privileges, duties, and responsibilities with respect to the consolidated system as a Board of Public Utilities has under T.C.A. 6-1501 through 6-1537, as amended, with respect to the electric system under its control and supervision.

**SECTION 4.** That such Board shall consist of seven members appointed by the Mayor of said Municipality and approved by its Board of Aldermen. Two of the appointees shall be residents of Municipality, qualified as provided in T.C.A. 6-1507 et seq. as amended. Four of the appointees shall own property and reside outside the corporate limits of Municipality, shall be electric consumers of the consolidated electric system and otherwise shall be qualified as provided in the aforesaid T.C.A. 6-1507 et seq. as amended. The initial terms of these initial six appointees shall be as follows: Two shall serve for one year; two shall serve for two years; and two shall serve for three years. Succeeding appointees shall serve three year terms. Any appointee may be appointed to successive terms. The seventh member of the Board shall be an alderman of Municipality, whose term of office shall be fixed by the Mayor, but shall not extend beyond his term as alderman.

**SECTION 5.** That except as otherwise provided herein, Municipality shall have all the rights, powers, and responsibilities with respect to the ownership, management, and operation of the aforesaid consolidated system as Municipalities generally have in the State of Tennessee under its general statutes applicable to municipalities, such as T.C.A. 6-1501 through 6-1537, as amended, and T.C.A. 6-1301 through 6-1318 as amended, including the power to assume the indebtedness of the Cooperative to the United States of America and to secure the same, and such other indebtedness to the United States of America as may be incurred for the acquisition, development and expansion of the consolidated system by pledge of any or all of the revenues of the said consolidated system and by mortgage of any or all of the properties included in the said consolidated system.

**SECTION 6.** That nothing herein contained shall be construed as a restriction or limitation upon any authority, power, or right which Municipality may have in the absence hereof; and that this Act shall be construed as cumulative and shall be in addition and supplemental to any power, authority, or right, conferred by any other law.

**SECTION 7.** That this Act is remedial in nature and any power, authority, or right hereby conferred shall be liberally construed, and to this end Municipality shall have the power, authority and right, in addition to those expressly conferred hereby, to do all things necessary or convenient in carrying out the purposes

hereof.

**SECTION 8.** That the Legislature expressly declares that each section, subsection, paragraph, and provision of this Act is severable, and that should any portion of the Act be held unconstitutional or invalid, the same shall not affect the remainder of this Act, but such unconstitutional or invalid portion shall be elided, and the Legislature declared that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 9.** That all laws or parts of laws in conflict herewith be, and the same are repealed.

**SECTION 10.** That this Act shall have no effect unless the same shall have been approved by two-thirds vote of the legislative body of any municipality to which it may apply on or before the next regular meeting of such legislative body of such municipality occurring more than thirty days after its approval by the Chief Executive of this State, or after its otherwise effective date. Its approval or nonapproval shall be proclaimed by the presiding officer of the body having jurisdiction to approve, and shall be certified by him to the Secretary of State.

**SECTION 11.** That this Act shall be effective from and after its passage, the public welfare requiring it, but the provisions thereof shall not become operative until validated as provided in Section 10 herein.

PASSED: January 23, 1963.

## Public Depositories

### Private Acts of 1933 Chapter 824

**SECTION 1.** That any bank in all counties having a population of not less than 25,415 nor more than 25,430, according to the Federal Census, may become a public depository of money of the county by entering into bond with security approved by the County Judge, the Trustee and the County Finance Committee, which bond shall be payable to counties coming within the provisions of this Act. The said bonds shall be in a sum sufficient to protect the funds deposited therein by the said county regardless of the amount that may be deposited from time to time, but in no event shall the amount of the deposits exceed the combined amount of the capital stock and surplus of said bank, and said bond shall be for the safe keeping and paying over of all county money or public funds received by such bank, and for the payment of interest at the rate of six per cent (6%) per annum only in case of default and for reasonable attorney's fees in case it shall become necessary, and in judgement of said officials to proceed at law against the bond.

**SECTION 2.** That the sureties on said bond shall be a good and solvent surety company, authorized to do business in the State of Tennessee, and/or by personal sureties. In case of personal sureties they shall each be jointly and severally liable on said bonds and in case any surety designates the full amount for which he shall be liable on said bonds his liability shall be limited to said amount. Before accepting any bond with personal surety, the County Judge shall require each surety to file with him a financial statement and /or an affidavit showing that he is worth over and above all liabilities and exemptions a sum equal to the amount for which he is liable on said bond. The false swearing to either the sworn statement or the affidavit shall constitute perjury and the violation thereof shall be prosecuted as such.

Said bonds shall continue in full force and effect from the date of its approval as hereinbefore provided until the full liability is satisfied, provided, however, that any surety may be relieved from future liability by giving ten days written notice to the County Judge, which notice may be established by the written acknowledgement of said County Judge by the Sheriff of the County.

**SECTION 3.** That all laws and parts of laws in conflict with this Act be and the same are hereby repealed, and that this Act take effect from and after its passage, the Public Welfare requiring it.

PASSED: April 19, 1933.

## Purchasing Agent

### Private Acts of 1943 Chapter 285

**SECTION 1.** That the Quarterly County Court of Lincoln County, in its discretion, is hereby authorized to employ and select a purchasing agent for said County. Said Quarterly County Court shall have the authority to prescribe the duties, fix the compensation, determine the amount of the official bond, and to prescribe for what departments of the county government said purchasing agent shall make purchases. The Quarterly County Court shall have the authority to require that all purchases of all departments of the county government, including the County Board of Education and the County Highway Department, as

well as all other county agencies and offices, be made through the county purchasing agent, or, in its discretion, said Quarterly County Court shall be authorized to require purchases to be made by the county purchasing agent for only a part of the agencies and offices of said County to be designated by said Quarterly County Court.

Said Quarterly County Court of Lincoln County is further authorized and empowered to require all purchases in excess of an amount fixed by said Court to be made by sealed bids, after proper advertisement, and to prescribe the rules and regulations with reference thereto.

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

PASSED: February 2, 1943.

## Sale of Crushed Rock

### Private Acts of 1961 Chapter 130

**SECTION 1.** That each county of this State having a population of not less than 23,800 nor more than 23,900, according to the Federal Census of 1960 or any subsequent Federal Census, is hereby authorized to negotiate contracts with other counties and with municipalities and with the Federal and State Governments and with private industry for the sale of crushed rock.

**SECTION 2.** That this Act shall have no effect unless the same shall have been approved by twothirds 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 presiding officer of the body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

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

PASSED: February 21, 1961.

## Savings Fund

### Private Acts of 1939 Chapter 240

**COMPILER'S NOTE:** Section 6 of Private Acts of 1949, Chapter 270 states that the provisions of the act supersede any provisions that conflict with provisions of Chapter 240, Private Acts of 1939.

**SECTION 1.** That the Quarterly County Court of Lincoln County is hereby authorized to create and establish a fund in said County to be known as the "Lincoln County Savings Fund" and said Court is further authorized from time to time to increase the capital amount of this fund from the dormant funds of said County and all other ways and means as may be desired by said Quarterly County Court. That the capital amount of the Savings Funds is now the sum of \$192,314.92 and the same may be increased up to where the capital amount shall reach the sum of \$200,000.00.

**SECTION 2.** That the Quarterly County Court of Lincoln County is hereby authorized and directed at its April Term, 1939, to establish in said County a Committee to be known as the "Lincoln County Savings Fund Committee" which shall consist of seven (7) members, one of these to be the County Judge of said County during his term as such, one to be the County Court Clerk of said County during his term of office as Clerk, and the other five to be selected and appointed by the County Court from members of its body to serve until September 1, 1940, or until their successors are appointed. That said Committee shall, under the direction of said Court, have complete charge of the fund hereinbefore provided for and created and shall make all disbursements of the interest accruals therefrom, as directed by the County Court upon proper resolution. That the Committee shall be required to make a report of the receipts and disbursements of the Lincoln County Savings Fund to the Quarterly County Court at each of its regular terms and as often as the said Court may direct, which report shall be spread upon its Minutes when adopted.

**SECTION 3.** That the Quarterly County Court of Lincoln County is hereby authorized and directed at its October Term, 1940, to select and appoint five members of said "Lincoln County Savings Fund Committee," all of whom may be, but at least three of whom shall be, from its body; and who shall serve two years or until their successors are appointed. In the event of the death or inability to act or serve of any or either of the members so appointed, the Quarterly County Court shall have the right and are hereby authorized and directed to appoint the successor of such member or members at any regular term of said Court, to serve the unexpired term of said member or members.

**SECTION 4.** That the Quarterly County Court of said County is hereby divested of all right to expend, impound or otherwise intrude upon the capital amount of said fund or any part thereof at any time. But that said County Court shall have full authority, by proper resolution, to expend and/or impound the interest accruals for the capital amount of said Savings Fund, and any surplus from said capital amount, should there be such surplus fund, all of which may be used and expended in and at the discretion of said Court.

**SECTION 5.** That the capital amount of the Lincoln County Savings Fund and the interest accruals therefrom and thereof is hereby exempt from payment of any taxes whatsoever on this fund.

**SECTION 6.** That the Lincoln County Savings Fund Committee is hereby authorized and directed to pay from the interest accruals of said fund the outstanding Lincoln County Hospital Bonds together with the interest thereon accrued and to accrue, the Lincoln County Jail and Sheriff's Residence Warrants, and the Petersburg, Blanche, and Bonneshill School Warrants as heretofore issued and to be issued, together with all interest thereon accrued and to accrue, all as in accordance with prior instructions of said County Court, as they have heretofore been authorized and directed so to do by resolution spread upon the Minutes of said Court, all of which is hereby especially ratified, approved and confirmed.

**SECTION 7.** That this Act shall take effect from and after its passage, the public welfare requiring it.

PASSED: February 16, 1939.

## Private Acts of 1949 Chapter 270

**SECTION 1.** That Lincoln County, acting by resolution of its Quarterly County Court, is hereby authorized to borrow up to, but not exceeding the principal sum of \$204,000 on interest-bearing obligations or evidence of indebtedness of said county for the purpose of providing funds to said county for the purpose of providing funds to pay the contribution of the county toward the construction and furnishing of a hospital to be built in Lincoln County. The Quarterly County Court of said county may by resolution direct either the issuance of shortterm bonds, warrants or notes bearing interest at not to exceed 2 1/2% per annum, interest payable semiannually. Said evidences of indebtedness shall be in such form and denominations as the Quarterly County Court shall direct and shall be executed in the name of the county by the County Judge and the County Court and shall mature, not to exceed, as follows:

\$8,000.00 on November 1, 1953,  
 \$7,000.00 on April 1, 1954,  
 \$93,000.00 on July 1, 1954,  
 \$85,000.00 on April 1, 1955,  
 \$8,000.00 on July 1, 1955,  
 \$3,000.00 on December 1, 1955,

as provided in said evidence of debt.

The notes, bonds, or warrants, representing the aforesaid amount, shall be sold either at public or private sale by the County Judge and County Court Clerk and shall be executed by them as above provided; and when said obligations are fully paid this Act shall have no further effect.

**SECTION 2.** That when aforesaid obligations are issued and sold they shall by direct obligations of the county for the payment of which well and truly to be made according to the tenor and effect thereof the full faith and credit as well as the taxing power of the county shall be irrevocably pledged; and if it becomes necessary, the Quarterly County Court of the county shall levy and provide for the collection of a tax over and above all other taxes authorized or limited by law sufficient to pay said obligations with interest thereon as provided therein.

**SECTION 3.** That since Lincoln County has what is known as the "Lincoln County Savings Fund" in the form of investment in United States Bonds, as provided by Chapter 240, Private Acts of 1939, sufficient to pay the hospital obligations authorized by this Act, the Quarterly County Court of Lincoln County is hereby authorized by proper resolution to appropriate the said "Lincoln County Savings Fund" or so much thereof as may be necessary, so as to direct its application to the retirement of the hospital obligations authorized by this Act, it being the purpose of this Act to authorize the Quarterly County Court to use said Savings Fund to retire the obligations authorized herein so as to avoid the necessity, if possible, of levying and providing for the collection of an additional tax to provide for the contribution of the county to the erection and furnishing of the hospital.

**SECTION 4.** That the Quarterly County Court of Lincoln County is hereby authorized to designate a committee composed of not to exceed five members, to serve without pay, to co-operate with the proper

authorities in the construction of said hospital and furnishing of same, said committee being clothed with full power and authority to employ architects to prepare plans and to contract for the hospital's construction and furnishing, all of which shall be done in cooperation with the Federal Government and the Department of Health of the State of Tennessee to the end that proper hospital facilities may be afforded the county.

**SECTION 5.** That if, due to unforeseen circumstances, there shall be any unexpended balance of the funds herein authorized to be borrowed, the same shall be subject to appropriation by the County Court to any of the purposes for which the County Court is presently authorized to appropriate money.

**SECTION 6.** That insofar as any provision of Chapter 240, Private Acts of 1939, is in conflict with this Act, the provisions of this Act shall control and shall supersede any conflicting provisions of Chapter 240, Private Acts of 1939.

**SECTION 7.** That the provisions of this Act are hereby declared to be severable. If any of its provisions be held unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent that this Act would have been adopted even if such unconstitutional matter had not been included therein.

**SECTION 8.** That this Act shall take effect from and after its passage, the public welfare requiring it.

PASSED: February 25, 1949.

## Administration - Historical Notes

### **Budget System**

The following acts once created a budgeting system for Lincoln County, but they have been specifically repealed or superseded by current law. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1939, Chapter 9, amended Private Acts of 1937, by removing a portion of Section 2, and adding new provisions which raised the membership of the Budget Commission to be appointed by the Quarterly County Court from three to seven members, by removing all of their compensation, and by establishing four as the number of a quorum to transact the business of the Commission. For all apparent purposes, this Act was superseded by the one below which has been incorporated into the published Act.
2. Private Acts of 1943, Chapter 50, amended Private Acts of 1937, Chapter 320, by deleting the sentences inserted in Section 2 by Chapter 9, above, and replacing it so that the seven members would receive \$5.00 per day for each actual day of service.
3. Private Acts of 1981, Chapter 41, which was approved by the Lincoln County Legislative Body on April 20, 1981, amended Private Acts of 1937, Chapter 320, by rewriting the second, third, fourth, and fifth sentences of action as they now appear, and by specifically repealing Private Acts of 1939, Chapter 9, and Private Acts of 1943, Chapter 50, both above, in their entirety.
4. Private Acts of 1988, Chapter 198 amended Private Acts of 1937, Chapter 320 by instructing that the first sentence in Section 2 be deleted and a list of names of individuals who made up the Budget Commission of Lincoln County in 1988 be inserted. No action, however, was taken on this amendment. Private Acts of 1989, Chapter 68 restates the 1988 Private Act verbatim and was subsequently approved. The changes to the 1937 act intended by the 1988 act and made by the 1989 act are included in this compilation.

### **County Clerk**

The following acts once affected the office of county clerk in Lincoln County. They are included herein for historical purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1919, Chapter 121, declared that women over the age of 21, and residents of the counties appointing them, and otherwise qualified, are eligible in Lincoln County to be appointed as Deputy County Court Clerks with all the rights, powers, obligations, and liabilities as any other Deputy County Court Clerk.
2. Private Acts of 1933, Chapter 760, amended Section 10726, Code of Tennessee, by creating a Class 3-B in the population groupings of county officials, and fixing salaries in that group which related to Lincoln County. The annual salary of the County Court Clerk was set at \$2500. The mere seeking of the office was sufficient to constitute an acceptance of that amount as the salary.
3. Private Acts of 1937, Chapter 254, established salaries for a group of County Officials in Lincoln County, among whom was the County Court Clerk at \$3,000 per year. The officials must keep

account of the total amount of fees collected in their offices and make quarterly reports to the County Judge, or Chairman. If the fees were less than the salary the County must supply the difference, but, if the fees exceeded the salary, the excess became the property of the County.

4. Private Acts of 1939, Chapter 5, stated that the compensation of the County officers whose salaries were specified in Section 10727 Code of Tennessee, shall be regulated and controlled in Lincoln County by the State law rather than by a private, or special, act.

### **County Legislative Body**

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

1. Acts of 1809, Chapter 48, provided in the creation of Lincoln County that the Court of Pleas and Quarter Sessions would be held on the fourth Monday in February, May, August, and November at the home of Brice M. Garner, until a better place is found to which the court would adjourn.
2. Acts of 1809, Chapter 93, set the schedules for the meetings of the Quarterly County Courts in every county of the State. Lincoln County's Quarterly County Court was scheduled to meet on the fourth Monday of February, May, August, and November.
3. Acts of 1813, Chapter 16, provided that the Commissioners of the town which were appointed to lay out and regulate Fayetteville also have the power to pass and enforce ordinances which they may deem essential thereto, and if the Sheriff of Lincoln County should neglect to hold elections as provided by law on the first Saturday in January of each year, the Court may direct that the elections be held on the second Saturday in January instead.
4. Private Acts of 1813, Chapter 134, changed the court terms for the Courts of Pleas and Quarter Sessions for several counties including Lincoln whose Court would meet on the first Monday of February, May, August, and November.
5. Private Acts of 1817, Chapter 138, set the terms for the Quarterly Court of Lincoln County to begin on the third Monday in January, April, July, and October, court to stay in session for two weeks if necessary.
6. Acts of 1825, Chapter 9, set the time for holding the Quarterly County Court of Lincoln County on the first Monday in January, April, July, and October.
7. Acts of 1826, Chapter 7, reset the opening dates for the terms off the Quarterly Court in Lincoln County on the third Monday in January, April, July, and October providing further, that all process be made to conform with those dates.
8. Acts of 1829, Chapter 102, stated that the Justices of the Quarterly Court of Lincoln County, nine, or a majority being present, if they think it expedient, at their first court in January of each year may select by ballot three of their own number to hold the said quorum courts for that year, who would have the same powers and be under the same rules and regulations as are the other Quorum Courts of the State.
9. Acts of 1835-36, Chapter 6, created in every County of the State a county court to meet on the first Monday of every month and to continue in session until the business of the Court is completed. Three Justices of the Peace may be a court to hear the probate of Wills and related matters. There would be no jury trials in the court, but the court would select 25 jurors, one from each Civil District of the County if there were that many districts, or they may select 37 jurors, whichever might suit the County better. The Jurors would be paid \$1.00 per day and a tax could be levied to provide the money with which to pay them.
10. Private Acts of 1843-44, Chapter 180, provided that the qualified voters of the Tenth Civil District in Lincoln County may elect an additional Justice of the Peace who shall reside in the town of Petersburg and who shall be commissioned in the same manner and to the same extent as are other Justices of the Peace.
11. Private Acts of 1853-54, Chapter 93, provided that the qualified voters of the First Civil District, including the town of Lynchburg, in Lincoln County, shall, after the passage of this Act, elect three Justices of the Peace for that District, which election shall be in accordance with the law governing elections.
12. Private Acts of 1923, Chapter 100, declared that all the proceedings of the Quarterly County Court of Lincoln County in regular, or special, session shall be published once in all newspapers in the county having over 500 circulations, same to include a statement of the financial condition of the county. The purpose was to help the people informed of the public business. The County Court Clerk would furnish the copy to be published at least 15 days ahead of time, and the rate to be

- paid him for the service would not exceed ten cents per 100 words, and the rate for newspapers would not be more than forty cents per inch of column copy.
13. Private Acts of 1933, Chapter 819, authorized the Quarterly County Court of Lincoln County in its discretion to supplement the salary of county officers when compensation is specified in Section 10- 727, Code of Tennessee, but the supplement shall not bring the salary of the officer to a higher amount than that specified as the maximum in the Code. The purpose of this Act is to supplement the compensation of those named officials only when the fees of the office are not sufficient to earn the salary stated in the general law. The provisions of this Act have been superseded by Tennessee Code Annotated Section 8-24-107.
  14. Private Acts of 1937, Chapter 114, stated that in Lincoln County, identified by the use of the 1930 Federal Census figures, the Justices of the Peace were required to file with the County Judge and the Trustee within five days prior to the regular meeting of the Quarterly County Court, a written, itemized, sworn report of all fines, forfeitures, and other revenues collected by them during the preceding quarter, regardless of whether they had collected anything or not. Failure to do so could result in fines from \$10.090 to \$50.00 plus an additional \$5.00 penalty paid to the Revenue Agent of the county and another penalty of 25% of the amount due the County which was not paid. The County Judge would furnish proper forms to the Justices on which they could comply with the requirements of this Act.
  15. Private Acts of 1961, Chapter 303, amended Private Acts of 1951, Chapter 34, which created the General Sessions Court for Lincoln County, by inserting a new section 2 into that Act which transferred all the authority and jurisdiction possessed by Justices of the Peace in civil and criminal cases to that Court, divesting the same out of the Justices of the Peace except that they may still issue search and arrest warrants, accept appearance bonds, issue summons, attachments, and other leading processes but all of the same would be returnable to the General Sessions Court. This Act was rejected by the Quarterly County Court and, therefore, never became an effective law under the Home Rule Amendment to the State Constitution.
  16. Private Acts of 1972, Chapter 357, amended Private Acts of 1957, Chapter 85, by increasing the per diem of the Justices of the Peace from \$10 per day to \$25 per day. The mileage allowance was not mentioned.

### **County Mayor**

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

1. Acts of 1856, Chapter 253, provided that the voters of every county would elect a person learned in the law to be styled the County Judge, for a term of four years. He would be elected under the general election laws of the State, and be commissioned and sworn as are other Judges. The Quorum Courts were abolished and their responsibilities assigned to the County Judge. Regular meetings would occur on the first Monday in every month where all matters within the jurisdiction of the court as it was prescribed in the act would be heard. The Judge would also be the accounting officer and the general agent of the county, discharging all the obligations named for him in this law. The County Court Clerk would be the clerk of the court, keeping all the records, and the dockets, and handling other matters imposed on him by this law and the laws of the State. This act was repealed entirely by the one below.
2. Acts of 1857-58, Chapter 5, repealed Acts of 1856, Chapter 253, above, and restored the Quorum Courts to activity as they existed before the passage of that act.
3. Public Acts of 1867-68, Chapter 47, as amended by Acts of 1869, Chapter 24, Private Acts of 1929, Chapter 144, Private Acts of 1935, Chapter 471, provided that qualified voters of Lincoln, Hamilton, Franklin, Lawrence and Giles counties respectively, were to elect a person, to be styled the county judge, who would hold his office for a term of eight years from the date of his commission. The county judge was to be commissioned in the same manner as other judges of the state. The act also abolished the quorum court, of said counties, and transferred the jurisdiction and power the quorum court held to the county judge.
4. Private Acts of 1868-69, Chapter 24, amended Chapter 47, Private Acts of 1867-68, so that the Governor of the State is authorized to order an election in Lincoln County to elect a County Judge, which election shall be held under the same rules as are prescribed by law for other county elections, and, until said election is held, and some person elected and qualified as the law directs, the Governor shall appoint a County Judge to hold that office. The election requirement was repealed by Chapter 114, Private Acts of 1869-70.

5. Private Acts of 1869-70, Chapter 114, created the office of county judge who would be elected by the qualified voters of Lincoln County on the 1st Saturday in March, 1870 and in every eighth year thereafter. In case of a vacancy, the Governor would immediately order an election to fill the unexpired time of the incumbent's term.
6. Private Acts of 1897, Chapter 198, amended Private Acts of 1867-68, Chapter 47, by increasing the annual salary of the County Judge in Section 9 from \$500 to \$1,000 a year. This act was repealed by the one below.
7. Private Acts of 1901, Chapter 112, repealed Private Acts of 1897, Chapter 198, above, in its entirety.
8. Private Acts of 1925, Chapter 690, authorized the County Judge of Lincoln County, as he deems advisable from time to time, to empanel a Grand Jury from the list of names of Jurors prepared by the Board of Jury Commissioners, and also, to empanel a venire for a trial jury of which the Foreman shall be the Foreman of the Grand Jury for the purpose to have indicted any person then confined in the county jail without bail, and the County Judge is given criminal jurisdiction to the extent of accepting a guilty plea and imposing sentence on the pleader. If the plea should be not guilty, the case will be placed on the docket of the Circuit Court for trial. The above authority would also extend to misdemeanor cases.
9. Private Acts of 1929, Chapter 144, cited that it amended Chapters 47, and all the acts reported above, except the 1897 act which was repealed. This act added the section granting the authority to the County Judge to issue extraordinary process at the end of Section 4, and the paragraph permitting him to interchange with Circuit Judges and Chancellors.
10. Private Acts of 1935, Chapter 471, amended Private Acts of 1929, Chapter 144, as it amended the original 1867-68 act, by adding the paragraph found at the end of Section 2 of the published act.
11. Private Acts of 2006, Chapter 79, redesignated the title of county mayor to county executive was repealed by Private Acts of 2008, Chapter 67.\

### **County Register**

The following acts once affected the office of county register in Lincoln County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1915, Chapter 583, stated that the Register of Lincoln County was entitled to and could appoint women over the age of 21 as Deputy Registers. The Act further declared women over that age to be eligible and, when appointed, to have all the rights, powers, duties, and obligations as other Deputy Registers.
2. Private Acts of 1933, Chapter 760, amended Section 10726, Code of Tennessee, by adding a new Class 3-B to the population groupings in that act and establishing salaries for the County Officials, named therein, including the County Register at \$1,800 per year. The mere seeking of the office mentioned by an incumbent was to be construed as an acceptance of the salary established.
3. Private Acts of 1937, Chapter 254, also fixed the salaries of four of the County Officials mentioned in the Act above setting the salary of the Register at \$2,000 annually. A condition to be met was that the officials shall keep an accurate account of all the fees collected in their offices and submit reports to the County Judge, or Chairman, every quarter. If the fees collected were less than the salaries set, the county would pay the difference out of the regular county funds, but, if the fees exceeded the salary, the excess became the property of the County.
4. Private Acts of 1939, Chapter 5, provided that in Lincoln County the compensation of the County Officials whose salaries were specified in Section 10727, Code of Tennessee, would be regulated and controlled by the State law, it being the purpose of this Act to provide that their salaries be controlled by State law rather than by private or special Act.

### **County Trustee**

The following acts once affected the office of county trustee in Lincoln County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1907, Chapter 499, stated that John S. Buchanan, and his bondsman, the Trustee of Lincoln County, are both relieved from payment to the State of \$421.69, and interest, which amount represents certain penalties demanded of him, and his bondsman, made by the State under the authority of a highly technical interpretation of the law.
2. Private Acts of 1933, Chapter 760, amended Section 10726, Tennessee Code, by creating a

population class of 3-B for the salaries of the county officials mentioned therein for Lincoln County, and establishing the salaries thereof among them the annual salary of the County Trustee was fixed at \$2,500. Seeking the office above would be evidence of the acceptance of the salary prescribed herein for that office.

3. Private Acts of 1937, Chapter 254, fixed the salaries of the same County officials, setting that of the County Trustee at \$3,000 per year, provided these officials shall keep an account of all the fees collected and make quarterly reports to the County Judge, or chairman, on the same. If the fees are less than the salary, the County will supplement the difference; if the fees are more than the salary, the excess becomes the property of the County.
4. Private Acts of 1939, Chapter 5, provided that, in Lincoln County, the compensation of the County officers whose salaries are specified in Section 10727, Tennessee Code, shall be regulated and controlled by the State law, it being the purpose of this Act to provide that their salaries be controlled by general state law rather than by private or special act.

### **General Reference**

The following private or local acts constitute part of the administrative and political history of Lincoln 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 1809, Chapter 48, assigned Lincoln County to the 39th Regiment of the State Militia which was attached to the Fifth Brigade at the time.
2. Acts of 1809, Chapter 111, stated that the money arising from the sale of lots in Fayetteville shall be a fund in the hands of the Commissioners of the town to defray the expenses of purchasing the land and building the Courthouse thereon, Fayetteville being the county seat.
3. Acts of 1811, Chapter 93, was a lengthy amendment to one of the early militia Laws of the State making several changes of assignments of units to Regiments and Brigades. The county militia of Lincoln, Bedford, and Giles counties would form the Fifth Brigade of the State. Many of the newer Regiments were renumbered and several changes made in the rules governing internal procedures.
4. Private Acts of 1813, Chapter 102, authorized the County Court of Lincoln County, two-thirds of the Justices being present, if they should think it proper, to authorize the Commissioners appointed to lay out the town of Fayetteville to make an allowance to Micajah Muckleroy, who undertook to build the courthouse, not to exceed \$750. If no unappropriated funds are available, the Court may lay a tax to raise that amount of money to Muckleroy as intended in Section One of this Act.
5. Private Acts of 1815, Chapter 44, declared that the public inspection of tobacco, hemp, flour, lard, butter, and other articles intended for exportation shall be established in warehouses located at Fayetteville, and at other places to be named in Lincoln County. Inspectors shall be appointed to inspect these commodities according to the terms of this Act.
6. Public Acts of 1815, Chapter 119, provided that the State Militia would be composed of free men and indentured servants only. All the counties of the State were divided into Regiments, Lincoln to have the 39th and the 49th Regiments. The remainder of this long Act dealt only with the technical aspects of the operation of the militia.
7. Private Acts of 1819, Chapter 26, allowed a town to be laid off on the lands belonging to Peter Looney, which would consist of thirty or more, lots of at least one-half acre in area, the streets, alleys, and public square to be marked on the plat thereof, and the name of the town would be Looneyville.
8. Private Acts of 1819, Chapter 50, also permitted David Cowen to lay off a town on his land in Lincoln County which would be made up of at least ten, one-half acre lots and the streets and alleys would be added. No name was mentioned for this town.
9. Private Acts of 1821, Chapter 109, established a town on the land belonging to Thomas Roundtree in Lincoln County which would be laid off in proper lots, streets, and alleys, and be called by the name of Lynchburg.
10. Public Acts of 1825, Chapter 69, was a state wide militia Law for Tennessee repeating the earlier ones. The militia would accept free men and indentured servants between the ages of 18 and 45 . Lincoln County would have the 39th, 49th and 63rd Regiments, all of which were assigned to the 10th Brigade. The 39th Regiment would hold its annual muster on the first Friday after the second Wednesday in October of each year; the 49th Regiment would meet on the second Wednesday in

October of each year, and the 63rd Regiment would meet on the first Thursday after the second Wednesday in October of each year.

11. Private Acts of 1825, Chapter 339, appointed Benjamin Reynolds, of Maury County, and Joseph Kincaid and Clement Cannon, of Bedford County, as Commissioners to inspect the dam across the Elk River, built by John and Joseph Greer, of Lincoln County, as to whether or not the dam obstructs navigation. If the dam does obstruct navigation, the Commissioners will notify the Greers of the same and point out the remedies required and set a date certain for the remedies to be completed, and at that time they shall inspect the dam again, and report its condition to the County Court. The Greers must pay a \$25 per day penalty for every day past the deadline they take to complete the work. The Commissioners will be paid \$4 per day for their time spent in discharging their duties hereunder.
12. Private Acts of 1826, Chapter 191, authorized the County Court of Lincoln County at its first meeting in January, 1827, to appoint a jury of view composed of twelve persons to inspect the dam across the Elk River, built by Stephen Cole. If a majority of the Jury of View say that the dam cannot be altered to relieve the obstruction of descending navigation, then Cole shall tear the dam down and remove it as soon as the water falls enough to do so; if the dam can be altered, then the Jury tells Cole how and when it is to be done, and he shall comply therewith in nine months, at which time the dam shall be reinspected, and a report made. Cole shall be compelled to pay \$50 per day for every day of noncompliance, and he will also be liable for all damages caused thereby. The Jury will recommend court action if the Act is not observed, and Cole must keep the said dam in good repair afterwards.
13. Private Acts of 1827, Chapter 146, made it lawful for the heirs of Joseph Campbell to present their petition to some subsequent term of the Lincoln County Circuit Court for the purpose of obtaining title to a tract of land of about 195 acres in Lincoln County on which the said Campbell resided at the time of his death, having purchased the same during his lifetime from David Cowan. Cowan's heirs must answer the petition showing the amount due on the land, if any, and when the same is paid, the Court shall enter an order divesting title out of the Cowan heirs and vesting the same in the Campbell heirs.
14. Private Acts of 1829, Chapter 21, divided one company of the county militia of Lincoln County into two companies, one of which would be meeting in a certain area in the south part of the county as the same was described in the Act.
15. Private Acts of 1831, Chapter 44, named Thomas Clark, Elliott H. Fletcher, William Dewoody, Jacob Silvertooth, Samuel Todd, Jasper Smith, Joel Pinson, and William Dye, of Lincoln County, to be the Commissioners of a Board of Internal Improvement for Lincoln County. The Board was authorized to draw money, open books, appoint officers, and do all other things towards improving the navigation of that part of the Elk River which flows through Lincoln County.
16. Private Acts of 1833, Chapter 117, allowed Samuel Garland and Bartlett Huckabee, both of Lincoln County, to hawk and peddle in the Tenth U. S. Congressional District, in the counties of Lincoln, Giles, Lawrence, Wayne, and Hardin without paying for a license to do so, provided they take an oath not to peddle for any other person except themselves and only for the benefit of themselves and their families.
17. Private Acts of 1833, Chapter 169, made it the duty of the cavalry of Lincoln County, attached to the 10th Brigade of the Tennessee Militia to hold a Battalion muster in Fayetteville on the first Friday in May annually at which time all the field and staff officers, except Bedford County's, shall appear armed and equipped as the law requires. Commissioned officers shall hold Courts martial on the first Saturday in June at the same place.
18. Private Acts of 1835-36, Chapter 94, declared Mulberry Creek in Lincoln County to be navigable from its mouth to the mills owned and operated by James and William L. Hague.
19. Private Acts of 1835-36, Chapter 136, appointed William Moffitt, James Hague, John J. Whittaker, Jesse Daniel, Drury Connelly, and Matthew Martin as Commissioners on the Board of Internal Improvement for Lincoln County. The Board is authorized to appropriate so much of the Internal Improvement funds of Lincoln County as may have come, or may hereafter come, into their hands to improve the navigation of Mulberry Creek. The Board was required to lend out any of the fund as may be on hand until the same is otherwise appropriated.
20. Private Acts of 1837-38, Chapter 56, authorized the Quarterly County Court to ask for, demand, and receive from the Board of Internal Improvement, or the Treasurer thereof, or from anyone who may have in their possession or custody the funds belonging to the County. The Court was further allowed to expend the said funds on any internal improvement in the county which to them may seem proper and expedient.

21. Public Acts of 1837-38, Chapter 157, Section 3, amends the State Militia Law in several different areas. Section 3 scheduled County drills and musters for several counties which included Lincoln on the first Friday and Saturday in September each year. The 12th Brigade was made up of Lincoln and Giles Counties.
22. Private Acts of 1837-38, Chapter 243, appointed George L. Leonard, Joel L. Stone, James A. Yowd, George W. Blackemore, and John Donoho as commissioners to lay off and designate the boundaries of Petersburg. When this project was completed, the Sheriff would be notified who would hold an election for seven aldermen and they would select one of their number as the Mayor. A Recorder, Treasurer, and Constable would also be selected. It would be the duty of the Sheriff, or his Deputy, to hold annual elections thereafter.
23. Private Acts of 1839-40, Chapter 135, provided that any person desiring to erect a grist mill or a dam on any navigable stream in Lincoln County must first make application to the County Court and post a notice of his intention on the Court House door. If the County Court thinks that the same should be done, the Court will appoint three discreet and judicious citizens to examine the premises upon which the mill or dam is to be built to ascertain if the same can be accomplished without interfering with the navigation of the stream, and how high the dam may be granted requiring all conditions thereof to be observed. This action, and this law, are never to be construed as granting the authority to obstruct any stream. The Commissioners are to be paid \$2 per day for each day's service.
24. Public Acts of 1843-44, Chapter 17, amended the State Militia Law by rearranging the schedule of county musters. All Lincoln County Regiments were assigned to the 11th Brigade and musters would be held in the 70th Regiment on the third Tuesday in October, in the 71st Regiment on the Wednesday following, in the 72nd Regiment on the Thursday of that week, and in the 73rd on Saturday. The 151st Regiment would muster and drill on Friday of the third week in October.
25. Private Acts of 1845-46, Chapter 155, declared that all the Acts and deeds up to this time performed by William Kercheval, the Entry Taker of Lincoln County, are legal and binding for all intents and purposes as if he had been appointed to that office with the proper and legal authority.
26. Private Acts of 1865-66, Chapter 59, stated that George Gee, a free man of color died in Lincoln County, leaving a will which directed that his property be divided among his wife and children but his wife and children were slaves at that time and could not hold property. B. L. Ridley, the Chancellor of the District, declared and ordered that the property of Gee escheat to the State. However, the funds and the property still remain in the hands of the Clerk and Master and the wife and children are now free. This Act relinquishes all right, title, interest, and claim the State may have in and to the said Gee properties and passes the same to the wife and children, his properly designated heirs.
27. Public Acts of 1897, Chapter 124, was among the first Acts establishing annual salaries for several County Officials arranged according to the population of the Counties. All fees collected would become the property of the county and the salaries specified would be the only compensation of the incumbent official. The Act involved the Clerks of the Circuit, County, Criminal, and special Courts, the Clerk and Master of the Chancery Court, the Clerk of the Supreme Court, and Trustees, Registers, and Sheriff of the counties. Reports must be made monthly and the salaries are confined to the fees collected if they exceed the minimum and are below the maximum. This Act was the prototype and model for many salary acts to follow including those currently in effect.
28. Private Acts of 1923, Chapter 164, made it the duty of all cities in which a newspaper was in circulation to publish all the proceedings of the regular, and called, meetings of the Board of Aldermen of those cities within fifteen days of the meeting, so that the public may be informed at all times on the manner in which the affairs of the city are being conducted. The Clerk, or Recorder, would furnish the copy to the papers for which they would be paid ten cents per 100 words, and the newspapers would receive forty cents per column inch. Private Acts of 1923, Chapter 362, amended this act so as to make it apply to McMinn and not to Lincoln County.
29. Private Acts of 1933, Chapter 300, removed the disabilities of minority from T. N. Figueres, age 19, of Lincoln County, and conferred upon him the power and authority to do all things an adult could lawfully do including the execution of deeds of conveyance and the right to collect all money due him from his guardian.
30. Private Acts of 1933, Chapter 362, amended Section 107-31 Code of Tennessee, to the effect that no application for an increase in the number or in the salaries of assistant, or deputy clerks, and Sheriffs, could be considered by the courts to which it was made unless the said petition showed the prior approval of the Quarterly County Court. Section 10-732, Code of Tennessee, was also

amended so as to provide that when the County Court of Lincoln County in regular session should deem it necessary and essential that the number of Deputies and Assistants be reduced and a Resolution to that effect is adopted, the County Judge, or Chairman, shall file the proper petition seeking a reduction and the court in which it is filed shall prompt by conduct a hearing on the same.

31. Private Acts of 1933, Chapter 807, relieved Martha Rhea Hobbs, of Lincoln County, of all the disabilities of infancy and gave her all the rights and privileges of a person 21 years of age, or older.
32. Private Acts of 1935, Chapter 793, authorized the Quarterly County Court of Lincoln County, by a three-fourths vote, and no less, to elect a farm agent even though he did not have the endorsement of the State Secretary of Agriculture. Terms of the farm agent are for one year but one may succeed himself in the position at a maximum salary of \$2,400 annually which includes all travel and expenses. This Act does not apply to the present farm agent duly elected by the Court until the expiration of his term.
33. Private Acts of 1937, Chapter 29, removed the disabilities of minority from Mildred Crabtree Barham, of Lincoln County, conferring all the abilities and authority of adulthood.
34. Private Acts of 1937, Chapter 20, also removed the minority of Thomas Crabtree, of Lincoln County, who was probably the brother of the body mentioned in Item 34, above.
35. Private Acts of 1937, Chapter 40, provided that the maximum salary payable to the County Farm Demonstration Agent in Lincoln County from all sources whatever shall not exceed \$2,400 per year, and the county to which this Act applies shall have no power to appropriate in excess of a sum which, when added to the State and Federal supplements, exceeds the above amount.
36. Private Acts of 1937, Chapter 108, recited in the preamble that the Quarterly County Court of Lincoln County had expended \$7,000 of the general funds of the County in the initiation and prosecution of litigation designed to test the validity of certain Acts of the General Assembly, and the litigation served only to promote the political welfare of one faction to the disadvantage of another, and was not designed to enhance the general welfare as a whole, therefore, the County Court shall now levy a tax of one-tenth of one percent on each \$100 property valuation in the county which will be collected until the cost of all of the above litigation has been paid.
37. Private Acts of 1937, Chapter 153, stated that in Lincoln County, identified by the use of the 1930 Federal Census figures, the Quarterly County Court shall have no power whatever to expend the public funds of the County, nor to make any appropriation, for the purpose of filing litigation to test the validity of, or for obtaining a declaration from the Court on any legislation affecting the said County.
38. Private Acts of 1937, Chapter 158, amended Senate Bill NO. 63 of the present session of the General Assembly, which set the maximum salary of the County Farm Demonstration Agent in Lincoln County by changing the date on which the Act was to become effective to January 1, 1938.
39. Private Acts of 1937, Chapter 661, removed all the disabilities of her minority from Charlotte Eloise Baites, granting her all the rights and privileges enjoyed by an adult.
40. Private Acts of 1939, Chapter 5, stated that, in Lincoln County, the compensation of the County Officers whose salaries are specified in Section 10727, Code of Tennessee shall be regulated and controlled by the State law, it being the purpose of this Act to provide that their salaries be controlled by the State rather than by private, or special Act.
41. Private Acts of 1939, Chapter 6, expressly repealed Private Acts of 1937, Chapter 40, Item 36, above, which set the maximum salary of the County Farm Demonstration Agent, in its entirety.
42. Private Acts of 1959, Chapter 58, created the office of Purchasing Agent for Lincoln County, naming the County Judge to the office. The Agent was given the sole power to purchase all supplies and materials for all the departments and agencies of the county government, except those expressly exempted, and to do likewise concerning the rental of equipment or real estate. All purchases over \$500 would be made according to the bid procedures outlined in the Act. The Agent must obey the regulations promulgated in this Act but he could fashion rules for the subordinates to follow. He was to make a \$10,000 bond and could employ sufficient clerical and stenographic help to get the job done as long as they were not related by blood or marriage. This Act was rejected by the Quarterly County Court and therefore never became a law for Lincoln County.
43. Private Acts of 1971, Chapter 124, authorized the Quarterly Court of Lincoln County to make appropriations to fire departments operating within the county upon such terms as may be

mutually agreed upon. Our records show that this Act was never acted upon by the Quarterly Court. Since a general power to appropriate money for fire departments has been granted to counties by the General Assembly, this Act has become moot.

## Chapter II - Animals and Fish

### Dogs

#### Private Acts of 1951 Chapter 661

**COMPILER'S NOTE:** Parts of this act may have been superseded by the Tennessee Anti-Rabies Law, Tennessee Code Annotated Section 68-8-101 et. seq.

**SECTION 1.** That in Counties of this State having a population of not less than 27,200 nor more than 27,300, by the Federal Census of 1940, or any subsequent Federal Census, no owner or any dog more than three months of age shall permit such dog to run at large unless such dog shall at the time be wearing a leather or other type of collar to which shall be attached a tag of some indestructible substance bearing the name of the owner of such dog indelibly affixed thereto in such manner as to identify the dog's owner.

Likewise, no owner of any dog more than three months of age shall permit such dog to run at large unless the same has been inoculated within the 12 months period next preceding such running at large against rabies. Such inoculation shall be evidenced by a certificate to be furnished the owner of such dog by the person inoculating the same and shall be exhibited to any peace officer of said county upon demand.

**SECTION 2.** That the owners of all dogs permitted to run at large in counties to which this Act applies shall be liable for any and all damages to either persons or property occasioned by said dogs, whether or not the vicious tendency of such dogs had previously manifested themselves. Any person on discovering a dog running at large and molesting or killing livestock or poultry of any character may kill or destroy such dog while so engaged in the act of molesting stock or poultry without liability therefor to the owner of such dog. Any owner of a dog violating the provisions of this Act shall upon conviction, be fined fifty dollars (\$50.00).

As amended by: Private Acts of 1967, Chapter 163

**SECTION 3.** That this Act shall take effect from and after July 1st, 1951, the public welfare requiring it.

PASSED: March 14, 1951.

### Foxes

#### Public Acts of 1973 Chapter 158

**COMPILER'S NOTE:** This is special legislation and is not printed in the Tennessee Code Annotated. It is published here as a service to our readers.

**SECTION 1.** Chapter 4, Title 5I, Tennessee Code Annotated, is amended by adding the following new section:

Red fox pelts may be bought and sold in Lincoln County.

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

Passed: April 30, 1973.

### Livestock

#### Private Acts of 1955 Chapter 400

**COMPILER'S NOTE:** Parts of this act may have been superseded by Tennessee Code Annotated section 44-8-401 et seq.

**SECTION 1.** That it shall be unlawful for any person or persons owning or having the control and custody of horses, mules, donkeys, cattle, sheep, goats, swine, or other livestock to permit same to run at large in counties of this State having a population of not less than 27,200 and not more than 27,232, by the Federal Census of 1940, or any subsequent Federal Census.

**SECTION 2.** That the owner or owners of any livestock mentioned and included in Section 1 of this Act shall be liable for all damages that may be done to the property of any other person or persons by such livestock when allowed to run at large in violation of this Act, and the person or persons so damaged shall have a lien on the stock doing the damage, which may be enforced by attachment or by judgment and execution to be levied on such livestock.

**SECTION 3.** That any person or persons on whose land livestock may be found trespassing in violation of this Act, or other person or persons having custody and control of such land, shall have the right to take up and confine such trespassing stock until the damage and the expense of feeding and keeping such livestock are paid, and for the feeding and keeping of such livestock there shall also be a lien on the stock, to be enforced as is provided for the enforcement of the lien for damages given in Section 2 of this Act.

**SECTION 4.** That any person or persons taking up livestock as authorized by this Act shall give immediate notice to the owner or owners of the stock so taken up, that such stock has been taken up, if such owner or owners be known to the person or persons taking up same.

**SECTION 5.** That nothing in this Act is intended to or shall be construed as amending or repealing the general railroad and stock law of the State.

**SECTION 6.** That any violation of Section 1 of this Act shall be a misdemeanor, and punishable by a fine of not less than \$5.00 nor more than \$50.00.

**SECTION 7.** That all laws and parts of laws in conflict with this Act be, and the same are repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

PASSED: February 14, 1941.

## Minnows

### Private Acts of 1955 Chapter 400

**SECTION 1.** That it shall be unlawful in Lincoln County for any person to catch or possess minnows for the purpose of sale, provided same were caught in any stream in Lincoln County.

**SECTION 2.** That it shall be unlawful in Lincoln County for any person to possess more than two hundred fifty (250) minnows, provided same were caught in any stream in Lincoln County.

**SECTION 3.** That violation of this Act shall be a misdemeanor, punishable by a fine not to exceed Twenty-five Dollars (\$25.00).

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

PASSED: March 10, 1955.

## Animals and Fish - Historical Notes

The following is a listing of acts that at one time affected, but no longer appear to have any effect on, hunting, fishing or animal control in Lincoln County. They are included herein for reference purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1889, Chapter 198, exempted Lincoln County from the requirements of Chapter 143, Public Acts of 1887, which made it unlawful to take and catch fish by seine, or net, from March 15 to June 1, of each year, when the meshes of the nets were less than 1¼ in width, and prohibited the use of dynamite, other explosives, or poison.
2. Private Acts of 1889, Chapter 211, shortened the season in Lincoln County from the first day of February to the first day of September to the 15th day of March to the first day of September to hunt and kill songbirds, game birds, or any kind of bird which feeds on insects, as the same were specified in Chapter 83, Public Acts of 1873, which this act amends.
3. Private Acts of 1893, Chapter 15, made it unlawful for any person to kill, net, trap, or capture quail, or partridges, for pleasure, or profit on his own land or elsewhere in Gibson, Montgomery, Lincoln, and Giles County, at any season of the year other than from November 1 to March 1 of the succeeding year. It was unlawful to net quail, or partridge at any time. Violators would be fined from \$5.00 to \$25.00.
4. Private Acts of 1895, Chapter 42, removed Lincoln County from all the provisions of Private Acts of 1893, Chapter 15, Item 3, above.
5. Private Acts of 1897, Chapter 283, declared it to be lawful in Lincoln, Macon, Meigs, and Carroll counties to catch fish in every way and at all times except by the use of explosives and poison and

- by any device which would prevent the free passage of fish up and down the stream.
6. Private Acts of 1905, Chapter 309, repealed Subsection 7, Section 3, Chapter 169, Public Acts of 1903, known as the General Game Law, insofar as it applies to Lincoln and Bedford Counties so that squirrels may be killed in those counties at any time and during all seasons of the year.
  7. Private Acts of 1909, Chapter 239, made it unlawful for any person having the ownership, control, of horses, mules, cattle, sheep, goats, swine, or other live stock, to permit such to run at large in Lincoln County. They shall be liable to all others who may be damaged by the stock running at large on which the damaged party may have a lien. The party damaged may also take up the animals, feed and care for them and add this cost to the lien, provided notice was given to the owner or custodian.
  8. Private Acts of 1911, Chapter 388, was almost an exact duplicate of the terms and conditions expressly placed upon the owner of the animals named therein, or the custodian, except that the act must be the result of negligence on their part for the damaged person to collect reparation or to enforce his lien.
  9. Private Acts of 1917, Chapter 85, declared it to be unlawful in Lincoln County, identified by the use of the 1910 Federal Census figures, for any person to shoot, take, hunt, kill, capture, or destroy by any means or methods, any quail, partridges, doves, wild turkeys, geese, brant, swan, ducks, and squirrels except within the seasons specified therein, which was for quail and partridges from December 1 to following February 15, for doves from September 1 to following February 15, for wild turkeys from November 1 to following March 1, for gobblers from April 1 to April 25, for ducks, geese, brant, and swans from October 1 to following February 1, for squirrels at any time of the year, there being no closed season on them. Violators could be fined from \$5.00 to \$25.00 for each occurrence.
  10. Private Acts of 1921, Chapter 736, amended Private Acts of 1917, Chapter 85, Item 9, above, by changing the open season on quails and partridges to run from November 15 to following February 1, and on doves to run from August 15 to the following February 1, thus moving both seasons back fifteen days.
  11. Private Acts of 1923, Chapter 672, stated that all persons in Lincoln County were required to give to the Tax Assessor, or to the County Trustee, a record of each dog, more than six months old which was kept, or harbored by them, and to pay a tax of \$1.00 on all males, and spayed females, and it was the duty of the Tax Assessor to assess and collect for each dog. The tax must be paid every year for which the Tax Assessor would keep accurate records in a well bound book and pay the money over to the Trustee who would keep the same in the "Sheep Fund" for owners of sheep which were killed, or maimed, by dogs. The sheep owner must file his claim with the Trustee who would pay the just ones. The conditions were defined under which a dog could be declared a nuisance, including females in heat. Violations of this act could be also punished by fines from \$10 to \$50. This act was repealed by Private Acts of 1935, Chapter 29, Item 22, herein.
  12. Private Acts of 1925, Chapter 207, amended Private Acts of 1923, Chapter 672, above, by increasing the tax to be paid by the owners of spayed female dogs from \$1 to \$3.
  13. Private Acts of 1927, Chapter 176, made it unlawful for any person in Lincoln County to set or place any steel trap upon lands, or in the waters adjoining lands for the purpose of catching any fur-bearing, or hair-bearing animal, unless that person has secured from the County Court Clerk the necessary license to set the said traps with the proper number painted on them. The license cost \$5 for the first trap and fifteen cents for each additional trap. The clerk would issue metal tags to be attached to the traps, and, if lost, must be replaced. Fines for non-compliance ranged from \$10 to \$25. This act was repealed by Item 16, below.
  14. Private Acts of 1927, Chapter 177, amended Private Acts of 1923, Chapter 672, Section One, by adding a kennel tax of \$8 per kennel, provided that the dogs are kept in the kennel when not on the chase, or going to or from the chase, and by reducing the tax on spayed female dogs from \$3.00 back to \$1.00. This act is cited in *Darnell v. Shapard* 156 Tenn. 568, 3 SW2 668 (1928).
  15. Private Acts of 1927, Chapter 815, declared it to be lawful to fish with hook and line, or trot line, in any month of the year and in any stream in Lincoln County. It was also permitted to take and catch fish in baskets when the slats were at least 1¼" apart, but was unlawful to take fish by any other type of basket, and it was likewise unlawful to sell fish baskets of any other kind in Lincoln County.
  16. Private Acts of 1929, Chapter 143, specifically and entirely repealed Private Acts of 1923, Chapter 677, Section One, by changing the wording so as to include all male and female dogs instead of

- just male dogs and spayed females for which licenses must be procured. The act stated Chapter 677, but obviously meant Chapter 672.
17. Private Acts of 1929, Chapter 557, amended Private Acts of 1927, Chapter 176, Item 13, above, which regulated the setting of steel traps for fur or hair-bearing animals.
  18. Private Acts of 1931 (2nd Ex. Sess.), Chapter 32, made it lawful in Lincoln County, using the 1930 Federal Census figures, to hunt, trap, and kill, all fur-bearing animals, including foxes, and to sell their fur between and including November 15 to February 15, following, which will be considered as the open season. This act was repealed by Private Acts of 1933, Chapter 818, below.
  19. Private Acts of 1933, Chapter 312, provided that every person owning, keeping, or harboring a dog shall pay \$1 for a license for the dog except that the head of a family with only one dog would be exempt. A kennel owner must pay a flat fee of \$10 instead of \$1 per dog. Landlords must report on the dogs of their tenants, the Tax Assessor must report on the dogs net during his work and every dog owner was mandated to report on his, or her dogs. There was a \$5 fine for a failure to report.
  20. Private Acts of 1933, Chapter 818, specifically repealed Private Acts of 1931 (2nd Ex. Sess.), Chapter 32, in its entirety.
  21. Private Acts of 1933, Chapter 821, established the open season for the hunting and trapping of fur-bearing animals, except foxes, between November 15 and February 15, in Lincoln County, provided that, in trapping, only Number One and Number Two steel traps may be used. No resident of the county needs to obtain a license to do this but one cannot go upon the lands of another for the purpose without having first obtained the owner's consent.
  22. Private Acts of 1935, Chapter 29, expressly and entirely repeals Private Acts of 1923, Chapter 672, which was the existing dog law for Lincoln County.
  23. Private Acts of 1935, Chapter 228, said that no license was required in Lincoln County for residents to hunt, fish or trap, however, it was unlawful to hunt, fish, or trap on the lands of another without written permission. Fines from \$50 to \$100 would be assessed against violators. It was lawful during February, March, and April to take fish with hook and line, with natural or artificial bait, or snatch hook. It was lawful in July and August to take fish with seines, or hands, but mesh on seines must be 1½" wide and trammel nets could not be used under any circumstances. It was unlawful to take rabbits, or squirrels at any time but was lawful to take fur-bearing animals, except red foxes, from December 1 to February 15. Sheriffs, deputies, and constables were designated as ex officio game wardens to help enforce this law.
  24. Private Acts of 1935, Chapter 792, made it lawful in Lincoln County for the owner of land to would or kill any dog found roving about the premises when the dog is unaccompanied by its owner or someone in charge. The owner of the slain dog could not collect over one cent in damages for the death or wounding of the dog. This act is not to apply to fox-hounds on the chase, or at any time unless they are near sheep or goats.
  25. Private Acts of 1935 (Ex. Sess.), Chapter 127, amended Private Acts of 1935, Chapter 228, in Section 2 by making it unnecessary to obtain "written" permission from an owner to hunt on his land, by striking out all of Section 3 relating to fishing by reducing the schedule of fines from \$50 to \$100 to \$10 to \$25.
  26. Private Acts of 1937, Chapter 624, declared that any person who has heretofore engaged in the practice of veterinary medicine and surgery in Lincoln County for a period of 15 years, or more, next preceding the passage of this act who is of good moral character, is authorized to continue the said practice, provided such person shall obtain from the county court a certificate of good moral character and file the same with the State Board of Veterinarian Examiners. The license granted herein shall be good only in Lincoln County.
  27. Private Acts of 1937, Chapter 747, stated that no license was required for any person to hunt, fish, or trap, or buy or sell furs of any wild animals in Lincoln County, except that one cannot do so on the lands of another without permission of the owner and occupant. The Sheriff, deputies, and constables were termed ex-officio game wardens to enforce this law and would receive the same fees. It was lawful to take fish at any time with hook and line, using natural or artificial bait and snatch hooks. It was lawful to hunt and trap for-bearing animals, except red fox, between December 1 and February 15 of the following year, and to shoot and kill rabbits and squirrels in any month of the year. This act was repealed by the one below.
  28. Private Acts of 1939, Chapter 61, expressly repealed Private Acts of 1939, Chapter 747, above, in its entirety.
  29. Private Acts of 1945, Chapter 509, stated that Thornton Taylor, of Lincoln County, has acquired by

practice through the years a thorough knowledge of veterinary anatomy, pathology, and chemistry, and the community in which he resides is in desperate need for a veterinarian; therefore, the said Taylor is hereby authorized to continue the practice of all phases of veterinary surgery and medicine in Lincoln County, all laws to the contrary notwithstanding.

30. Public Acts of 1963, Chapter 377, set the season for hunting squirrels in Coffee, Moore, and Lincoln Counties, from October 1 to February 1 of the following year, and it is hereby determined to be unlawful to hunt the animals at any other time than that specified. This act was repealed by Public Acts of 1969, Chapter 10, Page 17.
31. Public Acts of 1965, Chapter 311, amended Public Acts of 1903, Chapter 377, above, by taking Coffee County out from under its provisions.
32. Public Acts of 1967-68, Chapter 193, amended Private Acts of 1951, Chapter 661, by deleting the last sentence in Section 2 which stated in substance "anyone violating this act would be guilty of a misdemeanor and punished accordingly" and substituted the sentence published herein.
33. Public Acts of 1969, Chapter 10, specifically repealed Public Acts of 1963, Chapter 377, as amended by Public Acts of 1965, Chapter 311, in its entirety.
34. Public Acts of 1969, Chapter 74, makes it unlawful to hunt deer in Lincoln County using anything other than a shotgun loaded with one solid ball or slug. This act was specifically repealed by Public Acts of 1978, Chapter 752.
35. Public Acts of 1972, Chapter 621, was a special act amending Tennessee Code Annotated which allowed for an open season on red foxes in Lincoln county. This amendment was repealed by Public Acts of 1976, Chapter 621.

## Chapter III - Bond Issues

### Bond Issues - Historical Notes

#### **Agriculture Station**

1. Private Acts of 1917, Chapter 510, allowed the Quarterly County Court to purchase a farm, or farms, to be accepted by State Authorities as an agricultural experiment station for middle Tennessee in conjunction with the University of Tennessee. The court would appoint a committee of five to present the claim for the station and to investigate the cost thereof which was not to exceed \$15,000. Bonds could be issued at interest rates not to exceed 5% and the maturity schedule was not to go beyond twenty years. The proposal must be advertised for thirty days in the "Fayetteville Observer" and the "Lincoln County News". The burden of levying a tax every year until the bonds were repaid was placed upon the court. The committee would report back to the court at the proper time and the court would take such action on the report as they considered best.

#### **Airport**

1. Private Acts of 1929, Chapter 759, authorized Lincoln County through its County Judge to issue up to \$25,000 in 6% bonds, and the city of Fayetteville was also authorized to issue a like amount under the same terms except that Fayetteville's bonds would mature in 25 years and the county's in five, with a tax levy being required in both issues. The proceeds would be used to purchase land, build and equip an airport, the expense of which would be shared equally by the county and Fayetteville. A referendum was required in Fayetteville before the bonds could be issued which would be general obligation bonds of both governments. A committee of five, two from the city, two from the county, and a fifth to be chosen by those four would supervise the work.

#### **Debts**

1. Private Acts of 1921, Chapter 900, amended Private Acts of 1911, Chapter 298, Section One, by adding a provision that County Court of Lincoln County at any regular session was authorized to borrow money to liquidate, settle, and adjust any outstanding debt of the county, or any debts which may hereafter be created except that at no time shall the unpaid note, or notes, issued exceed \$50,000.
2. Private Acts of 1921, Chapter 933, authorized the Mayor and aldermen of Fayetteville to issue up to \$20,000 in bonds to pay the debts of the city at an interest rate of 6%, or less, and to mature in twenty years, or under.
3. Private Acts of 1933, Chapter 840, allowed the Quarterly Court of Lincoln County to issue up to

\$75,000 at 6% interest, or less, and at maturity schedules to be determined by the court for the purpose of refunding, or retiring, the outstanding and unpaid bonds which had been previously authorized by Private Acts of 1927, Chapter 707, Private Acts of 1929, Chapter 289, Private Acts of 1929, Chapter 890, Private Acts of 1931, Chapter 142, Private Acts of 1919, Chapter 149, Private Acts of 1913, Chapter 126, Private Acts of 1919, Chapter 175, Private Acts of 1927, Chapter 74. These bonds would be payable semi-annually and records kept by the Trustee. All essential details were furnished and a tax levy required.

4. Private Acts of 1949, Chapter 462, authorized the Quarterly Court of Lincoln County to issue up to \$250,000 in bonds to pay the outstanding, unfunded, floating indebtedness of the county. The interest rate would not exceed 3%, nor the maturity period ten years. They are classified as general obligation bonds with all the essential details present and the tax levy required. Any defect in the issuing shall not affect the validity of the said bonds. The money would be paid to the Trustee who would handle the same and key records.

### **General**

1. Acts of 1853-54, Chapter 317, Section 5, provided that Lincoln County would have two directors in the Bank of Tennessee, at Shelbyville, one of whom shall reside in Fayetteville.
2. Private Acts of 1923, Chapter 187, prohibited the county court of Lincoln County from issuing bonds for any purpose without first submitting the question to the qualified voters in a referendum which would be held within 30 days after passage of the law, or bond issue, in every precinct under the general election laws of the State, and in no case shall bonds be used unless the majority vote is in the affirmative. This act was repealed by the one following.
3. Private Acts of 1923, Chapter 540, provided that the County Court of Lincoln County was prohibited from issuing bonds of any kind for any purpose without first calling an election and submitting the question to the people. This act repeals Private Acts of 1923, Chapter 187, above.
4. Private Acts of 1931, Chapter 143, allowed the Quarterly Court of Lincoln County to borrow up to \$50,000 and issue its short term notes in anticipation of the revenues to be collected which money shall be used for the purposes for which the tax money might be used but the amount to be borrowed could not exceed 80% of the anticipated revenues. The interest rate was limited to 6%, and the maturity schedule to six months. The county court shall set aside out of the money first received as taxes an amount sufficient to repay these notes, plus interest.
5. Private Acts of 1931, Chapter 559, amended Private Acts of 1931, Chapter 143, above, by raising the limitation on the amount which could be borrowed in anticipation of revenues to \$100,000 and extended the maturity schedule from six to twelve months.
6. Private Acts of 1935, Chapter 791, made it unlawful for the Quarterly Court of Lincoln County to issue any bonds until the issue had been approved by the people in a referendum vote. Notice must be given in a newspaper of the proposed amount of bonds and the purpose for which they are being issued. This act was repealed by the one following.
7. Private Acts of 1939, Chapter 7, expressly repealed Private Acts of 1935, Chapter 791, above, in its entirety.

### **Hospital**

1. Private Acts of 1931, Chapter 267, permitted the county court of Lincoln County to provide a suitable lot and to erect a hospital building thereon in or near the city of Fayetteville to be used as a Central Hospital for the county. The court could issue up to \$100,000 in 6%, 20 year bonds, with the essential details furnished and a tax levy required. A committee would be appointed of two physicians, two members of the county court, and the County Judge to supervise and coordinate the work. When the building was completed, another committee would be appointed of one member of the county court, the County Health Officer, the County Judge, and two physicians which would operate and manage the facility but, if the best interests of the people demanded it, the hospital could be leased to another organization.
2. Private Acts of 1949, Chapter 270, allowed the Quarterly Court of Lincoln County to issue \$204,000 in bonds, at 2½% interest, or less, and to mature according to a schedule to be devised by the court, for the purpose of providing the county's contribution to the construction and furnishing of a hospital in Lincoln County. The essential details and the imposition of a tax levy to amortize the bonds are included in the legislation. The county has a "Lincoln County Savings Fund" and the court is authorized to appropriate the same to the payments of obligations incurred hereunder, and insofar as Private Acts of 1939, Chapter 240, conflict with this act, that law is repealed. The Quarterly Court is allowed also to appoint a five member committee to supervise and coordinate the work.

**Jail**

1. Private Acts of 1937, Chapter 790, permitted the issuance of \$25,000 in bonds by the Quarterly Court of Lincoln County in order to erect, equip, repair, improve, and maintain a jail for the county. The County Judge, and the County Court Clerk may sell the issue in negotiable coupon bonds. The interest rate was not to exceed 4½% and the proposed sale was required to be advertised in a Nashville newspaper. See Private Acts of 1919, Chapter 754, below.

**Market House**

1. Private Acts of 1937, Chapter 36, validated and confirmed all the prior actions of the Mayor and Aldermen of the city of Petersburg held in connection with the issuance of \$15,000 for the purpose of constructing a Market House.

**Poor House**

1. Private Acts of 1919, Chapter 754, allowed the Lincoln County Quarterly Court to issue up to \$100,000 in 6%, 20 year bonds, one-half of which would be used to build and equip a county home for the poor and indigent of the county and the other one-half would be devoted to the building of a jail to house county prisoners. All details were present including the mandatory tax levy. The entire act was predicated upon the approval of the people in a referendum held for that purpose.

**Public Square**

1. Private Acts of 1917, Chapter 383, was the authority for the County Court of Lincoln County to borrow in the county's name up to \$15,000, and to issue interest bearing coupon bonds for the same, at 6% interest, or less, to be used solely for the purpose of improving the paving the public square surrounding the Court House in Fayetteville. The bonds could not mature later than ten years from the issuing date. The details and the tax levy were contained in the law.

**Railroad**

1. Private Acts of 1909, Chapter 270, allowed Lincoln County, identified by the use of the 1900 Federal Census figures, to subscribe to the stock of any railroad running through the county and to issue up to \$200,000 in bonds to pay for the stock. The President of the railroad must make application to the court giving the details of the proposed railroad and accompany the application with a petition signed by at least 500 qualified voters requesting the same help as the application. The County Judge, or Chairman, would then order referendum election to be held on the question under the general election laws of the State, wherein the question must be approved by a three-fourths vote of the people to be certified to the court by the Election Commission. The stock issue may then still be conditioned upon the railroad completing their work and delivering proper stock certificates before the money is turned over to them. The interest rate was fixed at 4%, or less, and the maturity schedule at thirty years.
2. Private Acts of 1915, Chapter 602, amended Private Acts of 1909, Chapter 270, Section 8, above by lowering the plurality of the referendum vote to issue bonds to buy stock in railroads from a three-fourths vote to a two-third vote, and by raising the maximum allowable interest rate from 4% to 5%.

**Roads**

1. Private Acts of 1869-70, Chapter 54, Section 2, allowed Lincoln County's Quarterly Court to purchase, or construct, any number of turnpikes in the county. Any turnpike so bought, or built, would be under the special supervision of the court and entitled to all the rights and privileges and be subject to the same restrictions as the Fayetteville and Lynchburg Turnpike. The court had the authority also to issue county bonds to effectuate the above purposes at interest rates not to exceed 6%, and on maturity schedules of 30 years or less. The court was permitted to levy a tax to repay the bonds or to adopt any other plan of payment which seemed reasonable to them. Private Citizens could file a petition describing proposed roads and the court could appoint three citizens as an investigating committee. If desired, the court could pay for half of roads built by private citizens if they were five miles, or longer, provided the court supervised the construction. All the above was subject to an affirmative referendum vote.
2. Private Acts of 1901, Chapter 448, allowed Davidson, Lincoln, Giles, Maury and Williamson counties to buy any turnpike in their counties on such terms as they see fit whereupon they would become free public roads. The county could provide any or all of the necessary funds and for that purpose might issue up to \$250,000 in 6%, or less, bonds at maturity schedules ranging from five to thirty years which money could be used for no other purpose than that stated herein.
3. Private Acts of 1915, Chapter 511, provided that the Quarterly Court of Lincoln County, subject to

the successful outcome of a referendum, could issue up to \$200,000 in 5½% bonds, due in five, ten, and twenty years, to acquire turnpikes and to build other public roads. The details were fixed and the tax levy required. With the courts approval, the County Judge would appoint four citizens to the "Board of Pike Commissioners" of which he would be the Chairman. The Commissioners would be sworn and bonded, would serve without any compensation, would select a Secretary whose duties, and the chairman's, were enunciated in the act. Nine roads are specified in the law to be purchased and three are mentioned to be condemned under eminent domain procedures, all of which would, when acquired become free public roads.

4. Private Acts of 1917, Chapter 284, was the authority for Lincoln County to borrow to provide funds for purchasing turnpikes or for constructing roads as free highways across the county, of such character, width, grade, and paving as the county court may decide. The court could borrow up to \$90,000 for a road from the Bedford-Macon county line to Fayetteville as their portion of the Alabama- Jackson Highway. The court must adopt a resolution in regular fashion which would contain the details of the transaction which was limited to the maximum interest rate of 6%. Any notes, or bonds, issued pursuant hereto would be the general and binding obligations of the county to be repaid in accordance with the agreements made in reference to them.
5. Private Acts of 1917, Chapter 361, allowed a majority of the Lincoln County Quarterly Court to issue up to \$90,000 in 6%, 30 year bonds, to purchase any turnpike, or other rights of way along the route, and for constructing, improving, and maintaining free highways across the county from the Bedford County line to Fayetteville, the details and description being set out in the law. The court would appoint three commissioners who were not members of the court, or related to any to be the "Alabama-Jackson Highway Commissioners", who would be sworn and bonded. These funds could not be used for any other purpose, and a special tax be levied for the sinking fund to amortize the bonds to be issued hereunder.
6. Private Acts of 1917, Chapter 395, allowed the Lincoln County Quarterly Court, identified by the use of the 1910 Federal Census figures, to purchase by the adoption of a Resolution any turnpike road in the county with all the rights, privileges, and obligations incidental thereto, at such price as may be mutually agreed upon, for which bonds might be issued at an interest rate of 6%, or less and to mature in 10 years, or less, provided that all roads acquired in whatever manner would become full public highways. If the price cannot be agreed upon, the court may appoint a committee of three disinterested, impartial citizens to seek a compromise. If roads were in more than one county, all counties involved are authorized.
7. Private Acts of 1929, Chapter 890, allowed the county court to issue up to \$50,000 in 6%, 10 year bonds with which to pay off and liquidate the floating and outstanding debts incurred by the county in the acquisition of rights of way in the past, and in the future, and to defray the cost of building bridges. The bonds would be general obligation bonds and the County Judge would keep records.
8. Private Acts of 1935 (Ex. Sess.), Chapter 88, was the authority for the county court to issue up to \$15,000 in general obligation bonds, at an interest rate limited to 5½%, to be repaid over a maximum ten year period, all essential details being spelled out in the legislation, to purchase rights of way for State Highway #50 running through the county. If any of the funds are left after the rights of way have been secured, the same shall revert to the general funds of the county.
9. Private Acts of 1935 (Ex. Sess.), Chapter 164, was the enabling legislation for the county court of Lincoln County to issue up to \$25,000 in General Obligation bonds at a maximum 5½% interest rate, and to mature no later than ten years after issuance, to be in such form as the court may direct, to purchase rights of way for the county highway program, any surplus after the completion thereof, to go into the general county treasury.
10. Private Acts of 1937, Chapter 43, ratified and confirmed all the prior proceedings of the Lincoln County Quarterly Court had in connection with the issuance of \$25,000 in Highway Improvement Bonds dated October 1, 1935, issued at 4% interest and to mature according to the schedule of years and amount incorporated into the law. All errors and defects, if any, are hereby cured and corrected notwithstanding the lack of any statutory authority, or otherwise, at the date of issuance thereof.

### **Schools**

1. Private Acts of 1909, Chapter 497, allowed the Lincoln County Court to levy a 25 cent per \$100 property valuation tax to raise funds to purchase a site for and to build a State Normal School at Fayetteville, or to issue up to \$50,000 in 5%, 30 year bonds, in conformity with the details specified in the law but this shall not be done unless the State Board of Education decides to locate the Normal School for Middle Tennessee in Fayetteville. If the Board decides to do so, the

- money to be raised, or borrowed, hereunder shall be paid over to the State Board of Education.
2. Private Acts of 1927, Chapter 707, authorized both Lincoln County and the city of Fayetteville to issue \$50,000 in 6% bonds, to mature as scheduled in this act generally at \$5,000 per year for both county and city to build a central high school in Fayetteville, all of which is conditioned upon the affirmative vote of a majority in a referendum election. All essential requirements of valid bond legislation are observed. A committee of five would be appointed to supervise the project, two by the county court, two by the Mayor and Aldermen of Fayetteville, and the fifth by those four, but general supervision would be under the County Board of Education.
  3. Private Acts of 1929, Chapter 289, allowed the Quarterly Court of Lincoln County to issue up to \$12,500 in 6%, or less, interest bearing coupon notes, to mature not later than five years from issuance in order to complete the building of the central high school in the county. These funds would be used to pay Lincoln County's half of the still unpaid debts connected with the construction of the school.
  4. Private Acts of 1929, Chapter 734, authorized Lincoln County to issue interest bearing coupon bonds up to \$200,000 at a maximum interest rate of 6%, and a maturity schedule of thirty years, to furnish the University of Tennessee with funds with which to build the Tennessee Junior College at Fayetteville.
  5. Private Acts of 1945, Chapter 342, allowed the Lincoln County Quarterly Court to issue up to \$100,000 in 4%, or less, bonds, to be repaid according to maturity schedules determined by the court with which to buy school buses. The bonds were declared to be exempt from taxation of any sort, and substantial compliance with the terms of this act would be sufficient to be legal.
  6. Private Acts of 1947, Chapter 427, was the authority for the court to issue up to \$200,000 in 4%, 15 year bonds, by the adoption of suitable resolutions therefor, to acquire land, to build or rebuild, to equip and furnish, or to add to buildings in the public school system. All the essential requirements of a valid bond law were observed. The bonds were declared non-taxable and the County Judge was required to keep accurate records of all transactions in connection with this program. This act also contained the alternate authority to issue negotiable notes at a maximum interest rate of 3½%.
  7. Private Acts of 1951, Chapter 29, recited that Morgan School located in Lincoln and Marshall Counties, a well known prep school, had been sold at public auction, one-half to Marshall County, and one-half to W. W. Gill with an option to buy from him granted to Lincoln County. The closing of this school leaves a considerable area in Marshall and Lincoln Counties with no school, a situation which would be very expensive for each county to remedy. This act allows Lincoln County to purchase the one-half undivided interest in the school from Gill for \$20,000 and to make further expenditures to ready such school for use and occupancy, all of which was not to exceed \$30,000. The Boards of Education of the two counties would proceed to manage and operate the school as part of the public school system.

## Chapter IV - Boundaries

### Creation of the County

#### Private Acts of 1809 Chapter 48

**SECTION 1.** That Lincoln County shall be laid off and established within the following bounds (to wit:) Beginning on the north east corner of Giles county, and extending south with the eastern boundary line of the said county of Giles, to the southern boundary line of the state; thence with that line east, to a point due south from the mouth of Cove Spring Creek; thence north to the southern boundary line of Bedford county, and with the said line westwardly to the beginning.

**SECTION 2.** That John Whitaker, senr. Wright Williams, Eli Garret, Littleton Duty and Jesse Woodruff, be, and they are hereby appointed Commissioners, with full power to procure by purchase or otherwise, one hundred acres of land, on or near the north bank of Elk River, as near the center of the said county of Lincoln, east and west, as a proper situation will admit of, and all events not more than two miles from the said centre, and the said commissioners shall take a deed of conveyance for the same, to themselves and successors in office, in trust for the said county of Lincoln, and the said deed shall be good and valid in law, and shall vest in the said commissioners and their successors in office, a complete title, for the

uses in this act expressed, and if any of the said commissioners should neglect or refuse to act, a majority of the justices of said county may appoint another in his place.

**SECTION 3.** That the said commissioners, immediately after procuring the aforesaid quantity of one hundred acres of land, shall cause a town to be laid off thereon, reserving near the centre thereof, a public square of two acres, on which the court-house and stocks shall be built, likewise reserving a lot in any other part of said town, for the purpose of erecting a jail, and the said town, when so laid off, shall be named Fayetteville.

**SECTION 4.** That the said commissioners shall sell the lot of the said town, at public sale, on a credit of twelve months, giving notice thereof sixty days, in one of the newspapers printed in Nashville, and taking bonds with sufficient securities from the respective purchasers, payable to themselves and successors in office, and the said commissioners shall execute titles, in fee simple, to the purchasers of the said lots.

**SECTION 5.** That the said commissioners, immediately after selling the lots as aforesaid, shall let to the lowest bidder, the building of the court-house in the said town of Fayetteville, giving public notice thereof in one of the newspapers printed in Nashville, at least sixty days, and setting forth in the said notice the dimensions of said court-house, and the materials of which it is to be built, and the said commissioners shall take from the person to whom the said building is let, bond with sufficient security, in the sum of ten thousand dollars, for the faithful performance of his contract, and in the same manner the said commissioners, when they think proper, shall let the building of a jail for the use of said county.

**SECTION 6.** That the court of Pleas and Quarter Sessions, for the county of Lincoln, shall be held on the fourth Monday in the months of February, May, August and November, annually, at the house of Brice M. Garner, until a place is provided for holding the said court in the town of Fayetteville, and any justice of the peace for the state of Tennessee, may appear at the first term of the said court, and administer the oaths of office to the respective Justices of the Peace.

**SECTION 7.** That the said commissioners, before entering on the duties of their appointment, shall give bond in the sum of five thousand dollars each, payable to the chairman of the said county court, and his successors in office, and conditioned for the faithful performance of the duties by this act assigned him, and shall moreover take an oath to act honestly and truly in the discharge of said duties, and when the said commissioners shall have finished the aforesaid duties, they shall lay a full statement of all their proceedings before the said county court of Lincoln, and shall be allowed by the said court a reasonable compensation for their services: Provided, not less than five of said justices be present when the said allowance is made.

**SECTION 8.** That the said county of Lincoln be, and the same is hereby declared a part of Mero District, and shall send three jurors to the superior court of law and equity, held for said district.

**SECTION 9.** That nothing herein expressed, shall be so construed as to prevent the sheriff or collector of Bedford county from collecting the taxes within the limits of the said county of Lincoln, which are now due and remain unpaid.

**SECTION 10.** That the said county of Lincoln be a part of the district to which the same has heretofore belonged, for electing a Governor, to elect an elector for electing the President and Vice- President of the United States, Representatives in Congress, Senator or Senators, and Representatives in the General Assembly of this state; the said elections to be held at the place of holding court for said county, and shall be conducted according to the rules and regulations established by law, and the sheriff of said county, on the second Thursday of April, in the year 1810, and on the succeeding day shall hold an election at the said place, for the purpose of electing field officers for the said county of Lincoln, which election shall be conducted pursuant to the rules and regulations prescribed by law, and now in force; and in all elections in which the said county of Lincoln shall vote with the county of Bedford, the sheriff of Lincoln county shall make a return of said election to the sheriff of Bedford county, by eight o'clock of the day succeeding the day on which the said election shall terminate.

**SECTION 11.** That the militia of the county of Lincoln, shall compose the thirty-ninth regiment, and shall be attached to the fifth brigade.

**SECTION 12.** That in all cases wherein the commissioners appointed by this act are required to perform any services, a majority of said commissioners shall constitute a quorum to do business.

**SECTION 13.** That the territory east of Lincoln, south of Bedford, and north of the state line, shall be a part of the county of Franklin, and by this act is attached to and incorporated with the said county of Franklin.

**SECTION 14.** That this act shall be in force from the first day of January, in the year one thousand eight hundred and ten.

Passed: November 14, 1809.

# Change of Boundary Lines

## Private Acts of 1822 Chapter 109

**SECTION 1.** That all that part of the county of Lincoln be, and the same is hereby attached to the county of Bedford, (to wit) Beginning at the eastern height of the main ridge, west of Samuel Mc'Cullock's the present county line; thence running eastwardly along a road on the extreme height of a ridge dividing two small branches of the east fork of Mulberry creek, which line to continue until it will include the plantation of Jonathan Floyd; then running east of north until it will strike the present county line between the plantation of John Adkins and Lewis Martin.

**SECTION 2.** That the persons who are stricken off from Lincoln county and attached to Bedford county, shall be at an equal expense of running of said line.

**SECTION 3.** That the county courts of Bedford and Lincoln shall, at their first courts after the first of January next, or some other term thereafter appoint some competent person as a commissioner and surveyor to run and mark said line between said counties; and that nothing herein contained shall be so construed as to prevent the sheriff or any officer of Lincoln county from collecting any arrearages of tax or other dues which may be necessary for them to collect and now in suit.

Passed: August 20, 1822.

## Boundaries - Historical Notes

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

1. Private Acts of 1811, Chapter 13, states that some doubt has arisen as to whether or not the dividing line between Lincoln and Giles Counties, as it was marked by the commissioner who laid off Giles County, is correct, this act confirms and ratifies that line as it was so marked as the true and correct boundary between Lincoln County and Giles County.
2. Acts of 1835-36, Chapter 35, established Marshall county. Lincoln County is only mentioned as a demarcation reference point in the act. No land was either added to or taken from Lincoln County due to this act.
3. Private Acts of 1849-50, Chapter 110, Section 2, changed the line between Lincoln and Giles Counties so that the residence of Thomas Collins is included in Giles County and the land commencing at the 8 mile post from the buckeye corner of Giles, Bedford, and Lincoln Counties and running east about 600 yards to the top of a ridge between John D. Jones, of Giles County, and Benjamin F. White, of Lincoln County thence with the said ridge due north to the Marshall County line. The County Surveyors of either county may run and mark the line in accordance with the terms of this act.
4. Private Acts of 1855-56, Chapter 161, Section 5, moved the residence and farm belonging to Allen Johnson out of Lincoln County and into Franklin County.
5. Private Acts of 1855-56, Chapter 163, Section 23, changed the lines between the 19th and the 20th Civil Districts of Lincoln County so as to include the town of Camargo completely within the 19th Civil District.
6. Private Acts of 1859-60, Chapter 100, transferred the home and land belonging to C. H. Bean from Lincoln County into Franklin County.
7. Private Acts of 1867-68, Chapter 20, detached the residence and land belonging to William Buchanan out of Lincoln County and attached the same to the Fourth Civil District of Marshall County.
8. Private Acts of 1887, Chapter 99, moved the lands and improvements owned by L. J. Robertson, as they were generally described, out of Lincoln County and into the Seventh Civil District of Moore County.
9. Private Acts of 1905, Chapter 67, provided that the properties belonging to T. M. Liles would be wholly included in the county of Marshall and removed from Lincoln County.
10. Private Acts of 1905, Chapter 91, changed the boundaries between Lincoln and Moore Counties so as to include the land and home of J. L. Foster wholly within Moore County.
11. Private Acts of 1905, Chapter 136, altered the lines between Lincoln and Moore Counties so as to include what is known as the Dave Wagster place on Chestnut Ridge, consisting of about two acres being the same place recently purchased by Joe Stevenson, wholly within the boundaries of

Lincoln County.

12. Private Acts of 1913, Chapter 218, moved all the properties belonging to E. H. Davis out of the Fifth Civil District of Lincoln County and into the First Civil District of Moore County.
13. Private Acts of 1917, Chapter 59, detached the lands of Spoon Motlow from Lincoln County and attached the same to the First Civil District of Moore County.
14. Private Acts of 1927, Chapter 735, changed the boundary lines between Moore and Lincoln Counties so as to include about ten acres of land belonging to J. J. Prosser wholly within the boundaries of the 8th Civil District of Moore County.
15. Private Acts of 1939, Chapter 343, transferred the house and lot owned by H. G. Hicks located in the Tenth Civil District of Lincoln County to be included wholly within the lines of Moore County.
16. Private Acts of 1939, Chapter 362, changed the lines between Lincoln and Moore Counties so as to include the house and lot containing about two acres and belonging to J. P. Murray, and wife, Joe Annie Murray, wholly within the Tenth Civil District of Lincoln County.
17. Private Acts of 1947, Chapter 357, detached from the Fifth Civil District of Lincoln County approximately 195 acres of land owned by G. B. Waggoner, and wife, Martha J. Waggoner, as the same was generally described in the act, and attached the same to the Seventh Civil District of Moore County.
18. Private Acts of 1947, Chapter 358, removed from the Fifth Civil District of Lincoln County about 404 acres of land belonging to Reagor Motlow bounded as the area was generally described in the act, and about 97 acres of land belonging to Conner Motlow and attached both tracts to the First Civil District of Moore County.

## Chapter V - Court System

### General Sessions Court

#### Private Acts of 1951 Chapter 34

**SECTION 1.** That there is hereby created and established a Court in and for Lincoln County, Tennessee, which shall be designated Court of General Sessions of Lincoln County, Tennessee. Said County shall provide a court room in the Town of Fayetteville, Tennessee, dockets, furnishing and necessary supplies for the equipment and maintenance of said Court, and pay for same out of the general funds of said County.

The Judge of the Court of General Sessions of Lincoln County, Tennessee, shall hold said Court in the court room so provided; and in his discretion the Judge of said Court may hold Court or try a case or cases in any part or locality of Lincoln County that he deems to be more convenient and accessible to the litigants and witnesses.

That it shall be mandatory duty of the Judge of the Court of General Sessions to open and hold said Court each day at 9:30 A.M. Central Standard Time in the courtroom herein provided for. The holding of Court on Sundays and holidays is expressly excepted. It shall also be the further duty of said Judge to dispose of all matters and cases presented to him or set for trial on each day when the Court is opened for regular business. It being the purpose of this Act to expedite the business presented to said Court and to prevent any delay in the trial and disposition of cases pending before said Court. Any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars.

As amended by: Private Acts of 1957, Chapter 86

**SECTION 2.** That the Court of General Sessions of Lincoln County, Tennessee, shall be and is hereby vested with all of the jurisdiction and shall exercise all of the authority conferred by the General Assembly of Tennessee upon Justices of the Peace in civil and criminal cases, suits and actions; and the Justices of the Peace of said County are hereby divested of all such jurisdiction and authority, but Justices of the Peace of said County shall have authority to issue search warrants, and arrest warrants and accept appearance bonds and may issue summons, attachments and all other leading process which Justices of the Peace are authorized by general law to issue, and take security for the costs of such suits or administer paupers' oaths as required or permitted by law. But all process issued by Justices of the Peace shall be returnable to the Court of General Sessions of Lincoln County, Tennessee.

The authority of said Justices of the Peace of Lincoln County, Tennessee, in their capacity as members of the Quarterly County Court, or in the performance of the rites of matrimony, is in no wise affected by this

Act.

Juvenile Court jurisdiction under Tennessee Code Annotated, Title 37, is hereby vested in the Court of General Sessions of Lincoln County until August 31, 1982. The Judge of the Court of General Sessions of Lincoln County shall have all the rights, powers, and jurisdiction of the Juvenile Court Judges as provided in Tennessee Code Annotated, Title 37, and such Judge shall regularly conduct such court proceedings in such county accordance with the provisions of Tennessee Code Annotated, Title 37, until August 31, 1982.

As amended by:  
Private Acts of 1953, Chapter 391  
Private Acts of 1980, Chapter 331

**SECTION 3.** That before the issuance of any warrant in any civil case, the plaintiff shall secure the costs by executing a cost bond with good security in a sum not less than \$25.00, or by making a cash cost deposit of not less than \$5.00, or more than \$25.00, or shall take the oath prescribed for poor persons, and on motion, the Court may increase the amount of such bond or deposit.

**SECTION 4.** That the rules of pleading and practice, form of writs and process and stay of and appeals from judgments in civil cases of said Court shall be the same as of Justices of the Peace. **SECTION 5.** That in all matters the costs and fees of said Court of General Sessions shall be the same as those provided by law for Justices of the Peace.

The fees and other compensation of the Sheriff, his deputies, constables, game wardens and State Highway Patrolmen for the execution of writs and process of said Court, and the attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Courts of Justices of the Peace.

The fees and compensation due for services rendered by said Court of General Sessions shall be paid to the Clerk of said Court and by him accounted for as hereinafter provided. Said costs, fees, and mileage of witnesses, the fee, commissions and emoluments of the Sheriff, his deputies, constables, State Highway Patrolmen, game wardens and other officers, for services to said Court, and the fines and forfeitures adjudged by it shall be handled, accounted for and disbursed as required by law.

**SECTION 6.** That when any defendant is brought before the Court of General Sessions of Lincoln County, Tennessee, charged with any crime or misdemeanor, it shall be the mandatory duty of the Judge of said Court to inform said defendant of his constitutional rights, and to advise him as to his right to employ and be represented by counsel and his right to make a statement or decline to make any statement, and to aid said defendant, in so far as it is necessary and reasonable, in contacting counsel and relatives or friends, and in procuring the attendance of his witnesses.

**SECTION 7.** That separate dockets shall be kept in said Court for Civil and Criminal cases. Upon the civil docket shall be entered the style of each case, the date of issuance of the warrant or process, and the return of the process, in brief form, action of the Court on the case, both interlocutory and final orders, judgments, executions, garnishments, lists of the fees of the Court, the Sheriff, his deputies, constables, game wardens and State Highway Patrolmen for their services, fees of witnesses for attendance, et cetera, and credits for payments upon judgment and upon the costs. All cases shall be indexed and the dockets shall be substantially in the form of those of Justices of the Peace. The Criminal Docket shall be kept in like manner.

**SECTION 8.** That there shall be one Judge for said Court, who shall be learned in the law, and with all of the qualifications and the same term of office as provided by the Constitution of the State of Tennessee for inferior Courts; and the oath shall be the same as that prescribed for Circuit Judges and Chancellors.

As amended by: Private Acts of 1953, Chapter 391.

**SECTION 9.** That compensation of the Judge of the Court of General Sessions of Lincoln County, Tennessee, shall be \$3,000.00 per annum, payable in equal monthly installments. Said salary shall be paid out of the General County Funds of Lincoln County.

The county legislative body may in its discretion increase such salary in order to compensate the Judge of the Court of General Sessions for the additional responsibilities assumed upon the vesting of Juvenile Court jurisdiction in such court.

As amended by: Private Acts of 1980, Chapter 331.

**SECTION 10.** That the first Judge of said Court shall be A. E. Simms, Jr., who shall serve until the first day of September, 1952, and until his successor has been elected and qualified. His successor shall be elected by the qualified voters of Lincoln County at the election of other civil officers on the first Thursday of August, 1952, and shall hold said office from the first day of September, 1952, until the first day of September, 1958, or until his successor is elected and qualified. His successor shall be elected at the election for judicial and other civil officers, on the first Thursday of August, 1958, and every eight years thereafter, at such election for the term provided by the Constitution of the State of Tennessee, for Judges of inferior Courts.

**SECTION 11.** That if the Judge of said Court fails to attend, cannot preside in a pending case or for any reason hold Court, a majority of the attorneys present in such Court may elect one of their number, who has the qualifications of such Judge, and when elected he shall take the same oath and have the same authority as the regular Judge of said Court, to hold the Court and perform all of the duties of such Judge for the occasion.

**SECTION 12.** That in the case of vacancy for any cause, the Governor shall have the power to appoint some qualified person to fill such vacancy until the first day of September following the next biennial August election occurring more than thirty days after the vacancy occurs or until his successor is qualified.

**SECTION 13.** That the Clerk and Master of the Chancery Court of said County shall act as Clerk of said Court of General Sessions, and when acting as Clerk of said Court shall be designated "Clerk of Court of General Sessions of Lincoln County, Tennessee." The fees, commissions and emoluments of said Court of General Sessions shall accrue to said County. The Clerk of said Court shall receive as compensation for his services the sum of Nine Hundred (\$900.00) Dollars per annum, payable in equal monthly installments out of the general funds of said County, and shall pay to said County monthly all fees, commissions and emoluments of said Court of General Sessions, and the same shall become a part of the general funds of Lincoln County, Tennessee. The Clerk of said Court and his deputies shall have concurrent authority with the Judge thereof to issue warrants and other processes and writs, other than those which the law requires shall be issued only by a judicial officer.

As amended by: Private Acts of 1953, Chapter 391

**SECTION 14.** That the Sheriff of said County, or any deputy sheriff or constable thereof, shall serve legal process, writs, and papers issued from said Court with the same authority as provided by law in regard to Justices of the Peace Courts.

**SECTION 15.** That this Act shall in no wise impair the right, title or interest of any Justice of the Peace of said County to any unpaid fees or funds in which he had a right or interest, in any proceedings, judgment or suit, whether said cause is disposed of or pending when this Act becomes effective, or may hereafter become entitled to.

As amended by: Private Acts of 1953, Chapter 391

**SECTION 16.** That all of the official dockets, records and papers in cases that are undisposed of or pending in the offices of Justices of the Peace of said County at the time this Act becomes effective shall be delivered to said Court of General Sessions. The official dockets, records and papers in possession of Justices of the Peace of said County in cases that have been completed shall be turned over to said County, as provided by law.

**SECTION 17.** That said Court shall have authority to hear and determine all undisposed of cases arising in the Courts of Justices of the Peace of said County as if such cases had originated in said Court of General Sessions.

**SECTION 18.** That none of the provisions contained in this Act shall be construed to prohibit the Judge of the Court of General Sessions of Lincoln County, Tennessee, from practicing law in the Chancery Courts, Circuit Courts, County Courts, and Appellate Courts of the State of Tennessee, except in cases having their origin in said Court of General Sessions of Lincoln County, Tennessee.

**SECTION 19.** That the General Assembly of the State of Tennessee expressly declares that each section, sub-section, paragraph and provision of this Act is severable, and that should any portion of this Act be held unconstitutional or invalid, the same shall not affect the remainder of this Act, but such unconstitutional or invalid portion shall be elided, and the General Assembly of the State of Tennessee declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 20.** That this Act shall take effect thirty days after its passage, the public welfare requiring it.

PASSED: January 19, 1951.

## Court System - Historical Notes

### **Board of Jury Commissioners - Jurors**

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

1. Private Acts of 1809, Chapter 48, assigned newly created Lincoln County to the Mero District and directed that Lincoln County furnish at least three jurors to the Superior Court of Law and Equity.

2. Private Acts of 1817, Chapter 128, granted the authority to the Quarterly County Courts of the twenty-one counties named in the legislation, including Lincoln County, to lay a tax at their first session of each year for the purpose of making an additional compensation to the jurors attending the county and the Circuit Courts but the extra pay shall not exceed fifty cents per day.
3. Private Acts of 1821, Chapter 37, provided that the Judges of the Superior Court of Law and Equity to which Lincoln County was required to furnish a certain number of jurors, would hold two terms per year of said court at the court house in Columbia in Maury County and exercise jurisdiction in the appeals of cases of both law and equity from the Sixth Judicial Circuit to which Lincoln County then belonged.
4. Private Acts of 1833, Chapter 194, provided that the County Courts of Carter and Lincoln Counties at the first court to be held each year shall allow the jurors who are summoned to attend the Circuit and the County Courts, plus the talisman jurors, when they are required to attend more than one day, at least fifty cents and no more than One Dollar per day, and they are empowered to levy a tax in order to produce the funds with which this cost be paid. The talisman jurors were to collect from the clerk of the court which summoned them.
5. Private Acts of 1915, Chapter 605, created Boards of Jury Commissioners for Lincoln, Coffee, and Dekalb Counties. The Board was composed of three discreet citizens of the county, who were not county officials, or attorneys, who had no suit pending in the courts, or any interest in them, who would be appointed by the Circuit Judge for a one year term. Vacancies would be filled in the same manner. The Commissioners were required to take the oath prescribed in this act, and then would meet and select a chairman from their own number. The Clerk of the Circuit Court would serve as the Secretary and he, too, must take an oath of secrecy. The Board would make a list of names from the tax rolls, or other public sources, from 300 to 750 in number, of good moral citizens. The names would be entered in a well bound book by the clerk and would constitute the jury list for the next two years.

### **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Lincoln 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. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1822, Chapter 13, provided that the Justices of the Court of Appeals and Error would hold the Chancery Courts of the State at least once a year. The Court at Columbia to which Lincoln County presumably belonged at this time would be held on the second Monday in January of each year.
2. Acts of 1824, Chapter 14, provided for the addition of two additional Justices to the Supreme Court which would meet at Knoxville, Sparta, and Nashville, and for the Judges thereof to arrange among themselves to hold the Chancery Courts of the State at least twice a year. These courts would be held in the Eastern part of the State at Greeneville, Rogersville, Kingston, Carthage, McMinnville, Franklin, Charlotte, Jackson, and at Columbia for the counties of Maury, Bedford, Lincoln, Giles, Lawrence, Wayne, and Hardin.
3. Acts of 1827, Chapter 79, Section 3, divided Tennessee into two Chancery Divisions. The Eastern Division would be composed of the courts held at Rogersville, Greeneville, Kingston, Carthage, McMinnville, and the Western Division contained the courts at Franklin, Columbia, Charlotte, Jackson and Paris.
4. Acts of 1827, Chapter 88, establishes the starting dates for the terms of the chancery court in the Eastern Division but does not mention the courts in the Western Division.
5. Private Acts of 1831, Chapter 57, Section 2, states that a Chancery Court shall be organized and held in the Western Division in the city of Pulaski in Giles County for the counties of Giles, Lincoln, Lawrence, Wayne, and Hardin where terms of court would begin on the second Monday in April and October and continue for two weeks or until the docket is completed.
6. Acts of 1835, Chapter 4, divided Tennessee into three Chancery Divisions and the courts would be presided over by chancellors of the State to be appointed rather than by the Justices of the Supreme Court. Each Grand Division was further divided into Districts. The Chancellors were required to hold court at least twice each year. Lincoln County was in the 8th District of the Middle Division. Court would be held at Fayetteville on the fourth Monday in February and August.
7. Acts of 1839-40, Chapter 33, created a Fourth Chancery Division in the State consisting of the courts meeting at Livingston, Carthage, McMinnville, Winchester, Lebanon, Murfreesboro, and

Shelbyville.

8. Private Acts of 1851-52, Chapter 87, stated that the Chancery Court for Lincoln County, held at Fayetteville, is hereby transferred to the Fourth Chancery Division to be held by the Chancellor of that District on the fourth Monday in February and August.
9. Acts of 1857-58, Chapter 88, divided Tennessee into the Eastern, Middle, Western, Fourth, Fifth, and Sixth Chancery Divisions. The Fourth Chancery Division contained the counties of Wilson, Macon, Jackson, Putnam, Smith, Coffee, Franklin, Bedford, Sumner, DeKalb, Van Buren, Warren, Grundy, Cannon, Rutherford, and Lincoln whose terms of court would begin in Fayetteville on the fourth Monday in February and August.
10. Private Acts of 1866-67, Chapter 33, Section 7, changed the starting dates for the Chancery Court of Lincoln County at Fayetteville from the fourth to the second Monday in February and August.
11. Acts of 1870, Chapter 32, reorganized the Chancery Court system of Tennessee into twelve Chancery Divisions. The Fourth Chancery Division contained the counties of Franklin, Lincoln, Bedford, Rutherford, Cannon, Coffee, Warren, and Grundy.
12. Acts of 1870, Chapter 47, scheduled the court terms of all the Chancery Courts for all the counties in Tennessee. Lincoln County Chancery Court would open in Fayetteville on the fourth Monday in July and December.
13. Private Acts of 1871, Chapter 24, changed the court terms for holding the Chancery Court of Lincoln County from the fourth Monday in July and December to the first Monday in April and October.
14. Acts of 1885 (E.S.), Chapter 20, reorganized the entire lower judicial structure in the state. There were eleven Chancery Divisions of which the Fourth was made up of the counties of Warren, Cannon, Rutherford, Bedford, Franklin, Moore, Marshall, and Lincoln whose terms of court would begin on the first Monday in April and October. This statute was the subject of the litigation in the leading case of *Flynn v. State*, 313 S.W.2d 249, 203 Tenn. 341 (1958).
15. Private Acts of 1887, Chapter 181, changed the starting dates for the Lincoln County Chancery Court to the second Monday in May and November. No other counties were mentioned in this act.
16. Private Acts of 1889, Chapter 183, changed the terms of the Lincoln County Chancery Court to the third Monday in March and September and repealed that portion of the 1887 Act which provided otherwise.
17. Public Acts of 1899, Chapter 427, divided the State into Ten Chancery Divisions. The Fifth Chancery Division contained the counties of Rutherford, Bedford, Marshall, Williamson, Lawrence, Maury, Giles, Lewis, Wayne, and Lincoln whose courts would start on the third Monday in April and October.
18. Private Acts of 1901, Chapter 494, amended Chapter 427, Acts of 1899, above, so as to change the terms of the Chancery Court in the Fifth Chancery Division switching Lincoln County to second Monday in March and September.
19. Public Acts of 1931 (2E.S.), Chapter 38, reorganized the entire lower judicial system of the State into fourteen Chancery Divisions. The Fifth Chancery Division consisted of the counties of Rutherford, Marshall, Bedford, Moore, Giles, Maury, Lawrence, and Lincoln whose courts of equity would convene on the second Monday in March and September. All changes in the judicial system from henceforth would be by public rather than private act.

### **Chancery Court - Clerk and Master**

The reference list below contains acts which once applied to the clerk and master in Lincoln County. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1821, Chapter 52, made it the duty of the Judge of the Circuit to appoint a Clerk and Master for the Chancery Court to be held at Columbia at least twenty days before the term begins. The equity cases arising in Lincoln County would be heard in this court.
2. Private Acts of 1915, Chapter 395, stated that the Clerk and Master of Lincoln County, using the 1910 Federal Census figures, shall receive an annual salary of \$1400.00 provided, a sworn, itemized statement showing all the fees collected in that office is filed with the County Judge, or Chairman. If the fees are less than the above mentioned salary, the county will pay the difference to the Clerk and Master, but if the fees are more than the salary, the Clerk and Master may keep the excess. This act was repealed by Private Acts of 1933, Chapter 820.
3. Private Acts of 1917, Chapter 242, declared that women over the age of twenty-one and a

resident of the county appointing them shall be eligible to be appointed as Deputy Clerks and Masters in Lincoln County with all the rights, powers, privileges, duties, obligations, and restrictions being placed on them in the same way and to the same extent as other Deputy Clerks and Masters.

4. Private Acts of 1933, Chapter 760, amended Code Section 10726, Code of Tennessee, by creating a population class of 3-B for the salaries of the officials mentioned therein who held office in Lincoln County. Salaries for that class were fixed for the county officials of Lincoln County including the Clerk and Master which was set at \$1,500 per year. The seeking of the office by an incumbent was tantamount to an acceptance of the specified salary.
5. Private Acts of 1933, Chapter 820, expressly and entirely repealed Private Acts of 1915, Chapter 395, concerning the Clerk and Master of Lincoln County, Item 2, above.
6. Private Acts of 1939, Chapter 385, established the annual compensation of the Clerk and Master of Lincoln County at \$2,000, provided a sworn, itemized statement showing the total amount of fees collected is filed by January 1 with the County Judge or Chairman, the same conditions relating to shortages and averages to exist as expressed heretofore.
7. Private Acts of 1945, Chapter 421, amended Chapter 385, Private Acts of 1939, Item 6, above, by increasing the salary of the Clerk and Master from \$2,000 to \$3,000 per year, the same terms and conditions of payment as expressed in the amended act to prevail.
8. Private Acts of 1953, Chapter 391, Section 3, made the Clerk and Master of Lincoln County the Clerk of the General Sessions Court of the County.
9. Private Acts of 1955, Chapter 144, amended Private Acts of 1953, Chapter 391, above, by increasing the compensation to be paid to the Clerk and Master for his services as the Clerk of the General Sessions Court from \$900 to \$1,800 per year but this act was rejected by the Quarterly County Court of Lincoln County and never became an effective law.

### **Circuit Court**

The following acts were once applicable to the circuit court of Lincoln County but now have no effect, having been repealed, superseded, or having failed to win local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1809, Chapter 49, divided Tennessee into five Judicial Circuits of which the Fourth Judicial Circuit contained the counties of Davidson, Wilson, Rutherford, Williamson, Maury, Giles, Lincoln, and Bedford. Court was held twice a year in each county falling on the third Monday of June and December in Lincoln County.
2. Private Acts of 1812, Chapter 68, changed the terms of the Circuit Courts in several different counties including Lincoln which would begin Circuit Court terms on the first Monday in April and October.
3. Private Acts of 1817, Chapter 65, created a new Sixth Judicial Circuit assigning to it the counties of Lincoln, Giles, Maury, Bedford, and Lawrence. The Judge of the new circuit would be appointed by ballot of both houses of the General Assembly. Section Three of the same act placed Franklin, Lincoln, and Bedford counties in the 8th Solicitorial District.
4. Private Acts of 1817, Chapter 138, reset court terms for all the counties in four of the six Judicial Circuit. Lincoln County's Circuit Court would start on the third Monday in March and September and court would be held open until the business of the court is finished or the time comes for the Judge to move on to another county.
5. Private Acts of 1827, Chapter 222, stated that John Lane, of Lincoln County, is excused and exonerated from the payment of \$250.00 which is the amount recovered against him in the Circuit Court of Lincoln County as a forfeiture on the bond of Thomas Lane who failed to appear in court. The act does not mention any of the circumstances.
6. Acts of 1835-36, Chapter 5, divided Tennessee into eleven Judicial Circuits. The 8th Judicial Circuit was made up of the counties of Lincoln, Giles, Maury, and Lawrence. The next term of court in Lincoln County would be on the third Monday of March next and thereafter on the first Monday of February, June, and October.
7. Private Acts of 1837-38, Chapter 3, created fourteen Judicial Circuits in the State. The 13th Circuit contained the counties of Warren, Lincoln, Franklin and Coffee. Court would be held in Lincoln County starting on the first Monday in February, June and November.
8. Private Acts of 1837-38, Chapter 116, Section 9, changed some of the circuit court terms in the

13th Judicial Circuit. DeKalb County was added to the circuit and Lincoln's third annual term would start on the first Monday of October rather than the first Monday in November.

9. Private Acts of 1839-40, Chapter 21, Section 3, rearranged the court terms for some of the counties in the 13th Judicial Circuit but did not change Lincoln.
10. Private Acts of 1845-46, Chapter 27, rescheduled the court terms for most of the counties in the 13th Judicial Circuit changing Lincoln County to the second Monday in February, June, and October. This act was repealed by the one following.
11. Private Acts of 1845-46, Chapter 82, Section 5, expressly repealed so much of the act above as related to Lincoln County and reset the Circuit Court terms to start on the first Monday in February, June and October as they did before the act was passed.
12. Private Acts of 1847-48, Chapter 181, changed the circuit court terms for all the counties in the 13th Judicial Circuit switching Lincoln County to the first Monday in March, July, and November. The circuit was made up of Van Buren, Coffee, Grundy, Warren, Franklin, and Lincoln Counties.
13. Public Acts of 1857-58, Chapter 98, created a total of 16 Judicial Circuits in its revision of the lower court system of Tennessee. The 8th Judicial Circuit consisted of the counties of Grundy, Van Buren, Warren, Coffee, Franklin, and Lincoln. The court terms would commence in Lincoln County on the first Monday in March, July and November.
14. Public Acts of 1870, Chapter 31, reorganized the lower court system of the state into fifteen regular and one special judicial circuits. Lincoln County was placed in the 6th Judicial Circuit in company with Grundy, Warren, Coffee, Franklin, and Van Buren Counties.
15. Public Acts of 1870, Chapter 46, scheduled the three annual circuit court terms for all the counties in Tennessee. Lincoln County would take up the Circuit Court Dockets on the first Monday in March, July, and November as in the immediate past.
16. Public Acts of 1885 (E.S.), Chapter 20, fulfilled the need to rearrange the lower court system of the State. Fourteen regular and one special Judicial Circuits were organized. The Sixth Circuit contained the counties of Van Buren, Grundy, Franklin, Coffee, Warren, Moore, Lincoln, DeKalb, and White. The circuit courts of Lincoln County would continue to meet on the first Monday in March, July, and November.
17. Private Acts of 1887, Chapter 8, changed the court terms in the Sixth Judicial Circuit. Lincoln County's Circuit Court was scheduled to open on the first Tuesday after the second Monday in February, June, and October.
18. Public Acts of 1899, Chapter 427, once again realigned the counties into a different lower judicial system. Fourteen Judicial Circuits were organized of which the Seventh Circuit was composed of the counties of Van Buren, Warren, Coffee, Moore, DeKalb, Bledsoe, Rhea, Grundy, and Lincoln whose circuit court would continue to meet on the first Tuesday after the second Monday in February, June, and October.
19. Private Acts of 1903, Chapter 580, rescheduled the opening dates for the circuit courts of some of the counties in the Seventh Judicial Circuit but did not change Lincoln County.
20. Private Acts of 1909, Chapter 540, changed the court terms for Grundy and Rhea Counties but left the other counties of the Seventh Judicial Circuit as their court terms were previously scheduled.
21. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, reorganized the entire lower judicial structure of the State. The counties were assigned to one of the twenty Judicial Circuits formed under this act. The Seventh Judicial Circuit had in it the counties of Coffee, Warren, Moore, DeKalb, Van Buren, and Lincoln County which retained the same dates it had had for several years for opening the court terms.
22. Public Acts of 1963, Chapter 262, removed Bedford and Marshall counties from the 8th Judicial Circuit and Lincoln and Moore counties from the 7th Judicial Circuit and combined the four counties to form a new 23rd Judicial Circuit. Lincoln's Circuit Court would meet on the first Tuesday in March, July, and November. All cases not under advisement, all the official records both civil and criminal, as well as all process not completed and pending would be transferred to the new circuit. The Governor would appoint a Judge and an Attorney-General to serve the circuit until the next general election. The Judge was authorized to employ a competent person as Secretary at a salary of \$3,000 per year, who would serve at his pleasure and direction.

### **Circuit Court - Clerk**

The following acts have no current effect, but once applied to the Lincoln County circuit court clerk. They

were repealed, superseded, or never received local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1819, Chapter 152, authorized the County Court of Lincoln County to build an office for the Circuit Court Clerk on the Public Square in Fayetteville and to lay a tax to defray the expenses of doing so.
2. Public Acts of 1903, Chapter 255, fixed the salaries of the Circuit Court Clerks of the various Tennessee counties according to population class as the same was shown in the 1900 Federal Census. According to our population figures the Circuit Court Clerk of Lincoln County's salary would have been \$1,000 per annum, coming in the 20,000 to 35,000 population group. The same conditions of the county paying the difference and the clerk retaining the average prevailed if the clerk filed the required sworn, itemized statement.
3. Private Acts of 1911, Chapter 675, amended Public Acts of 1903, Chapter 255, above, by adding a provision that, in counties between 25,000 and 30,000 in population, which has a Law Court in operation in addition to the Circuit Court and a separate office is to be kept for the Law Court by the Clerk of the Circuit Court, or his Deputy, in that case the salary of the Circuit Court Clerk shall be \$1,500 per year. This act would apply to Campbell, Dyer, Haywood, Henry, Lincoln, Obion, Robertson, Sullivan, Tipton, Sumner, Washington, and Wilson Counties.
4. Private Acts of 1915, Chapter 638, intended to set the salary of the Circuit Court Clerk of Lincoln County, identified by the use of the 1910 Federal Census figures, at \$1,500 per year provided the Clerk met certain specified conditions but this act did not apply because of an error in the population figures cited.
5. Private Acts of 1917, Chapter 58, amended Private Acts of 1915, Chapter 638, above, by correcting the population figures cited in the caption and in the body of the bill so as to make certain it applied to Lincoln County, thus setting the salary of the Circuit Court Clerk at \$1,500 per annum, all other conditions being untouched.
6. Private Acts of 1927, Chapter 833, fixed the annual compensation of the Lincoln County Circuit Court Clerk at \$2,000 per year, provided that he filed a sworn, itemized statement in January of each year showing the total amount of fees collected by his office during the year. The county would pay the difference to the clerk. All the fees of the office were declared to be the property of the county, the \$2,000 representing the total salary of the clerk.
7. Private Acts of 1933, Chapter 760, amended Section 10726, Code of Tennessee, by creating a population class, called 3-B, in which the annual salaries of the officials of Lincoln County were fixed. The salary of the Circuit Court Clerk was set at \$1,800 per year, (this being a post depression act), and the seeking of the office would amount to an agreement to accept that salary.
8. Private Acts of 1933, Chapter 823, expressly repealed Private Acts of 1927, Chapter 833, which is Item 6, above, in its entirety which would remove all doubt as to whether the salary of the Circuit Court Clerk was \$2,000 or \$1,800 per annum.
9. Private Acts of 1937, Chapter 254, established the annual salary for four of the Lincoln County officials, among them being the Circuit Court Clerk whose salary was set at \$1,500 per annum. These officials were required to keep an accurate account of all the fees collected in their offices and to file quarterly reports on the same. If the fees were less than the salary, the county would supplement; if more, the excess became the property of the county.
10. Private Acts of 1939, Chapter 10, fixed the salary of the Circuit Court Clerk of Lincoln County identified by the 1930 Federal Census figures, at \$2,000 annually, provided a sworn, itemized statement showing the total amount of fees collected is filed with the County Judge, or Chairman, by September 1, of each year. The county would supply any deficiency to the clerk but the overage, if any, the clerk would pay over to the county treasury.
11. Private Acts of 1943, Chapter 51, amended Private Acts of 1939, Chapter 10, above, by increasing the salary of the Circuit Court Clerk of Lincoln County from \$2,000 to \$3,000 per year.

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

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

1. Acts of 1835-36, Chapter 28, made each Solicitorial District in the State coincide with each Judicial Circuit having criminal jurisdiction, thus eliminating Solicitorial Districts as a separate and

distinct part of the judicial system by that name.

2. Private Acts of 1911, Chapter 349, created the position of Assistant Attorney General in Lincoln County, identified by the use of the 1910 Federal Census figures. The Attorney-General of the Circuit may appoint a suitable person to this position who would serve at his direction, will, and pleasure, who shall be twenty-one years of age, or older, and learned in the law. The salary, set at \$1,400 per year, would be paid out of the State treasury. This act was repealed by Private Acts of 1919, Chapter 167.
3. Private Acts of 1917, Chapter 692, amended Private Acts of 1911, Chapter 349, above, in Section 4, the said act creating the position of Assistant Attorney-General in Lincoln County, by increasing the annual salary from \$1,400 to \$1,800 per year.
4. Private Acts of 1919, Chapter 167, specifically repealed Private Acts of 1911, Chapter 349, above, as it was amended in 1917, in its entirety.
5. Public Acts of 1976, Chapter 526, established the position of Criminal Investigator in the 23rd Judicial Circuit who would be appointed by the District Attorney-General to serve at his direction and pleasure. The Investigator could be a licensed attorney who could be given the additional duty of prosecuting in the various courts of the Circuit. As an Investigator, he or she would investigate crime, take statements of witnesses in felony cases and perform such other duties as might be assigned by the District Attorney. Compensation would be the same as was paid to others in like positions under the State law. This act was repealed by Public Acts of 1977, Chapter 401.

### **General Sessions Court**

The following acts once affected the general sessions court of Lincoln County, but are no longer in effect and are included herein for reference purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1953, Chapter 391, amended Chapter 34, Private Acts of 1951, by inserting the Section 2 appearing in the act which broadened the powers left to the Justices of the Peace by a little, and by adding in Section 8 the phrase, "who shall be learned in the law" striking the requirement that the Judge be an attorney. Section 13 was amended to make the Clerk and Master the Clerk of the Court rather than the Circuit Court Clerk and increased the salary to \$900.00 per year.
2. Private Acts of 1961, Chapter 303, amended Chapter 34, Private Acts of 1951, Section 2, by adding a new Section 2 which transferred all the authority and jurisdiction possessed by Justices of the Peace in civil and criminal cases to the Judge of the General Sessions Court, the same being divested out of the Justices of the Peace except they may still issue search and arrest warrants and accept appearance bonds, and issue summons, writs of attachments, and other leading process, all of which would be made returnable to the General Sessions Court. Section 8 was changed to make the Judge's qualification to read "learned in the law" rather than to be an attorney and increased the salary of the Clerk of the Court to \$2400.00 per year. This act was rejected by the Quarterly County Court of Lincoln County and never became an effective law.

### **Secretarial Assistance**

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

1. Public Acts of 1963, Chapter 262, which created the new 23rd Judicial Circuit, provided that the Circuit Court Judge could employ a Secretary at a salary of \$3,000 per year.

## Chapter VI - Education/Schools

### Board of School Commissioners

#### Private Acts of 1937 Chapter 93

**SECTION 1.** That in all counties in the State of Tennessee, having a population of not less than 25,400 nor more than 25,450, according to the Federal Census of 1930 or any subsequent Federal Census, the administration, management, government, supervision, control and conduct of the Public School affairs, and all powers and duties pertaining to, connected with, or any manner necessary and/or incident to the

proper conduct and control of the Public School affairs, both Elementary and High Schools in such counties, employment of teachers and labor, the erection, repairing and/or maintenance of buildings and furnishing of materials, labor, supplies, and equipment shall be vested in County Board of School Commissioners, said Board of School Commissioners to be elected by popular vote of the qualified voters of the counties of this State to which this Act shall apply, in the manner, form, and for the terms hereinafter provided, and with the powers, duties, and privileges herein conferred and granted, and for the compensation stated.

**SECTION 2.** That upon the expiration of the terms of office of the present County Board of School Commissioners of Lincoln County, such Board shall be composed of eight (8) members with one (1) member being elected from each of the Legislative Districts. At the August, 1978 election, three (3) Commissioners shall be elected, one (1) each from the fourth, sixth, and eighth Legislative Districts to replace those Commissioners whose terms expire on August 31, 1978. Such elected Commissioners shall take office on September 1, 1978. At the August, 1980 election, three (3) Commissioners shall be elected, one (1) each from the first, second, and seventh Legislative Districts to replace those Commissioners whose terms expire on August 31, 1980. Such elected Commissioners shall take office on September 1, 1980. At the August, 1982 election, two (2) Commissioners shall be elected, one (1) each from the third and fifth Legislative Districts to replace those Commissioners whose terms expire on August 31, 1982. Such elected Commissioners shall take office on September 1, 1982. All Commissioners elected pursuant to the provisions of this act shall serve terms of six (6) years. At the August general election preceding the expiration of the term of office of the present eight (8) District School Commissioners, or, if necessary, at a special election to be held in August preceding the expiration of said terms of office, the qualified voters of the districts as provided in Section 3 in which said Commissioners reside and are to serve shall elect successors to those members of the Board whose terms expire.

As amended by:  
 Private Acts of 1939, Chapter 49  
 Private Acts of 1970, Chapter 336  
 Private Acts of 1978, Chapter 302

**SECTION 3.** That School Districts one (1) through eight (8) shall be composed of Legislative Districts one (1) through eight (8), respectively.

As amended by:  
 Private Acts of 1939, Chapter 49  
 Private Acts of 1943, Chapter 48  
 Private Acts of 1951, Chapter 108  
 Private Acts of 1961, Chapter 54  
 Private Acts of 1970, Chapter 336  
 Private Acts of 1978, Chapter 302

**SECTION 4.** That no person shall hereafter be eligible to election as a member of the County Board of School Commissioners who is not 25 years of age and a resident of the school district from which he or she shall be elected, except that nothing herein stated shall deprive those two (2) members who were elected from the county at large from serving the balance of their terms of office.

**SECTION 5.** Be it further enacted, that if the office of either of the present commissioners-atlarge is vacated for any reason prior to the expiration of the term, such office shall not be filled. If a vacancy occurs in the other presently elected county board of school commissioner for any reason, the vacancy shall be filled by an election at the next regular or special session of the county legislative body, said vacancy to be filled until the next general election following said vacancy, at which time the vacancy shall be filled for the remainder of the unexpired term by a popular vote of the qualified voters in the school district created by this act in which the vacated commissioner resided at the time the vacancy occurred. If a vacancy occurs in the county board of school commissioners elected for a full term for any reason, the vacancy shall be filled by an election at the next regular or special session of the county legislative body, said vacancy to be filled until the next general election following said vacancy, at which time the vacancy shall be filled for the remainder of the unexpired term by popular vote of the qualified voters in the district in which the vacancy occurs.

As amended by:  
 Private Acts of 1970, Chapter 336  
 Private Acts of 1978, Chapter 302  
 Private Acts of 1979, Chapter 46

**SECTION 6.** That the County Board of School Commissioners of each county of Tennessee, to which this Act shall apply within 15 days from and after the date of its passage and approval by the Governor shall meet at the Court House in their respective counties and take and subscribe to the oath required of other county officials before some officer authorized to administer such oaths, and shall organize the said County Board of School Commissioners by the election of one of their body as Chairman by a majority of those present, providing a quorum is present, and Said County Board of School Commissioners shall meet

and hold a session on the First Monday in June, September, December, and March of each year, and at such other times as may be deemed necessary to hold any adjourned meeting or upon call by the Chairman of the Board upon five days written notice when in his opinion it is deemed necessary or proper to the conduct of the school affairs require called meetings of such Board, but no member of the Board of the School Commissioners shall receive compensation for more than 15 days in any one calendar year.

**SECTION 7.** That the Board of School Commissioners in the Counties of the State of Tennessee to which this Act shall apply shall have the exclusive supervision and control of all public schools, both Elementary and High Schools, and all others maintained in whole or in part by public school funds, and they shall elect all teachers in such schools and fix their salaries and make all necessary contracts for such services. Each District School Commissioner shall file in writing ten days or more before the First Monday in April, or each year, except for the calendar year 1937, on which date all teachers shall be selected and appointed, with the County Superintendent of Public Instruction, a list of teachers for the several schools in his or her district, such lists to be open for public inspection or copy by any person or persons, provided that in cases where there is not sufficient number of available teachers to fill all positions, then such selections shall be made at an adjourned meeting, a quorum being present, and no teacher, either in the Elementary or High Schools of such county, shall be chosen or employed whose name has not been on file for a period of ten days or more before such date of employment, nor by any person or persons, other than by the Board in open session a quorum being present, and a majority of those present voting such election and employment. All such Boards of School Commissioners shall have the power and authority to employ truant officers, bus drivers and other laborers and employees necessary to erect, repair, furnish, improve, and maintain suitable school buildings, grounds, fixtures, equipment, supplies, and to acquire and hold real estate for school purposes. Providing, that no school building paid for in whole or in part, by public school funds, shall be permitted to be used in a regular way for Sunday School or Church services. Provided further, that no Elementary School in said counties shall be consolidated with any other Elementary or High School without a signed petition showing that a majority of the patrons of the Elementary School thus affected, desires such a consolidation. And said Board shall in all things have the power and perform all the duties now imposed by law on County Board of Education as is now provided by the general laws of the State of Tennessee, or that may hereafter be enacted affecting the administration of the school affairs in the State, except where such laws conflict with the above provisions of this Act. And such Boards shall have the possession and control of all public school property, both real and personal, now belonging to, in the custody of, or within the control of the school authorities of such counties, or any Board of Education thereof, or that may be hereafter acquired.

As amended by: Private Acts of 1937, Chapter 288

**SECTION 8.** That the County Board of School Commissioners herein created shall have the power and authority to enter into contracts and agreements with persons, firms, or corporations for the erections, purchase, repair, or maintenance of its buildings and property, equipment, and supplies, and for any other purpose deemed necessary by the Board of School Commissioners to carry out the provisions of this Act or the general law applicable to public school affairs, or in the proper discharge of the duties imposed by this Act. Provided that in all cases of purchase of labor, materials, fuel, equipment, or supplies or the erection, repair or maintenance of any building, part of building or grounds where the cost shall exceed the sum of \$100.00; except in case of an emergency, no contract shall be entered into or made until due advertisement of the same shall have been made in some newspaper published in said county for three consecutive weeks setting forth the amount, quality, and description of such services, labor, materials, supplies, or equipment desired, and the time within which written and sealed bids for same shall be received, and in all cases a cash deposit shall be made with such bids equal to fifteen per centum of the amount bid to guarantee the performance of such contracts if awarded, such deposits to be returned immediately to unsuccessful bidders, and the successful bidder when the contract shall have been fully completed: and when such deposit is made with such written and sealed bids, and the Board of School Commissioners at some session shall open same, a quorum being present, such contracts shall in all cases be awarded to the lowest bidder.

As amended by: Private Acts of 1937, Chapter 288

**SECTION 9.** That no member of the County Board of School Commissioners, nor the County Superintendent of Public Instruction, nor any member of his or her immediate family, nor any teacher in any of the Public Schools of the State, or any firm or corporation in which either of the persons above named or directly interested shall be a bidder upon any of the contracts to be awarded, or furnish any equipment, labor, fuel, materials, land, or supplies, or directly or indirectly receive any of the profits from same or the sale thereof, or hold any interests in any check, warrants, voucher, or monies expended for such.

**SECTION 10.** That the violation of any of the provisions of sections seven, eight, and nine of this Act is declared to be a misdemeanor and all persons convicted of same shall be adjudged to pay a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each offense, and upon

conviction shall forfeit any office, position, or contract held under the terms and provisions of this Act, and shall be ineligible to hold any office under the terms of this Act for a period of five years from and after the date of such conviction, such provisions and penalties to be made a part of the judgment of the court upon such conviction.

**SECTION 11.** That each member of the County Board of School Commissioners, other than the Chairman, shall receive the sum of \$7.50 per day, and the Chairman of such Board shall receive the sum of \$8.50 per day for each day in actual attendance upon the sessions of such Board, but no member shall draw compensation for more than twenty days in any one calendar year, such sums to be paid out of the general funds of the County by the Trustee of such county upon the warrant of the County Judge or Chairman after a certificate has been filed by the County Superintendent of Public Instruction with such County Judge or Chairman, showing the names of such members in attendance at the end of any one session and number of days attended by each.

As amended by: Private Acts of 1941, Chapter 489  
Private Acts of 1953, Chapter 334

**SECTION 12.** That it is the intention and purpose of this Act to provide for the full and complete administration of the Public School affairs of the counties of the State of Tennessee to which this Act shall apply, and the complete conduct and control of the Public School affairs in such county, and that if any section or part thereof shall be declared unconstitutional, such sections shall be considered severable, and such shall not affect the validity of the numerous other and different provisions of this Act, but the same shall remain in full force and effect.

**SECTION 13.** That the office of the County Board of Education and of the several members thereof in each county of the State of Tennessee, to which this Act shall apply, be and the same is hereby abolished, so as to provide for the administration of the Public School affairs more effectively and with the new and additional powers herein granted and conferred and to carry into effect the changes herein provided, and that all other Acts and laws or parts of Acts and laws in conflict with the several provisions of this Act be and the same are, hereby repealed.

**SECTION 14.** That this Act take effect from and after its passage, the public welfare requiring it.

PASSED: January 25, 1937.

## Superintendent of Public Instruction

### Private Acts of 1935 Chapter 54

**SECTION 1.** That hereafter the county superintendents of public instruction in all counties having a population of not less than 25,400 nor more than 25,500 by the Federal Census of 1930, or any subsequent Federal Census, shall be elected by the qualified voters of such counties at the regular biennial August election to be held upon the first Thursday in August, 1936, and biennially thereafter. The term of office of such county superintendent shall be for a period of four years, shall begin on September 1 next following his election and shall continue until his successor shall be elected and qualified.

As amended by: Private Acts of 1939, Chapter 48.

**SECTION 2.** That no person shall be eligible to election and/or qualification for said office unless he or she has met all the requirements now or hereafter imposed by statute with reference to county superintendents of public instruction and a certificate showing such person qualified under the laws of this State for this position shall be filed with the county judge or chairman of said counties before the qualification of such person.

**SECTION 3.** That the total compensation to be paid the county superintendent from all sources, including the State supplement to his salary shall not exceed Two Thousand (\$2,000.00) Dollars per annum, provided further that nothing in this Act shall be construed as affecting the salary of the present incumbent nor his right to hold office until September 1, 1936.

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

Passed: January 30, 1935.

## Education/Schools - Historical Notes

### **Board of Education**

The following act is no longer applicable to Lincoln County.

1. Private Acts of 1989, Chapter 94, intended to authorize the Lincoln County Board of Education to

establish the date for the opening of the school term in Lincoln County. This act, however, was never acted upon at the local level and subsequently never became law.

### **General References**

The following acts constitute part of the administrative and political heritage of the educational structure of Lincoln 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 1809, Chapter 77, declared that Wright Williams, John Whittaker, Senior, William Dickson, and John Greer were constituted a body corporate and politic to be known as the Trustees of Fayette Academy in Lincoln County. This academy would be under the same rules and regulations and have the same powers and rights and shall be operated in the same manner as are the other county academies in the state.
2. Acts of 1811, Chapter 29, appointed additional Trustees for several academies situated in different counties including Fayette Academy in Lincoln County to whose Board of Trustees James Bright, Robert Kennedy, and Urie M. Gardner were added.
3. Acts of 1813, Chapter 119, appointed John V. McKinney and Elliott Hickman as additional Trustees for Fayette Academy in Lincoln County, and then named James Bright, Brice M. Garner, Robert C. Kennedy, John Greer, Robert Dickson, and Frances Porterfield as Commissioners to conduct a lottery for the benefit of the academy. They would draft a scheme to raise up to \$5,000.00, after entering into a bond of double that amount which would be conditioned upon their paying out the prize of the lottery and all the debts incurred thereby.
4. Acts of 1822, Chapter 30, stated that an act passed in 1821 concerning the school lands of Warren and Franklin counties is hereby made effective in McMinn, Monroe, Bedford and Lincoln counties. The county court in each of those counties will appoint three commissioners for each tract of school owned land in the county observing all the legal regulations in doing so, which commissioners will, when appointed, strictly follow the law. The commissioners are directed to prosecute, or defend a lawsuit relative to their tract of land, and will be reimbursed for their expenses in so doing.
5. Acts of 1827, Chapter 53, incorporated Charles Brayles, Robert Dickson, Frances Porterfield, Robert H. McEwen, John Greer, James Bright, and Benjamin Clemens by the name of Fayetteville Female Academy conferring upon them all the powers and privileges incidental to corporate institutions. Stockholders would meet on the premises on the first Monday in January next to elect the Trustees.
6. Acts of 1829, Chapter 292, required the agent of school lands in Lincoln County to pay to William B. Benge, George Blakemore, Moses Hall, Larry Eppes, W.L. Edmondson, William McClellan, and Thomas McFerrin, collectively, the sum of \$300 out of any monies he may have or may hereafter acquire from the rental of school lands. The Act does not specify the reason for which the money is to be paid.
7. Acts of 1831, Chapter 17, directed that George Harrison, Surveyor, on or before the second Monday in next February shall make out a plan, or map, of that portion of Bedford, Lincoln, and Franklin Counties in which school lands are situated as nearly as he can from the records in his office, designating accurately the boundary lines and the salient topography. The Plan, or map, shall then be delivered to the County Court Clerk. If the same is not sufficiently, or clearly, depicted, the County Court will appoint a surveyor to correct and refine it.
8. Acts of 1832, Chapter 89, Section 3, is the authority for the Common School Commissioners in Lincoln County for each and every tract of the land to build in each township in which land is set apart for the benefit of the common schools, any number of school houses, not to exceed three, as the conscience and interest of the inhabitants of the said township may require, provided that the consent of the owner of the land upon which the school house is to be built is first obtained. The authority is also granted to purchase adjacent timbered land in order to keep up school repairs, cut fuel costs, and keep the school in operation.
9. Acts of 1832, Chapter 111, required the Board of Common School Commissioners in Bedford and Lincoln Counties, as soon as practicable, to cause the common school districts in their respective counties to be reorganized in such a way as to not include any part of the townships in such Districts within the said school districts. The Board for each District was given the power and duty, if the interests of the people demanded it, to establish two, or more, schools in the District and divide the money between them according to their scholastic population.
10. Acts of 1833, Chapter 64, stated that the Commissioner for the tract of land laid off for the use of

the common schools on Shelton's Creek in Lincoln County are hereby authorized to divide the township to which said school land belongs into districts, not exceeding four, and it shall be the duty of the said Commissioners to divide and pay over to each district an equal portion of the funds arising from the rentals of the said land, according to the number of inhabitants in each district.

11. Acts of 1833, Chapter 82, declared that William F. Smith, John J. Whittaker, James S. Holman, William F. Long, Drury M. Connally, James Hague, Charles Bright, Joseph Whittaker, and William Moore were hereby constituted a body corporate and politic to be known as Mulberry Female Academy in Lincoln County conferring upon them all the privileges incidental to corporate bodies.
12. Acts of 1833, Chapter 222, stated that those citizens residing between the northern boundary of the third Section, third township, and third range of school land in Lincoln County, and the Bedford County line, are hereby included in the said township aforesaid to the Bedford County line, and are entitled to all the benefits arising from the proceeds of the said school tract of land in educating their children as are the other residents of the said township. Those funds will be drawn by the Commissioners and dispensed according to the terms of this Act.
13. Acts of 1833, Chapter 260, stated that in the counties of Smith, Giles, and Lincoln, whose agents were appointed by the Legislature to manage the common school fund, and later a clerk was also appointed for the same counties, hereafter the agent shall perform the duties of both.
14. Acts of 1835-36, Chapter 65, authorized the Commissioners of a school tract of land near Petersburg to pay to William Gulley the value of his services rendered and labor performed on the said tract of school land, the value of which will be determined by the Commissioners, and the same will be paid out of the school funds arising from the said tract of land.
15. Acts of 1835-36, Chapter 91, provided that the voters in each township shall elect three Commissioners for each tract of school land, the Justices of the Peace in the district, or township, to hold the election. The terms were for two years, each one elected to be sworn and bonded. They would be deemed a corporate entity in their collective capacities. Each township would be laid off into five districts, or less, from each of which two Trustees would be elected. The Trustees would have the general management of the schools and to supervise them they may employ a person of good moral character and ability. The schools would be public schools and free to all white citizens.
16. Acts of 1837-38, Chapter 202, Section 2, amended the second Section of the 1836 Act, above, which provided for the election of school Commissioners for the school lands in Lincoln County so as to require the Commissioners of the school lands to enter into bond with sufficient security in the amount of \$3,000, if, in the opinion of the Justices of the County Court, the same be necessary.
17. Acts of 1839-40, Chapter 102, designated the county academies for every county in the State. In Lincoln County it was Fayette Academy.
18. Acts of 1839-40, Chapter 104, repealed that part of the 1838 Public Law which stated that the school districts of a county would coincide with the justices districts insofar as the same applied to Lincoln County. In Lincoln County the school districts will be where every township is located. The school commissioners of the township shall be the school commissioners of the common school district and do everything required by law as such commissioners for which they shall be elected and qualified, serve two year terms and have the authority and power to accomplish all their obligations and duties. The County Court may appoint five commissioners to lay off any area not included in a district, or township.
19. Acts of 1841-42, Chapter 22, stated that in the fractional parts of Lincoln County which have been laid off into school districts, the Commissioners therein shall be elected, qualified, and empowered as are other school Commissioners, and according to the law of the township, so that when the scholastic enumeration has been made, the County Court shall have the power to distribute among the said districts the school fund apportioned to Lincoln County and according to the reported number of students in the district. Section 3 of the Act extended all its provisions to Marshall County.
20. Acts of 1843-44, Chapter 79, declared that Fayetteville Female Academy and all its property is to be a part of Fayette Academy in Lincoln County and shall constitute the female branch thereof. It shall be the duty of the County Court on the first Monday in April, 1845, and every two years thereafter, to appoint nine Trustees, instead of five, for the Academy, who shall have and exercise the same rights as other Trustees and the shareholders of the Fayetteville Female Academy shall transfer all their right, title, and interest to the Fayette Academy, relinquishing all claims thereto.

21. Acts of 1847-48, Chapter 158, declared Bradley Kimbrough, Joseph Whittaker, William L. Bright, John J. Whittaker, Robert Martin, Robert N. Whittaker, and William Moore as a body corporate and politic to be known as "Trustees of Mulberry Male Academy" in Lincoln County, conferring upon them the corporate powers and benefits customary for such legal entities, including the power to make rules and regulations for the internal operations of the school.
22. Acts of 1851-52, Chapter 72, Section 5, provided that the Charter of the Mulberry Female Academy be amended so as to reduce the number of Trustees from nine to seven, a majority of whom shall constitute a quorum.
23. Acts of 1855-56, Chapter 242, Section 5, provided Mark Whittaker, Thomas B. Yeats, William Thomison, Jephtha Shafner, and James Holman as the "Greenwood Female Academy" with all the incidental corporate rights and privileges. The Academy shall be located in or near the village of Mulberry in Lincoln County.
24. Acts of 1867-68, Chapter 46, incorporated the "Lincoln County Agricultural and Mechanical Society" which shall exist in that county and have the power to purchase and hold fair grounds, at or near Fayetteville, with all the rights, powers, privileges, duties, and obligations of similar educational organizations.
25. Acts of 1905, Chapter 232, amended Chapter 24, Acts of 1903, which made school districts coextensive with Civil Districts in Tennessee so that persons living on the side of a county line and not be convenient to a public school in their districts or counties may form themselves into a school district jointly or attend the nearest school in an adjacent district or county, provided that all the school directors agree, and provided that this Act shall apply only to Lincoln and Moore Counties.
26. Acts of 1907, Chapter 236, abolished the position of District School Directors and created a Board of Education and District Advisory Boards for every County, except a few who exempted themselves. The County would be divided into school districts, five, if possible, from which one member of the School Board would be elected by the County Court. The superintendent of Public Instruction would be the Secretary of the Board whose duties and those of the Chairman, who would be chosen by his fellow members, are enumerated in the law. The authority and responsibilities of the Board are set out which included the whole range of school supervision and policy. Several reports were required to be filed by teachers and school officials. The three member Advisory Boards would be elected in each District by popular vote and perform certain duties specified in the Act and exercise the authority incidental to their accomplishment including the taking of a scholastic census each year. This Act did not apply to city schools, and was involved in the case of *Whitthorne v. Turner*, 293 S.W. 147, Tenn. 303 (1927).
27. Public Acts of 1917, Chapter 80, was a statewide bill on public education which regulated the courses to be taught in the public schools of the State, both primary and secondary. 28. Private Acts of 1921, Chapter 285, created the "Charity Special School District" which was located in Moore and Lincoln Counties. The families of both counties whose children would be affected by the Act are named and a general description of the area involved is contained in the law. The District would be controlled and managed by a Board of Trustees who would be elected by popular vote every two years. The Bill named C.W. Cashion, O.L. Gambrell, and O.C. Gill to hold the offices until September 1, 1922, when their successors, elected in the August general election would take over. The Trustees must be sworn and bonded, must elect a Chairman and a Secretary, and would not be paid for their services. A sliding rate of special school taxes is set up based on the total assessment value of the properties in the district, the intention being to produce a certain pecuniary level to operate the school. The Trustees would employ teachers and all other personnel to run the schools, erect buildings, supervise and manage all the facilities in the District which embraced the power to open and close schools as they deemed best. The children residing in the area would attend this school free of charge but others would pay tuition. This act was repealed by Chapter 499, Private Acts of 1927.
28. Private Acts of 1923, Chapter 342, amended Chapter 285, Private Acts of 1921, above, so as to peg the school tax rate in the Charity Special School District at fifteen cents per \$100 evaluation, instead of basing the rate on a sliding scale.
29. Private Acts of 1923, Chapter 435, amended Chapter 80, Public Acts of 1917, Section 2, by requiring three teacher schools to teach at least eight grades, and if no school teaching the higher grades is handy, they may, with the approval of the County Superintendent teach those higher grades and all the students taking them are to be given regular credit for them. Section 5 of the same Public Act is amended so that the teacher teaching those extra grades would be compensated for it.

30. Public Acts of 1925, Chapter 115, was codified as Section 49, Tennessee Code, and was the basis for the current general education laws. Section 33 of this Act abolished all special school districts which were not taxing districts, and provided that those which were taxing districts could hold a referendum on the question of their abolition. When all the debts of any special school district were paid, that district could join the county school systems.
31. Private Acts of 1927, Chapter 293, authorized the County Boards of Education in Lincoln and Marshall Counties to purchase, jointly and equally, the Elizabeth Training School properties in Lincoln County and the Morgan Prep School properties in Marshall County for which they were allowed to issue their notes up to \$15,000 at a 6%, or less, interest rate. Morgan School was located in Petersburg in both Lincoln and Marshall Counties, and title would vest jointly in the two Boards of Education, who would together operate and manage a four year high school at Petersburg, each County paying costs according to their pro rated number of students in the school. The Boards would also operate an elementary school at the Elizabeth Training School location under the same terms and conditions. The private school could continue as Morgan School by paying its pro rated share of the taxes, and expenses.
32. Private Acts of 1927, Chapter 790, authorized the Boards of Education of Lincoln and Marshall Counties to purchase, jointly and equally, the Elizabeth Training School and Morgan School property located in or near the city of Petersburg, and any other school property adjoining the two counties wherever the schools may be an advantage where maintained jointly by the two Boards, but this Act shall not apply to Talley School in Marshall County. Notes may be issued for the purchase price but at interest no greater than 6%. The authority was granted to contract with each other and with other private schools to run the schools jointly.
33. Private Acts of 1933, Chapter 81, stated that in Lincoln County the Board of Education will select an attendance officer for the schools only when the Quarterly County Court has authorized one, and this shall be discretionary with the County Court and no other body. If authorized by the Court, the employment shall be for a period of one month to one year and must be reauthorized at the conclusion of each employment period. The County Court shall fix the compensation to be paid the Attendance Officer which shall not exceed \$75 per month.
34. Private Acts of 1935, Chapter 473, stated that the County Board of Education in Lincoln County would be elected by the people, one member coming from each school district. Seven school districts were created which were composed of specified whole Civil Districts. The election would take place on Thursday, May 16, 1935 at which time the Superintendent and Board would be elected to their prescribed terms. Vacancies would be filled by appointment of the County Court until the next general election. The members would get \$3 per day for their services and would operate under the general laws of the State. No teacher could be removed by the Board until a hearing was had before the expiration of the term for which the teacher was employed.
35. Private Acts of 1935, Chapter 737, created the "Flintville Special School District" out of the third Civil District to be managed by a five member Board of Trustees who would serve without pay. The law named J.R. Mason, A.D. Milner, A.M. Patrick, L. Copeland, and M.F. Curry, as Board members, who would serve until September 1, 1936, when their successors, elected by popular vote in August of 1936, would assume the offices. Their terms were for four years and they would choose a Chairman and Secretary, whose duties were specified, from their own members. The Tax Assessor would include a special levy of thirty cents per \$100 on the property in this area which would be collected and disbursed by the Trustee. Specific authority was granted to the Board to issue up to \$5,000 in 6%, 10 year bonds, all the funds being used to construct a high school at or in Flintville. After ten assessments of the taxes permitted herein had been made, the authority would terminate, unless specifically provided to continue.
36. Private Acts of 1935 (Ex. Sess.), Chapter 128, amended Chapter 473, Private Acts of 1935, above, by inserting a new Section 3 which set a different date on which the election for the members of the Board of Education and the Superintendent of Public Instruction would be elected by popular vote. The notice to be given for the election was reduced from twenty to fifteen days.
37. Private Acts of 1937, Chapter 288, amended Chapter 93, Private Acts of 1937, published herein, by adding the exception for the calendar year in 1937 in Section 7, and by rewriting the second sentence of Section 8 so as to remove the employment of bus drivers and the transportation of children to school from the advertising requisite.
38. Private Acts of 1937, Chapter 763, amended Senate Bill #106 of the year 1937, and did not specify the Chapter number. The Act presumably amended Section 2, which is rewritten later anyway, in Chapter 93, Private Acts of 1937, by giving the Board of School Commissioners in Lincoln County the authority to issue warrants but not to exceed the amount allotted to this

- purpose by the Budget Committee of the County but within the specified amount they had the authority to do all things essential to school operations.
39. Private Acts of 1937, Chapter 791, made it lawful for the people of Lincoln County to elect their school Board members from their respective school districts by popular ballot at regular elections, provided the said member be a freeholder, twenty-one years of age, or older, of good moral character, and not addicted to the use of narcotics or alcoholic beverages, or strong drink of any kind. This Act was repealed expressly by Chapter 336, Private Acts of 1970.
  40. Private Acts of 1939, Chapter 4, provided that vacancies in the office of members of the County Board of Education, the office of District Road Commissioners and in the office of Superintendent of Roads would be filled by the Quarterly County Court but only until a successor can be elected at the next regular county election.
  41. Private Acts of 1939, Chapter 48, amended Chapter 54, Private Acts of 1935, published herein, by increasing the term of the Superintendent of Public Instruction from two years to four years. The present Superintendent would continue in the office until the expiration of his term and until his successor was duly elected and qualified.
  42. Private Acts of 1939, Chapter 49, amended Chapter 93, Private Acts of 1937, published herein, by inserting a new Section 2 which provided for four year terms for the Board of School Commissioners, by arranging some of the civil districts in the several school districts in Section 3; by changing the term of the Commissioners from two to four in Section 4; and by making the new terms of four years to begin on September 1, 1940. All these amendments were changed by later legislation incorporated into the Act.
  43. Private Acts of 1939, Chapter 242, amended Section 3, Chapter 93, Private Acts of 1937, published herein, so as to provide that the Fifth School District of Lincoln County shall include and embrace all the territory of such county heretofore known as Civil District #11, and the Sixth School District shall be reduced in size by that part of the county heretofore known as the 11th Civil District.
  44. Private Acts of 1939, Chapter 310, created the "Lincoln Special School District" embracing all of the 22nd Civil District. There would be a five member Board of Trustees to serve without compensation. Melvin Delap, Charles Ross Kennedy, Murphy Wolaver, Will Shelton, and Fent Quick were named to the Board to serve until September 1, 1940, when their elected successors would take office for four years. Board would choose its Chairman and Secretary who would discharge the duties required in this law. The Tax Assessor would include in his assessment a thirty cent per \$100 property valuation special tax levy on all the property in the school district which would be collected by the Trustee and kept in a separate fund for the use and benefit of the school district. The Board was also authorized to issue up to \$5,000 in 6%, 10 year bonds, if issued under the specifications established in this Bill. The funds would be used to build and operate a high school near Lincoln County but the special assessment mentioned above would not be made after ten years unless specific authority to do so was granted.
  45. Private Acts of 1941, Chapter 433, created the "Elora Special School District" out of the 24th Civil District of Lincoln County, embracing all the area of that District. P.A. Damron, B.B. Higgins, G.D. Hardin, Durward McCord, and C.M. Scivally, were named to the first Board of Trustees to serve until their successors were elected for four year terms at the next general election in August. The terms and conditions of this special school districts operation are identical to the others above except that the funds shall be devoted to the construction of a high school at Elora. The public schools in the area would continue to be under the supervision of the County Board of School Commissioners.
  46. Private Acts of 1941, Chapter 489, amended Section 11, Chapter 93, Private Acts of 1937, by inserting a new Section 11 which increased the per diem payments of the members of the Board of School Commissioners from \$4 to \$5, the per diem of the Chairman from \$5 to \$6, and the maximum number of days for which they could be paid in one year from 15 to 20, all to be paid out of regular county funds by the Trustee on the warrant of the County Judge.
  47. Private Acts of 1943, Chapter 48, amended Chapter 93, Private Acts of 1937, by adding a new first paragraph in Section 3 which added a new School District to the old section and named Tom C. Sanders to the Board of School Commissioners to serve though August, 1944 when his successor would be elected. Section 2 was amended to limit the time which a Commissioner could serve to six years in succession instead of three terms in succession, and Section 4 was amended to change the term of office of the Commissioners back to two years instead of four.
  48. Private Acts of 1945, Chapter 280, amended Chapter 737, Private Acts of 1935, Item 36, above, by authorizing the issuance by the Board of Trustees of the Flintville School District of one

additional \$6,000 in bonds at 6%, or less, interest and to mature in no longer than ten years, to pay an outstanding debts, including teacher's salaries, which might be owed by the said school district. The special tax levy of thirty cents per \$100 was allowed to be continued for the life of the additional bond period. The Act required that the District cooperate in every way with the Board of School Commissioners.

49. Private Acts of 1951, Chapter 108, amended Section 3, Chapter 93, Private Acts of 1937, by deleting Section 3 as it was then written and inserting a new Section 3 which specified a different arrangement of the Civil District which were included in the ten School Districts of the County. This was the only change made and it was superseded later, and is therefore not published as an amendment to the original Act. This Act was repealed by Chapter 54, Private Acts of 1961.
50. Private Acts of 1953, Chapter 334, amended Chapter 93, Private Acts of 1937, Section 2, by returning the prohibition to succession in office to three full terms in succession instead of six years, by amending Section 11 to increase the per diem of the members of the Board of School Commissioners from \$5 to \$7.50 per day, the per diem of the Chairman from \$6 to \$8.50 per day and left the maximum number of days to be paid at twenty.
51. Private Acts of 1959, Chapter 342, amended Chapter 93, Private Acts of 1937, by rewriting Section 3 to reorganize the School Districts therein but this Act was rejected by the Quarterly County Court of Lincoln County and never became an effective law.
52. Private Acts of 1961, Chapter 54, amended Chapter 93, Private Acts of 1937, Section 3, by again rewriting this Section which describes the ten School Districts of the County and by repealing Chapter 108, Private Acts of 1951, and all other Acts in conflict.
53. Private Acts of 1970, Chapter 336, amended Chapter 93, Private Acts of 1937, by restoring the election of the members of the Board of School Commissioners to the Quarterly Court; by deleting Section 2 and inserting the new Section as it appears; by deleting Section 3 and inserting the new Section, as published; by deleting Section 4 and inserting a new Section 4 as it appears; by deleting Section 5 and inserting a new Section 5, as shown in the published Act.

## Chapter VII - Elections

### Advisory Referendum

### Hospital Construction

### Private Acts of 1999 Chapter 1

**SECTION 1.** The county legislative body of Lincoln County, Tennessee, by resolution is authorized to direct the county election commission to call an election for an advisory referendum, to be held in the regular election or in a special election, for the purpose of determining the will and wishes of a majority of the qualified voters of Lincoln County, Tennessee, participating in such election on the question of whether or not the Industrial Development Board of the City of Fayetteville and Lincoln County and the county government of Lincoln County should proceed with the building and equipping of a new hospital to be located in Lincoln County on real estate owned by Lincoln County, Tennessee and purchased for this purpose.

**SECTION 2.** The Lincoln County Election Commission shall hold such election at the earliest possible date in conformity with the general election laws of the State of Tennessee. The single issue shall be presented on the ballot as follows:

For the building and equipping of a new hospital\_\_\_\_\_

Against the building and equipping of a new hospital\_\_\_\_\_

**SECTION 3.** The ballots used in the advisory referendum election shall have printed on them the text required in Section 2 and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the county election commissioners and certified by them to the Secretary of State as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act. The cost of the election shall be paid by Lincoln County.

**SECTION 4.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative

body of Lincoln County. Its approval or nonapproval shall be proclaimed by the presiding officer of Lincoln County and certified to the Secretary of State.

**SECTION 5.** 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.

Passed: January 16, 1999.

## Elections - Historical Notes

### **Districts - Reapportionment - Civil Districts**

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

1. Acts of 1855-56, Chapter 163, Section 23, changed the boundary lines between the 19th and the 20th Civil Districts of Lincoln County so that the town of Camargo is included wholly within the 19th Civil District.
2. Acts of 1857-58, Chapter 122, amended the act passed on December 16, 1837, incorporating the town of Petersburg so as to authorize the voters of the Civil District in which the said town is located to elect an additional Constable who shall reside within the city of Petersburg and have all the rights, powers, and privileges of other constables.
3. Private Acts of 1925, Chapter 733, divided Lincoln County into seven Civil Districts which were composed of whole former Civil Districts. Two Justices of the Peace would be elected from each District plus an additional one for each incorporated city therein. The act created a Board of County Commissioners composed of five citizens selected by the county court who would meet at least once each month and transact all the financial business of the county. The commissioners would be paid an amount set by the county court which would in no event exceed \$500.00 per year. This act was repealed by the one following.
4. Private Acts of 1927, Chapter 685, expressly and entirely repealed Chapter 733, Private Acts of 1925, above.
5. Private Acts of 1935, Chapter 125, abolished the existing 25 Civil Districts of Lincoln County and proceeded to create nine Civil Districts composed of whole former Civil Districts. In the August, 1936 election the voters of each District created herein would elect two Justices of the Peace and a Constable except the District containing the county seat would elect three Magistrates and two Constables. Present Magistrates would continue in office until September 1, 1936 when their elected successors would assume their offices.
6. Private Acts of 1939, Chapter 3, abolished the nine Civil Districts created by the act above and created twenty-five, as they formerly existed before that act was enacted. The people would elect their Magistrates and Constables in August, 1940 but this act names those who would hold the offices until that is done.
7. Private Acts of 1959, Chapter 344, divided the county into thirteen new Civil Districts which were composed of whole former Civil Districts. Two Justices would be elected for each District except the 8th Civil District which would elect one more. Present Justices would continue in office until new Districts would become effective. This act was rejected by the Quarterly Court of Lincoln County and never became a law.
8. Private Acts of 1969, Chapter 22, arranged Lincoln County into sixteen voting districts. A provision was included that the present Justices of Peace continue in office until Justices of the Peace were elected from each newly defined district. The act further provided for two Justices of the Peace to be elected from each of the sixteen districts. This act was repealed by Private Acts of 1978, Chapter 286.

### **Elections**

The following is a listing of acts for Lincoln 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 1812, Chapter 5, divided Tennessee into 8 Presidential Electoral Districts, assigning the counties of Williamson, Maury, Giles, and Lincoln to the Seventh District whose polls would be counted in Columbia, in Maury County.
2. Acts of 1812, Chapter 27, created Six United States Congressional Districts in the State. The 5th

- District was composed of the counties of Williamson, Bedford, Davidson, Lincoln, and Rutherford.
3. Acts of 1812, Chapter 57, reapportioned the State into 20 Senatorial Districts and 40 Representative Districts. Lincoln and Giles counties would compose one Senatorial District and count the vote at Fayetteville. Each county would elect one Representative except those named which would elect the number specified.
  4. Acts of 1813, Chapter 47, made it the duty of the Sheriff of Lincoln County to hold separate elections on the constitutional election days at the house of Samuel Isaacs on Mulberry Creek and at the house of William McMillan on Swan Creek. The vote would be counted and the return thereon made at Fayetteville on the next day. The Sheriff would appoint two disinterested people as Judges of the election.
  5. Acts of 1815, Chapter 31, divided Tennessee into Presidential Electoral Districts and fixed the procedures to be followed. The counties would remain in the Districts to which they had been previously assigned. Electors would be paid \$2.50 per day for each day spent in the discharge of their duties.
  6. Acts of 1819, Chapter 69, apportioned Tennessee for the General Assembly. Lincoln and Giles counties composed one Senatorial District and would elect one Senator. Lincoln County would elect one Representative alone.
  7. Acts of 1822, Chapter 1, assigned Bedford, Giles, Maury, and Lincoln Counties to the 6th U.S. Congressional District out of the right into which the State was divided.
  8. Acts of 1823, Chapter 47, divided Tennessee into eleven Presidential Electoral Districts. The Ninth District contained the counties of Lincoln, Giles, and Lawrence and the polls would be compared and certified at Pulaski, in Giles County.
  9. Acts of 1824, Chapter 1, was identical to the 1823 act above putting Lincoln into the 9th Electoral District, all other things as they were.
  10. Acts of 1826, Chapter 3, reapportioned the State into 20 Senatorial and 40 Representative Districts. Lincoln and Giles would elect one Senator between them, and Lincoln would elect one Representative alone. Polls in the Senatorial contest would be counted at Pulaski, in Giles County.
  11. Acts of 1827, Chapter 17, delineated eleven Presidential Electoral Districts in the State, allotting Lincoln, Giles, Lawrence, Hardin, and Wayne counties to the 8th Electoral District.
  12. Acts of 1832, Chapter 4, created thirteen U.S. Congressional Districts in Tennessee of which the 10th District contained the counties of Lincoln, Giles, Lawrence, Wayne, and Hardin.
  13. Acts of 1832, Chapter 9, divided the State into fifteen Presidential Electoral Districts. The Eleventh District had Lincoln, Giles, and Lawrence counties in it.
  14. Acts of 1833, Chapter 13, stated that a precinct election is established at Stone's Store off the west fork of Norris Creek in Lincoln County for the election of the President, Governor, and General Assembly.
  15. Acts of 1833, Chapter 31, established an election precinct at Holman's Store in Lincoln County for the same elections and under the same terms and conditions.
  16. Acts of 1833, Chapter 71, apportioned the State into 20 Senatorial and 40 Representative Districts. Lincoln and Giles counties would elect one Senator jointly and count the polls at John Kennedy's in Giles County. Lincoln would continue to have its sole Representative in the State House of Representatives.
  17. Acts of 1833, Chapter 76, authorized the election of the sixty delegates to the constitutional convention which would be convened on the third Monday in May in Nashville. The election would be held on the first Thursday and Friday in March. Lincoln and Giles made up one District and would elect three delegates.
  18. Acts of 1835-36, Chapter 39, separated the State into fifteen Presidential Electoral Districts of which the eleventh contained Lincoln, Giles, and Lawrence counties.
  19. Acts of 1839-40, Chapter 79, provided that hereafter the Presidential Electoral Districts would correspond to the U.S. Congressional Districts of the State plus two who would be elected by the State at large.
  20. Acts of 1842 (Extra Session), Chapter 1, subdivided the State into Senatorial and Representative Districts. Lincoln and Franklin counties would compose one Senatorial District which would compare polls at Salem in Franklin County. Lincoln County would elect one Representative alone and share another with Giles County with the polls to be counted and compared at Major Smith's home in Lincoln County.

21. Acts of 1842 (Extra Session), Chapter 7, set up the eleven United States Congressional Districts in the State assigning Franklin, Lincoln, Bedford, and Marshall counties to the Fifth.
22. Acts of 1851-52, Chapter 196, established ten U.S. Congressional Districts in the State. The Sixth District had the counties of Franklin, Bedford, Marshall, Lincoln, and Maury in it.
23. Acts of 1851-52, Chapter 197, apportioned the General Assembly of the State. Lincoln County would elect one Representative alone and share another one with Giles and Marshall counties counting the polls at the residence of W.F. Smith. Franklin and Lincoln would make up one Senatorial District, all polls being taken to Lynchburg.
24. Acts of 1859-60, Chapter 47, stated that the Sheriff of Lincoln County, or his Deputy, was authorized to open and hold an election in the village of Mulberry in the Sixth Civil District of the county in all federal, state, and local elections.
25. Acts of 1865, Chapter 39, was the first post Civil War Act to apportion the State, organizing eight U.S. Congressional Districts. The Fourth District contained the counties of Rutherford, Cannon, Coffee, Franklin, Lincoln, Bedford, Marshall, and Giles.
26. Private Acts of 1866-67, Chapter 45, authorized the Quarterly Court of Lincoln County to establish an additional voting precinct at Bell's Store on Norris Creek, in the 6th Civil District.
27. Acts of 1871, Chapter 147, reorganized Tennessee into Senatorial and Representative Districts. Lincoln County would elect one Representative alone and share another with Giles County. Marshall, Franklin, and Lincoln counties composed the 13th State Senatorial District.
28. Acts of 1872, Chapter 7, apportioned Tennessee according to the 1870 Federal Census into nine U.S. Congressional Districts of which the 4th was composed of the counties of Franklin, Lincoln, Marshall, Bedford, Coffee, Cannon, and Rutherford.
29. Acts of 1873, Chapter 27, again divided the State into U.S. Congressional Districts, this time into ten. Franklin, Lincoln, Marshall, Moore, Bedford, Coffee, and Rutherford Counties made up the Fifth District.
30. Acts of 1881, Chapter 5, stated that from the passage of this act forward the number of Senators in the General Assembly would be 33, and the number of Representatives would be 99.
31. Acts of 1881, Chapter 6, reapportioned the State according to the dictates of the preceding act. Lincoln County would elect one Representative alone and share another one with Moore County. Lincoln County and Giles County would compose the 17th State Senatorial District.
32. Acts of 1882 (Ex. Sess.), Chapter 27, delineated the ten U.S. Congressional Districts of the State. The Fifth contained the counties of Cannon, Coffee, Franklin, Lincoln, Moore, Marshall, Bedford, and Rutherford.
33. Acts of 1891 (Ex. Sess.), Chapter 10, reapportioned Tennessee, according to the 1890 Census, for the General Assembly. Lincoln Retained its own Representative and would share a floater with Bedford and Moore counties. Lincoln County and Marshall County constituted the 21st State Senatorial District.
34. Acts of 1901, Chapter 109, set up ten U.S. Congressional Districts in Tennessee. The 5th U.S. District consisted of the counties of Dekalb, Cannon, Rutherford, Marshall, Bedford, Moore, and Lincoln.
35. Acts of 1901, Chapter 122, reapportioned the State in accord with the 1900 Federal Census. Lincoln and Marshall Counties were the 19th State Senatorial District. Lincoln would elect one Representative alone and share another one with Bedford and Moore Counties.
36. Public Acts of 1979, Chapter 190, stated that effective January 1, 1980, all nominating petitions, instruction cards, applications for ballot forms, and the rules and regulations regarding qualifying for public office would be available in large print and recorded form for the citizens of Tennessee who have visual impairments.

## Chapter VIII - Health

Currently, there are no private acts.

## Chapter IX - Highways and Roads

### Road Law

# Private Acts of 1951 Chapter 114

**COMPILER'S NOTE:** Parts of this act have been superseded by the County Uniform Highway Law found in Tennessee Code Annotated Title 54, Chapter 7.

**SECTION 1.** That there is hereby created the office of County Road Superintendent for Lincoln County, Tennessee. Tom Sumners is hereby named as the first Road Superintendent and shall serve as such until September 1, 1952. At the regular election for County officials to be held in August, 1952, and every four years thereafter, there shall be elected by the qualified voters of Lincoln County a County Road Superintendent.

As amended by: Private Acts of 1955, Chapter 143  
Private Acts of 1965, Chapter 138

**SECTION 2.** That said County Road Superintendent shall receive as his compensation the sum of \$10,000.00 per year payable in equal monthly installments out of the County funds of Lincoln County by warrant drawn upon the County Trustee. Said warrant shall be signed by the Road Superintendent and countersigned by the County Judge. Lincoln County shall furnish the Road Superintendent with adequate transportation facilities, either a pick-up truck or automobile, together with tires, gas, and oil to be used in the performance of his official duties. The person holding the office of County Road Superintendent shall devote his full time to the performance of his duties as such County Road Superintendent.

As amended by: Private Acts of 1965, Chapter 275,  
Private Acts of 1970, Chapter 22

**COMPILER'S NOTE:** The salary provision of the County Supervisor of Roads has been superseded by general law. For the current minimum compensation of the County Supervisor of Roads, see Tennessee Code Annotated Section 8-24-102.

**SECTION 3.** That the Road Superintendent shall be a person of not less than 25 years of age and shall be a licensed engineer or have at least 10 years practical experience in road building and maintenance.

**SECTION 4.** That the Road Superintendent shall have full and complete control and supervision of all of the roads of said County which are not a part of the State Highway System. The jurisdiction and authority with reference to the bridges of said County shall come under the supervision of the Road Superintendent, who shall have exclusive control over the maintenance, management and supervision of the Road Department with complete power to employ and discharge such employees as he may see fit, including a bookkeeper and garage foreman. The garage foreman shall be a skilled mechanic. The wage scale of all employees shall be fixed by the Road Superintendent and be paid out of the general road fund of Lincoln County upon a warrant signed by the County Road Superintendent and countersigned by the County Judge.

**SECTION 5.** That it shall be the duty of the Road Superintendent to keep or cause to be kept an accurate and complete record of all receipts and disbursements made by him and shall keep separate accounts and records of all purchases made for the building, repairing and maintenance of said roads as well as an account and record of all machinery and equipment which he purchases. Said Road Superintendent shall make a detailed report to the Quarterly County Court of said County setting forth the financial status, including receipts and disbursements, made by him out of the County Road Fund. This report is to be made quarterly at the regular meeting of the Quarterly County Court.

**SECTION 6.** That all funds received by the County Trustees, including gas tax and all State Road Funds now or hereafter levied for the use and benefit of the roads and highways of said County shall be kept in a separate funds to be known as the general road fund and the same shall be expended upon such roads, highways and bridges as the Road Superintendent shall designate.

**SECTION 7.** That all dump trucks shall be placed in a motor pool to be located at the County garage and each truck shall remain at such location when not in use.

**SECTION 8.** That all funds collected from taxes, or received from gasoline taxes or other sources shall remain within or be deposited with the County Trustee of the County or counties to which this Act applies, and that the same shall be paid out by him upon warrants signed by the County Road Superintendent and countersigned by the County Judge of the County, and that said funds be used solely and alone for the purpose for which the same are provided or levied under the law and the provisions of this Act, and shall be issued only for the payment of work, material, labor, supplies, and other things coming under the provisions of this Act.

**SECTION 9.** That all applications to open, change or close any of the public roads of the County shall be made by written petition, signed by the applicant and addressed to the Road Superintendent, specifying in particular the change or action asked, but no road shall be opened, changed or closed without giving at least five days notice to all parties interested, of the time said road or roads are to be opened, changed or

closed. Landowners and those controlling lands touched by the proposed highway shall be deemed interested parties. If any owner of land so concerned is a non-resident, then notice to his agent or his attorney, if such agent or attorney resides in the County, shall be sufficient. If there be no such agent or attorney, then notice shall be given by publication for four (4) consecutive weeks in a newspaper having general circulation in the County, the last publication to be at least one week before the hearing.

The Road Superintendent shall attend at the appointed time and place if proper notice has been given as herein required. He shall act upon the applications, and shall summon three (3) disinterested freeholders who shall be in nowise related to any of the parties affected, who shall take and subscribe to an oath before said Road Superintendent to act without partiality or favor in the matter, whose oaths shall become a part of the record, and said freeholders shall constitute a jury of view, and shall proceed to condemn said property, or such portion thereof as may be needed or required for highway purposes, and shall assess the value of the land taken, and any incidental damages if any, and which shall be paid out of the funds provided for highway purposes, upon warrant issued and approved by the Road Superintendent. Any person or persons considering themselves aggrieved by the action of the jury of view may appeal to the next Quarterly County Court, and from that to the Circuit and Supreme Courts. Said Road Superintendent shall also have and be here vested with the right of eminent domain for and on behalf of the counties for which he operates, for the purpose of acquiring the needed rights-of-way, borrow pits, gravel pits, rock quarries or crushed stone needed for the construction, maintenance, building and changing of old roads, or the opening of new roads, any action brought for said purposes to be brought in the name of the State of Tennessee for the use of the county involved, and upon the resolution of order of said Road Superintendent acting in the counties and the counties to which this Act is applicable, or which may become within the provisions hereof, and in such condemnation cases the law of eminent domain of the State shall be applicable in such proceedings, and proceeding shall be had thereunder.

**SECTION 10.** That the County Road Superintendent, before entering upon the discharge of his duties, shall take and subscribe to an oath that he will perform the duties of his office faithfully and impartially and without prejudice against or in favor to any section of said county or individual, and shall execute to the State of Tennessee a good and solvent bond in the amount of Five Thousand (\$5,000.00) Dollars, payable to the State of Tennessee for the benefit of that particular county in which he is elected, and that he will faithfully and impartially execute and perform all the duties imposed upon him without fear, favor or partiality and that he will honestly and faithfully expend and account for all moneys coming into his hands, and honestly and faithfully discharge all duties required of him by law.

**SECTION 11.** Be it further enacted, that the Road Superintendent shall have authority to purchase such equipment as he deems necessary to be used in the building and maintenance of the roads and highways of Lincoln County and such equipment shall be paid for out of any road funds available to such county. Provided that any single purchase of an item of equipment of any character as well as gas and other supplies shall be made by the road superintendent and the county executive jointly upon competitive bids when such single item or single purchase is contemplated to exceed one thousand five hundred dollars (\$1,500.00). When the road superintendent purchases more than one item of the same kind that individually does not exceed one thousand five hundred (\$1,500.00) but the total purchase of which items would exceed one thousand five hundred dollars (\$1,500.00) in any twelve (12) months, such superintendent shall take competitive bids for such items annually and for which competitive bids are taken, such purchases shall be made in such quantities, if more than one is needed, as will give the county the benefit of the best possible prices. Except as otherwise provided by this section, the road superintendent shall have the right to make all necessary purchases of supplies, materials, and equipment when the costs of any such single purchase does not exceed one thousand five hundred dollars (\$1,500.00) without competitive bids and without the approval of the county legislative body. All purchases shall be paid for out of the road fund by warrant issued by the superintendent and countersigned by the county executive.

As amended by: Private Acts of 1979, Chapter 45

**SECTION 12.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: January 31, 1951.

## Highways and Roads - Historical Notes

### Road Law

1. Private Acts of 1955, Chapter 143, amended Section 1 of Chapter 114, Private Acts of 1951, by reducing the term of the Road Superintendent from four to two years. The Act was repealed by Chapter 138 of Private Acts of 1965.

2. Private Acts of 1959, Chapter 343, would have repealed Chapter 143, Private Acts of 1955, above, in its entirety, thus restoring the four year term of the Road Superintendent but this Act was rejected by the Quarterly County Court of Lincoln County and never became an effective law under the Home Rule Amendment to the State Constitution.

### **Highways - Roads**

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

1. Acts of 1815, Chapter 190, authorized the Court of Pleas and Quarter Sessions of Lincoln County, if they deem it proper, to lay a tax on all taxable property, in the county which could not exceed the state tax, which shall be a fund in the hands of Commissioners to be appointed to contract for and supervise the building of a bridge over the Elk River below the mouth of Norris Creek. Three Commissioners would be appointed to select a site, to purchase land on both sides of the river, and proceed to manage the building of the bridge. All would be under a \$5,000.00 performance bond. They would make reports at specified intervals to the County Court.
2. Acts of 1821, Chapter 6, required the County Courts of the several counties in Tennessee to index and classify the public roads in their respective counties. Three classes of roads were defined primarily according to width and would be maintained accordingly under this law. This Act was probably the first step towards the modern road systems we enjoy today.
3. Acts of 1822, Chapter 180, authorized Ezekiel Norris to build a good and substantial bridge across Elk River at the mouth of Norris Creek in Lincoln County. The County Court would fix the rate of toll to be charged when the bridge was completed. Norris must not block or impede the navigation of the river, and he must keep the bridge in good condition or forfeit all the rights granted to him hereunder.
4. Acts of 1823, Chapter 78, made it lawful for Joseph and John Greer, of Lincoln County, to build a mill dam across Elk River at the place where they are erecting a grist and saw mill, provided they shall construct such locks in said dam that the safe passage of all boats and other watercraft shall not be impeded by the dam.
5. Acts of 1824, Chapter 46, amended the Act which allowed Joseph and John Greer to build a dam across the Elk River at their mill, above, by requiring them to build a slope at least 25 feet wide on the Fayetteville side which is calculated to produce safer conditions up and down the river. The slope must be built by December 1, 1824, and for every day it is incomplete beyond that date, the Greers shall pay a penalty of \$20.
6. Acts of 1855-56, Chapter 135, Section 7, authorized and empowered the County Court of Lincoln County to order the erection of a bridge across the Elk River at or near the town of Fayetteville, provided that in the erection of the said bridge, it shall be so constructed as not to interfere with the downstream navigation of the said river.
7. Public Acts of 1901, Chapter 136, was a road law for every county in the State under 70,000 in population. The County Court would elect a Road Commissioner for each road district in the County, which road districts would be co-extensive with the Civil Districts who would hold the office for two years, all Commissioners would be sworn and bonded, be in charge of the public roads in his district and be paid \$1 per day for each day of service. The Court would fix the number of days each eligible male had to work on the roads and assign the road hands to each road district. County Courts could levy a special road tax of two cents per \$100, to be collected by the Trustee as any other tax, for each day of work assessed, which the Trustee would keep in a separate fund and disburse on the warrant of the district commissioner, approved by the County Judge or Chairman. The Commissioners would name the overseers in their districts who would work out the required number of days free but be paid for all days over that number spent on the job. All males outside of incorporated cities between 21 and 45 years of age were to work the roads. Some specifications for roads were included and some standards adopted which roads must meet. Roads were to be indexed and classified according to width. Prisoners could be worked on the roads if certain conditions were met and petitions to open, close, or change roads were to be filed with the Commissioners and the procedures established in the Act for their disposition must be followed.
8. Public Acts of 1905, Chapter 478, amended Chapter 136, Public Acts of 1901, above, in several minor aspects but primarily in the procedures to be observed in the hearing, reception, and disposition of petitions to open, close, and change roads, especially when resort to eminent domain must be made in order to accomplish the objectives of the said petition.

9. Acts of 1909, Chapter 299, was the first private road law we found for Lincoln County. The County Court would elect one Road Commissioner for each road district, they being the same as the Civil Districts, who must be skilled and experienced in the art of road building, and who would be in charge, of the roads, the bridges, and the overseers in that district for a term of two years. Commissioners must be sworn and bonded, and see to the payment for all road supplies and equipment, and his salary would be \$1 per day for each day of service, actually spent on the job, not to exceed ten in any one year. The County Court would assign road hands to the districts who would work from 5 to 10 days per year, and the Court would fix the price to be paid for the furnishing of teams and wagons. The Court would also levy a tax for roads of not less than 25 cents per \$100 of property valuation, which would be collected by the Trustee, one-third of which could be worked out, and one-half of which must be spent in the district from which it was collected, any surplus being divided equally among the districts. Commissioner would appoint a road overseer for each section of road who would work the required days and then be paid \$1 per day for each extra day up to three days a year. Males between ages of 21 and 50 were required to work or pay 75 cents for each day missed. The Commission would avoid heavy grades, if possible, classify and post roads, and decide on the petitions to open, close, or change the same. The County Court was allowed to levy a special tax of up to ten cents for special road work and the amount of vehicle tax specified in the Act must be paid for the privilege of using the county roads.
10. Private Acts of 1913 (Ex. Sess.), Chapter 73, was the next road law for Lincoln County although it contained only a general repealing clause. The Act created a three member Board of Public Road Commissioners, one each from the northern, middle, and southern portions of the county as the Quarterly Court divided it. The Commissioners would be elected by popular vote after the passage of this act in a special election, and again in August, 1914 and then at two, four, and six years thereafter, all being elected for six year terms. The Commissioners would be elected by the county at large could not succeed themselves, and would be paid \$4 per day up to 50 days per year for their services. They could employ a Road Superintendent, or Engineer, at \$1800, or less, annual salary which would be the total compensation for this position. This person could be fired by the Commission, must keep his office in the Courthouse, and attend all regular, and called, meetings of the Commission. He would buy all equipment and supplies observing some specified conditions, and would employ the road foreman and laborers. Roads would be classified according to width and surfacing materials and be closed, opened, or changed on motion of the Board, or by petition from citizens under specified circumstances. All males between the ages of 21 and 50 must pay \$4 to \$6 or work the equivalent out on the roads, and the Court could levy a special ad valorem tax for roads between twenty and thirty cents per \$100 property valuation. Blanket authorization was granted to the Quarterly Court to issue up to \$100,000 in bonds at a 5%, or less, interest rate, for maturity periods not to exceed 30 years, provided the same is approved by the voters in a referendum or is initiated by a petition signed by at least 10% of the qualified voters. If bonds are issued, then an additional tax must be levied for the sinking fund in order to amortize them.
11. Private Acts of 1915, Chapter 180, had only a general repealing clause but was obviously the next road law for the county. The County Court would select a Road Commissioner from each of the Road Districts to be in charge of the roads, bridges, and overseers of that District, who must be sworn and bonded, serve a two year term, be paid \$2 per day up to ten days per year, and who could be removed from office under certain conditions set out in the Act. The Court would assign road hands to Districts and appoint two suitable people as a Bridge Committee. The Court could levy a road tax from 20 to 30 cents per \$100 which would be kept in a special road fund and one-half of it spent in the district from whence it was collected. One-half of the tax could be worked out at the rate of \$1 per day for labor and \$1.25 per day for a wagon and team. The Commissioners would appoint the overseers in the Districts to be in immediate charge of road sections. Males between the ages of 21 and 50 would work the number of days on roads as determined by the Quarterly Court or commute at \$1 per day. Classification of roads and the procedures for opening, closing, or changing roads remained the same. Penalties were fixed for failure to comply with this Act, and for obstructing, or damaging roads. The County Court would elect two Workhouse Commissioners to serve along with the County Judge to supervise the use of prisoners on the roads. All roads would be worked before October 1, and the arrival of foul weather.
12. Private Acts of 1915, Chapter 366, amended Chapter 180, Private Acts of 1915, above, in Section 10, by inserting a new Section concerning the appointment and conduct of a Jury of View to be followed in condemnation cases connected with the operations of the road department, which would be composed of the Commissioners and the County Judge. When only two Road

Commissioners are involved, a citizen shall be picked as the third member.

13. Private Acts of 1915, Chapter 486, amended Chapter 188, Public Acts of 1891, which was designed to encourage the building of macadamized roads by the counties in the State, by exempting Lincoln County from the requirement that grades in the roads built under the authority of that Act shall not exceed seven degrees from the horizon.
14. Private Acts of 1917, Chapter 82, exempted Lincoln and Haywood Counties from the requirements of an 1891 Public Act which stated that these roads built under the authority of that Act could not exceed an angle of seven degrees in grade from the horizon, repealing the above act.
15. Private Acts of 1917, Chapter 237, stated that the Quarterly County Court of Lincoln County at its regular, or called, meeting could appoint three discreet residents and taxpayers as the "Alabama-Jackson Highway Commissioners" who would hold their offices for one year, or more, and serve under such terms and conditions and receive such compensation as the Court may decide. They could be removed on three-fifths vote of the Court when cause was present. The duties of the Commission could be summarized as the supervision of the construction of financing of that portion of the Jackson-Alabama Highway going through Lincoln County. The Commission could employ an engineer, if desired, and make contracts for materials and equipment, all over \$500 to be on sealed bids. Adequate records were to be kept and regular meetings held open to the public.
16. Private Acts of 1917, Chapter 406, amended Chapter 180, Private Acts of 1915, Item 11, above, by granting an appeal to all those who were aggrieved by action of the Jury of View to the County Court of Lincoln County, whereupon all documents and papers in the transaction would be transferred to that Court. The appellant will pay all costs if the Jury of View is sustained, but, if reversed or changed, the costs of the appeal will be paid out of the funds of the District where suit was brought. Road Commissioners will abide by the orders of the Court, in all cases.
17. Private Acts of 1917, Chapter 732, was apparently the next Road Law of the County. The Quarterly County Court would appoint four members of the County Highway Commission and the County Judge would be the fifth ex-officio member, all to serve four year terms at no pay except the necessary travel expenses. The members must be sworn and bonded, could be removed for cause by a three-fifths vote of the County Court, and would choose a Chairman each year, and a Secretary every two years. Regular meetings would be held but special meetings could be called when necessary. An office would be kept open in Fayetteville for which the Court could appropriate \$500. The Highway Plan shall include the list of 13 roads named in the Act in which connection the right of eminent domain was conferred but the procedures outlined in the Act must be observed in the exercise of it. The Commission would be in charge of all tools, equipment, employees, and prisoners who work on the roads. A special road tax ranging from 30 to 75 cents may be levied in each year.
18. Private Acts of 1919, Chapter 747, amended Chapter 732, Private Acts of 1917, in Section One by striking the provision for no compensation for the Commissioners and fixing a per diem of \$4 per day for the Commissioners up to 50 days per year; in Section 7 by requiring that sufficient records be kept of all receipts and disbursements and quarterly reports made to the Court; in Section 8 by requiring the Commission to repair roads and expend funds according to the way the roads are numbered in Chapter 732, starting with the road listed first; and finally by adding Road #14 to the above mentioned list.
19. Private Acts of 1920 (Ex. Sess.), Chapter 14, amended Chapter 732, Private Acts of 1917, by reducing the lower limit of the permissible tax rate which could be levied for roads from 30 cents to ten cents, and the maximum level from 75 cents to 25 cents, making the permissible range go from 10 to 25 cents per \$100 property valuation.
20. Private Acts of 1920 (Ex. Sess.), Chapter 62, amended Chapter 180, Private Acts of 1915, Section 11, so that any person aggrieved by a report of the Jury of View may, before the report is acted on by the County Judge, appeal the cause to the County Court, to the Circuit Court of Appeals, and to the Supreme Court. If the decision on appeal is contrary to the report of the Jury of View, the County will pay the costs and the additional damages, if any. If the report is affirmed, the County Road Commission may proceed and, if appealed at that point, the appellant must make bond for the costs at least.
21. Private Acts of 1920 (Ex. Sess.), Chapter 91, amended Chapter 180, Private Acts of 1915, by raising the number of days in a year for which a Road Commissioner could be legally paid from ten to fifteen and gives the Commissioner until December 1 of each year to file their reports; Section 4 was amended to increase the daily rate for the use of a team and wagon on the roads from \$1.25 to \$2; Section 6 was amended to increase the daily pay of overseers from \$1 to

- \$1.50, and adds a provision that overseers may summon road hands in a case of emergency to make repairs to roads and the time worked shall be credited to the time imposed upon them by law; Section 7 was amended by lowering the age limits for road labor to between 18 and 50, by raising the commutation rate from \$1 to \$1.50 per day, and by changing the classification of roads to a slight degree. Culverts were to be constructed only on first and second class roads.
22. Private Acts of 1921, Chapter 206, amended Chapter 732, Private Acts of 1917, Item 17, above, which created a Highway Commission and established a County Highway Plan for Lincoln County by adding four more roads to the County Highway Plan, making a total of 18 new included therein with priorities of repair and maintenance starting with the first road on the Plan's list.
  23. Private Acts of 1925, Chapter 287, amended Chapter 91, Private Acts of 1920 (Extra Session), Item 21, above, Section 4, by changing the age limits between which males were required to work on the public roads back to 21 to 50.
  24. Private Acts of 1925, Chapter 644, amended Chapter 732, Private Acts of 1917, Item 17, above, in Section 8, which established the County Road Plan by including within that plan a road beginning at Kelso and running to the highway connecting with Flintville; another beginning on Highway 6 about three miles northeast of Fayetteville, following the Chenault Road and another beginning at Blanche and running in the general direction of Randolph Hill Road.
  25. Private Acts of 1927, Chapter 706, amended Chapter 732, Private Acts of 1917, Item 17, above, by adding two more roads to the County Highway Plan to be improved, giving a short description of each and providing that, when completed, the same shall be considered as an integral part of the public road system of the county.
  26. Private Acts of 1927, Chapter 799, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, by adding still another road to the County Highway Plan, beginning on Highway #5 at the brick church at Howell and running southwest to the village of Hughey on Highway #4.
  27. Private Acts of 1927, Chapter 957, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, by adding another road to the County Highway Plan, this one being in the Second Civil District Commencing at Fort Hampton Road and running in a northerly direction with Shiloh Hill Road.
  28. Private Acts of 1929, Chapter 208, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, by adding a total of seventeen new roads to the County Highway Plan, placing all of them, as described, under the requirement to be improved and maintained as are others listed in the County Highway Plan. Several miles of roads were involved thus increasing greatly the number of miles of public county roads to be improved and maintained.
  29. Private Acts of 1929, Chapter 453, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, by adding six more roads to the County Highway Plan to be improved and maintained as are other roads under the same system, (1) beginning at Hereford Bridge and running southwest to the Giles County line, (2) commencing on the Jackson Highway where Union Hollow Road intersects the State Highway following Union Hollow Road, (3) starting at the forks of the road south of the school at Elora in the 24th Civil District and running south to the Alabama line, (4) beginning on Road 3, above, and running through Elora to the Franklin County line, (5) one in the 14th and 12th Civil District at Boonshill, and (6) in the 13th and 14th Civil District starting at the same point and running south to Swan Creek Church Road.
  30. Private Acts of 1929, Chapter 746, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, by adding another road to the County Highway Plan requiring the same maintenance and improvements as others, starting at Tell Hollow public road, one mill south of Kelso at the point where the Negro Hollow Road intersects, running thence with the Ridge Road.
  31. Private Acts of 1929 (Ex. Sess.), Chapter 28, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, added two more county roads to the Road Plan, the first one beginning at the Alabama line in the second Civil District of the County following the old railroad lead to the Fayetteville and Elkton Pike winding up finally at Highway #15, and the second, beginning at a point in front of the A.T. Stewart residence in the 21st Civil District.
  32. Private Acts of 1931, Chapter 51, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, by adding 28 more roads to this Section to become a part of the County Highway System and Plan all of which were to be improved and maintained as the other roads heretofore made a part of the Highway Plan. These roads covered several miles in all parts of the county.
  33. Private Acts of 1931, Chapter 114, amended Chapter 208, Private Acts of 1929, Item 28, above, Section 1, by striking out the figures "10" in the fourth paragraph embracing the second road mentioned therein and inserting the figures "15," thus changing the miles involved in the road to

- 15.
34. Private Acts of 1931, Chapter 142, allowed the Quarterly Court of Lincoln County to issue up to \$30,000 in coupon bonds to pay for rights of way for roads and highways now being constructed, or to pay debts incurred in connection therewith. The interest rate could not exceed 6%, nor the maturity period twenty years. The bonds would be payable in New York, or Nashville.
  35. Private Acts of 1931, Chapter 496, amended Chapter 732, Private Acts of 1917, Item 17, above, Section 8, by incorporating 25 more roads into the County Highway Plan of Lincoln County which shall embrace them as fully as all others heretofore designated as part of the Plan. Some of these roads may be parts of, or a repetition of, roads previously mentioned as being added to the Plan, it being difficult to tell from the descriptions of them in the Act.
  36. Private Acts of 1933, Chapter 311, amended Chapter 180, Private Acts of 1915, Item 11, above, Section 2, by requiring the County Court to assign road hands to work on the recommendation of the Road Commissioners. The road hands were required to work out four nine-hour days. Section 4 was amended so that a special road tax could be levied from 10 to 30 cents per \$100 property valuation to be collected by the Trustee and by him paid out only on the order of the Road Commissioners as approved by the County Judge, or Chairman, but any person could work out one-half of this tax at the rate of \$1 per day alone, and \$2 per day when a wagon and team were furnished. Section 6 and 7 were amended so as to restore Section 6 to the way it read before the changes in it were brought about by Chapter 91, Private Acts of 1920 (Extra Session), which dealt with the appointment, conduct, responsibilities, and pay of road overseers, while Section 7, was involved with the work requirements of road hands.
  37. Private Acts of 1935, Chapter 669, divided Lincoln County into four Road Districts composed of whole Civil Districts, from each of which road districts one member of the County Highway Commission would come. The Commissioners would serve two year terms, all vacancies being filled by election also. The County Judge was a member and Chairman of the Commission who would have sole authority to let contracts, sign vouchers, and approve expenditure. Board would have overall supervision and the Commissioner immediate supervision of the roads and bridges in his District. All males between 18 and 45 years of age were required to work from 3 to 5 days on roads as the Court might decide. The Commissioners and the Judge would be paid \$600 a year, the others, \$2 per day. Commissioners must keep adequate records, must work all the roads in their areas at least once each year, and post the carrying capacity of bridges.
  38. Private Acts of 1935 (Ex. Sess.), Chapter 124, stated that in Lincoln County the funds coming to the County under the authority of Chapter 45, Public Acts of 1931, the allocation of the gas tax, shall be turned over to the State Department of Public Works who shall maintain the roads and highways of the county and in this connection the Commissioner of the Department of Public Works is authorized to enter into any contracts essential to the successful objectives of the highway program.
  39. Private Acts of 1935 (Ex. Sess.), Chapter 126, amends Chapter 669, Private Acts of 1935, by adding a phrase to caption on the eligibility of members of the Highway Commission. A new Section 3 was added which called for a special election to be held to allow one Commissioner from each Road District who will serve until September 1, 1936, when his successor, elected by the people, will take office. All qualified voters may vote and the Election Commission was not required to give special notice. The Commission will not have charge of the gas tax funds as long as contracts with the Federal Government are in force, but, at their termination, the Commission will supervise the same. All county officials were declared ineligible to serve on the Commission.
  40. Private Acts of 1937, Chapter 184, abolished the existing road Districts and created five new ones composed of whole Civil Districts. El Sorrels, H. J. Jarred, Garner Stewart, Harvey Sims, and Tom Somner were named as Road Commissioners, and Grady Wright was to serve as Road Superintendent, all until the regular August election in 1938 when their successors would be elected. The Superintendent would be paid \$1500 per year and the Commissioners \$250 per year out of the general funds of the county.
  41. Private Acts of 1937, Chapter 317, amended Chapter 184, Private Acts of 1937, above, by adding some language to the caption providing for the rights, powers, and jurisdiction of both the Superintendent of Roads and the Road Commissioners, and the County Judge in connection therewith. A new Section 6 stated that all public roads not maintained by the State Department of Public Works is now part of the County Highway System to be supervised by the Road Superintendent and the Commissioners, as the authority to do so, plus the assumption of the duties of the Workhouse Commission is conferred upon them. Section 7 was amended so as to acquire a site for use as a garage and warehouse for the Highway Department and to dispense

- tools and gasoline as specified in the act. Section 8 required sealed bids on all purchases over \$100 the procedures enumerated therein to be followed, and Section 9 required all males between the ages of 18 and 60 to work three days on the roads or to pay \$1.50 per day in lieu thereof.
42. Private Acts of 1937, Chapter 399, appointed Mark Rhea, Walter Stone, and Joe Perry as a Bridge Committee in Lincoln County to serve until September 1, 1938, when their successors, elected in the August general election, would assume office for two years. The Committeemen must be 21 years of age, and residents of the County. Vacancies would be filled by the County Court for the unexpired portion of the term. The Committee would have control over the construction, location, and repair of bridges where the cost exceeds, \$250. They would elect a Chairman and a Secretary and all would be paid \$5 per meeting but not to exceed 18 in one year. All purchases over \$250 must be by sealed bids except in case of an emergency when the approval of the County Judge would be sufficient. This Act was repealed by Chapter 51, Private Acts of 1939, below.
  43. Private Acts of 1939, Chapter 4, stated that in Lincoln County the vacancies which might occur in the offices of members of the Board of Education, in the office of Road Commissioners, and in the office of Superintendent of Roads would be filled by the Quarterly County Court until the next general election when someone would be elected to fill out the term.
  44. Private Acts of 1939, Chapter 8, amended Chapter 184, Private Acts of 1937, as it was amended, by adding a new Section 6 stating that each road not maintained by the State Department of Public Works shall be a part of the County Highway System and each member of the Road Commission shall be responsible for the maintenance of roads in his District, giving a detailed quarterly report to the County Court, to County Judge, and to the Road Superintendent. The Superintendent of Roads may acquire Rights of Way by eminent domain and the Road Commission would discharge the duties of the Workhouse Commission. A new Section 7 authorized the acquisition of five acres, or less, for a workshop and a warehouse, established a system to dispense gas, oil, and other supplies, and granted the use of a vehicle to the Road Superintendent. A new Section 8 required all purchases over \$500 to be by sealed bid and in accordance with the procedures enunciated. A new Section 9 stated that males were no longer required to work on roads and any funds left in this account would go into the general funds. A new Section 9-A imposed some record keeping duties on the Superintendent of Roads.
  45. Private Acts of 1939, Chapter 50, amended Chapter 184, Private Acts of 1937, Section 2, by rearranging the county into five road districts composed of whole Civil Districts. A new Section 4 abolished the office of Road Superintendent at the conclusion of the current term and provided that the Commissioner be elected by the people of each district to four year terms at the regular general August election. Each Road Commissioner will be paid \$600 per year out of the general road funds.
  46. Private Acts of 1939, Chapter 51, expressly repealed Chapter 399, Private Acts of 1937, which created a Bridge Committee for Lincoln County.
  47. Private Acts of 1943, Chapter 49, amended Chapter 184, Private Acts of 1937, Item 40, above, as it had been amended by changing "four years" wherever they appear in Section 4 to "two years" reducing the term of the Road Superintendent, and by increasing the salary of each Road Commissioner to \$900 annually from \$600.
  48. Private Acts of 1945, Chapter 563, amended Chapter 184, Private Acts of 1937, Item 40, above, by adding a new Section 3-A which stated that it shall be the duty of the Road Commissioners to elect one of their number as Chairman and designate him as Road and Highway Supervisor. He will have exclusive power to enter into contracts with the State which involve highway operations and mutual agreements and he shall make all financial disbursements and all financial reports. His salary shall be \$1500 per year in equal monthly installments from the regular highway funds.
  49. Private Acts of 1947, Chapter 426, contained only a general repealing clause. The Act created a Board of County Highway Commissioners giving the Board the charge of opening, building, maintaining, and repairing all public roads and bridges not under the direct supervision of the State Department of Public Works. The three members of the Board would be selected for staggered terms of one, two, and three years, by the Quarterly Court at its July term in 1948. The County Judge would act as Secretary to the Board and be paid as one of the members. Regular meetings of the Board would be held on the last Saturday in each month. The members would be paid \$10 per meeting for two meetings per month and five cents per mile for travel. They could employ a Road Superintendent at \$250 per month for one year at a time and discharge him for cause on 30 days notice, who would be in immediate charge of all personnel and equipment. Relatives of officials were not to be employed. All purchases over \$100 must be made by the Commission, all others by the Superintendent. A special road tax of 15 cents for each \$100 and

ten cents for bridges were authorized. The Superintendent must execute \$5,000 bond and all petitions to open, close, or change roads must be received and handled as prescribed in the Act. This Act was repealed by the one following.

50. Private Acts of 1951, Chapter 112, specifically repealed Chapter 426, Private Acts of 1947, the Road Law for Lincoln County, in its entirety.

## Chapter XI - Taxation

### Chief Deputy Sheriff

#### Private Acts of 1937 Chapter 409

**COMPILER'S NOTE:** The caption of this act reads: "An act to create a first of chief deputy sheriff in counties in Tennessee having a population of not less than 25,400 not more than 25,450, to fix his compensation, to prescribe his duties and provide for his appointment."

**SECTION 1.** That in the counties having a population specified in the caption of this Act there shall be and hereby is created the office of first or Chief Deputy Sheriff to the Sheriff, who shall be appointed by said Sheriff and serve under his direction.

**SECTION 2.** That said Deputy Sheriff shall receive the sum of \$100.00 per month payable upon a warrant or voucher of the County Judge on the first day of each month and all fees collected by him shall be turned in to the County Treasury.

**SECTION 3.** That his duties shall be those designated to him by the Sheriff of such counties as come within the provisions of the caption of this Act.

**SECTION 4.** That said first or Chief Deputy Sheriff shall receive no other compensation than that provided in this Act and shall serve under the direction and at the will of the Sheriff of said county.

**SECTION 5.** That all Acts in conflict with this Act be and the same are hereby repealed and that the same take effect from and after its passage, the public welfare requiring it.

PASSED: March 5, 1937.

## Law Enforcement - Historical Notes

### **Sheriff**

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

1. Acts of 1823, Chapter 66, made it lawful for the Sheriff and Ranger of Lincoln County to advertise all execution sales of lands and estrays in some newspaper printed in Fayetteville but, if at any time no newspaper is being published in that town, then the ads may be printed in some other town as prescribed by law.
2. Acts of 1826, Chapter 22, appointed Francis Porterfield, William F. Long, Hugh A. Kincannon, E. H. Fletcher, William F. Mason, John P. McCornell, Robert Dickson, James Bright, and Joel Pinson, as Trustees of a lottery to raise up to \$3,000 for a new jail in Lincoln County. The Trustees must give bond to the County Court and conduct themselves in accordance with the same regulations adopted for the Female Academy in Bedford County. All money raised in the lottery would be spent under the supervision and direction of the County Court.
3. Acts of 1827, Chapter 178, released and exonerated William Husbands, the Sheriff of Lincoln County, from the payment of \$289.67 which sum he stands charged with by the Treasurer of West Tennessee, provided that the County Court Clerk of Lincoln County shall certify an oath that the said Sheriff ought not to be charged thusly. The clerk shall charge the Sheriff with half of this amount when he makes up the 1828 tax rolls.
4. Acts of 1829, Chapter 99, authorized every county in the State to lay any tax they may consider proper to build, or repair, the courthouse and the jail. It was made the duty of the Sheriff of Lincoln County under the provisions of an act appropriating one-half of the state tax to county purposes to pay to Edmond Daniel, the jailor of Davidson County one-half of the claim Daniel has on Lincoln County for keeping Duncan Bond in Davidson County jail on a charge of murder. One-half of the costs will be paid in 1830 and the other one-half the following year.

5. Acts of 1829, Chapter 210, was the authority for the Quarterly Court of Lincoln County to sell at public auction to the highest bidder, the jail and the lot upon which it stands on such credit terms as seems best to them. Power to convey good title was conferred upon the court. The court would then appoint three Commissioners to purchase a site within the limits of Fayetteville on which a new jail was to be built. The court may contract on law bid for the construction, may use the proceeds of the sale of the old jail to help defray the expense of the new one, and to lay taxes for the rest of the cost. The tax would be collected by the Sheriff who would pay it over to the commissioners.
6. Acts of 1831, Chapter 21, authorized the Sheriffs of Lincoln and Rhea Counties to appoint three Deputy Sheriffs who shall be subject to the same rules and regulations and draw the same compensation and fees as other Deputy Sheriffs.
7. Private Acts of 1919, Chapter 734, stated that the Sheriff of Lincoln County, identified by the use of the 1910 Federal Census figures, shall receive the sum of \$2,000 per year as salary, provided he shall file on January 1 of each year with the County Judge, or Chairman, a sworn, itemized statement, showing the total amount of fees collected in the office, excluding prisoner board and turnkey fees. If the fees are less than the salary, the county shall pay the difference to the Sheriff, but, if the fees should exceed the salary, the Sheriff was permitted to keep them.
8. Private Acts of 1921, Chapter 346, set the compensation of the Sheriff of Lincoln County at \$500.00 per year, payable quarterly, which would be in addition to all the fees of the office regardless of the amount of them.
9. Private Acts of 1933, Chapter 760, amended Section 10726, Code of Tennessee, by creating a Class 3-B of population groupings and fixing the salaries of certain county officials in that class. Lincoln County would be included in it, and the annual salary of the Sheriff was set at \$2,500. Seeking the office was to be construed as an acceptance of that amount as the salary for that position.
10. Private Acts of 1933, Chapter 822, expressly repealed Chapter 734, Private Acts of 1919, Item 7, above, in its entirety.
11. Private Acts of 1939, Chapter 335, allowed for the Sheriff, Deputies Sheriff, and Constables to be entitled to collect mileage at the rate of five cents per mile for distances traveled by them in making arrests. The amount of mileage to be allowed in each case was to determined by the magistrate or judge trying the case with the provision that no mileage should be a liability to the State of Tennessee.
12. Private Acts of 1945, Chapter 167, set the annual salary of the Sheriff of Lincoln County, using the 1930 population count, at \$3,000.00 with the provision that all the fees collected in the Sheriff's Office would become the property of and be paid over to the county.

## Chapter XI - Taxation

### Assessor of Property

#### Private Acts of 1961 Chapter 147

**SECTION 1.** That whenever the County Court of Lincoln County, Tennessee has employed any agency to perform an equalization program on the real property of said County and such agency has certified the results of that program back to the County Court of said County, then the County Court of said County shall certify such results to the County Board of Equalization. The evaluations set forth in such program shall be presumptive evidence of the values of the properties contained therein to be considered by the said Board along with all other evidence as to the value to be placed on said program by said Board.

**SECTION 2.** That in the event the Tax Assessor, County Judge or any County taxpayer appeals any assessment made by the County Board of Equalization, then the State Board of Equalization shall accept said value set up under the appraisal program as prima facie evidence of the taxable value of said real property.

**SECTION 3.** That before any assessment of any agency employed by Lincoln County, Tennessee to perform an equalization program shall become effective that notice shall be given to the taxpayer or taxpayers of Lincoln County, Tennessee by regular mail or publication made in a newspaper published in the town of Fayetteville, Tennessee, notifying the said taxpayer or taxpayers that their property has been re-evaluated.

**SECTION 4.** That all laws or parts of laws in conflict with this law be and the same are hereby repealed.

**SECTION 5.** That this Act shall become effective upon the approval or same by two-thirds of the Quarterly County Court of Lincoln County, Tennessee as provided by law. The approval or non-approval of said Act shall be proclaimed by the presiding officer of said County and shall be certified by him to the Secretary of State, the public welfare requiring it.

**SECTION 6.** That this Act shall take effect from and after its passage and approval, as hereinabove set out, the public welfare requiring it.

PASSED: February 23, 1961

## Private Acts of 1961 Chapter 148

**SECTION 1.** That since the County Court of Lincoln County, has inaugurated or set up a system of keeping records in the Office of the Tax Assessor in said County, that when such system has been approved by the State Comptroller that said system may not be changed, altered or abolished without the approval of the State Comptroller.

**SECTION 2.** That all laws or parts of laws in conflict with this law are hereby repealed.

**SECTION 3.** That this Act shall become effective upon the approval of same by two-thirds of the Quarterly County Court of Lincoln County as provided by law. The approval or non-approval of said Act shall be proclaimed by the presiding officer of said County Court and shall be certified by him to the Secretary of State, the public welfare requiring it.

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

PASSED: February 23, 1961.

## Private Acts of 1963 Chapter 41

**SECTION 1.** Any person or persons desiring to erect or have erected, constructed, reconstructed or placed, any building or structure in Lincoln County, or any person or persons desiring to alter or have altered any existing building or structure in Lincoln County, where the value of such new building, structure or alteration will exceed the sum of two thousand five hundred dollars (\$2,500), shall first apply to the property assessor and shall contain the following information: (1) whether the proposed work is to be new construction or the alteration of an existing structure; (2) The location or address of the proposed construction or alteration; (3) The identity of the owner or owners of the premises; (4) The cost of the completed structure in the case of new construction or in the case of the alteration of such an existing structure, the value of such structure before and after such alteration; and (5) Such other information as the property assessor shall prescribe.

Upon proper application, duly filed, the property assessor shall then issue a building permit and shall take note of the fact of such erection, construction, reconstruction, or alteration for his tax records. The property assessor may charge a fee of five dollars (\$5.00) for the issuance of such permit if the county legislative body so directs.

No new or additional property tax shall be assessed against such premises unless and until the same are complete or at least completed to the extent that they are habitable or may be put to use. However, in the case of the alteration of an existing structure not therefor on the tax books of the county, or against which no property tax has been assessed, the property assessor is not precluded from assessing such structure at its value before such alteration is completed and subsequently increasing the assessment upon completion of such alteration, so as to include the value thereof.

As amended by: Private Acts of 1993, Chapter 71

**SECTION 2.** That this Act shall not apply to the erection, construction or alteration of buildings or other structures in cities requiring permits for the same, providing that copies of such permits are made available to the office of the property assessor.

**SECTION 3.** Violation of the provisions of this act shall be punishable, upon conviction thereof by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), plus costs.

As amended by: Private Acts of 1993, Chapter 71

**SECTION 4.** That this act shall have no effect unless the same shall have been approved by 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, or after its otherwise effective date. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve, and shall be certified by him

to the Secretary of State.

**SECTION 5.** That this Act shall be effective from and after its passage, the public welfare requiring it, but the provision thereof shall not become operative until validated as provided in Section 4 herein.

PASSED: February 15, 1963.

## Private Acts of 1985 Chapter 13

**SECTION 1.** That every conveyance in writing of real property located within Lincoln County, except mortgages and deeds of trust, shall be presented to the Assessor of Property for notation of the change or changes in ownership occasioned by the conveyance, as well as such other information as will enable the Assessor to keep current records in his office, to the end that all real estate shall be assessed for taxation in the name of the true owner or owners or in the name of the person or persons responsible for the payment of the taxes. Upon receipt the Assessor shall stamp or note on the writing that such conveyance has been presented to the Assessor.

**SECTION 2.** No conveyance of real property, except mortgages and deeds of trust, shall be recorded by the Lincoln County Register unless it bears a stamp or notation evidencing that such conveyance has been presented to the Assessor.

**SECTION 3.** Failure of the Assessor or Register to comply with the provisions of this Act shall constitute a misdemeanor in office.

**SECTION 4.** In the event any section or part of any section or application of this Act shall be held invalid, the remainder of the Act shall not be invalidated but shall remain in full force and effect.

**SECTION 5.** This Act shall become effective when the same shall have been approved by the county legislative body of Lincoln County by a vote of not less than two-thirds (2/3). Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by the presiding officer to the Secretary of State.

**SECTION 6.** For the purposes of approving or rejecting the provisions of this Act, it shall become effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided by Section 5 hereof.

PASSED: March 4, 1985

## Hotel/Motel Tax

### Private Acts of 1986 Chapter 192

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

(a) "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.

(b) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist courts, tourist camp, tourist cabin, motel or any place in which rooms, lodging or accommodations are furnished to transients for a consideration.

(c) "Occupancy" means the use or possession or the right to use or possession of any room, lodging, or accommodations in a hotel for a period of less than thirty (30) continuous days.

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

(e) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property and service 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 or received from any person.

(f) "Operator" means the person operating the hotel whether as owner, leasee, or otherwise.

(g) "Tax collection official" means the County Clerk of the County.

(h) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the county tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business.

**SECTION 2.** The legislative body of Lincoln County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel by a transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The rate of the tax shall be set annually at or before the July term by the county legislative body. The tax is a privilege upon the transient occupying the room and is so collected and distributed as hereinafter provided.

**SECTION 3.** Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel, such invoice to be given directly or transmitted to the transient a copy thereof filed by month and retained as provided by Section 7 hereof.

**SECTION 4.** (a) The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms to the County Clerk not later than the 20th of each month next following collection from the transient. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for occupancy, whether prior to, during or after occupancy, as may be the custom of the operator. The obligation to the county entitled to such tax shall be that of the operator. (b) For the purpose of compensating the operator in accounting for and remitting the tax levied by this Act, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the County Clerk in the form of a deduction in submitting his report and paying the amount due by him, provided the amount due was not delinquent at the time of payment.

**SECTION 5.** No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will be added to the rent, or that, if added, any part will be refunded.

**SECTION 6.** Taxes collected by an operator which are not remitted to the County Clerk on or before the due dates are delinquent taxes from the due date at a rate of eight percent (8%) per annum, and in addition for penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor. Any fine levied herein shall be applicable to each individual transaction involving lodging services paid by a customer to the operator in those cases when the operator fails or refuses to pay the tax payable.

**SECTION 7.** It is the duty of every operator liable for the collection and payment of any tax imposed by this Act to keep and preserve for a period to three (3) years all records necessary to determine the amount of such tax, which records the tax collection official shall have the right to inspect at all reasonable times.

**SECTION 8.** In administering and enforcing the provisions of this Act, the tax official shall have as additional power the powers and duties with respect to collection of taxes provided in Title 67 of the Tennessee Code Annotated or otherwise provided by law. Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in the Tennessee Code Annotated Section 67-1-912, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed shall apply to the tax collected under the authority of this Act; provided, the tax collection official possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, with respect to adjustment and settlement with taxpayers of all the errors of taxes collected by him under the authority of this Act and to direct the refunding of same. Notice of any tax paid under protest shall be given the tax collection official, and suit for recovery shall be brought against the tax collection official.

**SECTION 9.** The proceeds from this tax levied herein shall be retained by the county government and placed in the county general fund.

**SECTION 10.** The tax collected by the County Clerk shall be remitted by him to the county trustee for distribution in accordance with the terms of this Act and the laws of the State of Tennessee.

**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 provision or application, and to that end the provisions of this Act are declared to be severable.

**SECTION 13.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Lincoln County. Its approval or non-approval 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 on the first day of the month following its approval as provided in Section 13.

PASSED: May 15, 1984.

## Litigation Tax

### Private Acts of 1969 Chapter 142

**SECTION 1.** That a litigation tax not to exceed five dollars and twenty-five cents (\$5.25) in all civil actions and ten dollars (\$20.00) in all criminal actions shall be taxed as part of the costs in cases instituted.

As amended by: Private Acts of 1982, Chapter 317  
Private Acts of 1987, Chapter 46

**SECTION 2.** That the clerk of said courts shall collect such litigation tax and pay same to the Trustee of Lincoln County, Tennessee. The county legislative body of Lincoln County shall have exclusive power to designate how such funds shall be spent.

As amended by: Private Acts of 1987, Chapter 46

**SECTION 3.** That all expenditures made from the said fund shall be made by the County Judge upon the approval and authorization of the Quarterly County Court of Lincoln County, Tennessee, for the purpose herein specified.

**SECTION 4.** That this Act shall have no effect unless approved by a two-thirds (2/3) vote of the Quarterly County Court of Lincoln County, Tennessee. The approval or non-approval shall be proclaimed by the presiding officer and certified to the Secretary of State.

**SECTION 5.** That this Act shall take effect from and after its passage and ratification as provided for in Section 4, the public welfare requiring it.

PASSED: May 6, 1969.

## Motor Vehicle Tax

### Private Acts of 1979 Chapter 79

**SECTION 1.** For the privilege of using the public roads and highways, except state-maintained roads, in Lincoln County, Tennessee, there is levied upon motor-driven vehicles and motorcycles (but excluding motor-driven bicycles and scooters) and upon the privilege of the operation thereof, except farm tractors, self-propelled farm machines, or other vehicles or machines not usually used for operation upon public highways or roads, and except all motor-driven vehicles by any governmental agency or governmental instrumentality, a special privilege tax for the benefit of such County, which tax shall be in the amount of Twenty-Five Dollars (\$25.00) for each such motor-driven vehicle.

This tax applies to, is a levy upon, and shall be paid on each motor-driven vehicle, the owner of which lives within, or usually stays within, or who operates such a motor-driven vehicle on, over, or upon the streets, roads, or highways of said county, state-maintained roads excluded, for a period of as many as thirty (30) days, during any year hereafter.

It shall be and is hereby declared a misdemeanor and punishable as such for any owner of a vehicle to operate any motor-driven vehicle over the streets, roads, or highways of such county, statemaintained roads excluded, without the payment of the tax herein provided having been made as herein required, prior to such operation thereof. Provided further that nothing in this Act shall be construed as permitting and authorizing the levy of and the collection of a tax against non-residents of the County to which this Act applies and to owners of such vehicles using the streets, roads, and highways of such county, who live or reside without the bounds of said county, but who do not come within the provisions of this Act, and within a reasonable construction of the provisions thereof.

**SECTION 2.** The tax herein levied shall be paid to and collected by the County Clerk of Lincoln County, who shall collect this tax at the same time he collects the state privilege tax levied upon the operation of a motor-driven vehicle over the public highways of this State. The Clerk of Lincoln County shall not issue to a resident of such county a State license for the operation of a motor-driven vehicle taxable hereunder unless, at the same time, such owner shall purchase the license or pay the privilege tax levied hereunder, for the operation of each of his motor-driven vehicles under the provisions of this Act.

Payment of the privilege tax imposed hereunder shall be evidenced by a receipt issued in duplicate by the Clerk, the original of which shall be kept by the owner of the motor-driven vehicle, and by a decal or emblem, also issued by the Clerk, which decal or emblem shall be displayed by affixing the same on and to the lower right-hand side of the windshield of the motor-driven vehicle for which same was issued. (Provided, however, that the privilege tax decal or emblem for motorcycles, shall be placed on the top portion of the gasoline tank, but if such tank is not visible, then the decal or emblem shall be placed on any prominent and visible portion of said vehicle.)

The design of the decal or emblem shall be determined by the Clerk. The expense incident to the purchase of such decals and emblems herein required as well as the expense of obtaining proper receipts and other records necessary for the performance of the duties herein and hereby incumbent upon the Clerk shall be paid from the general funds of the County.

The privilege tax or wheel tax herein and hereby levied, when paid together with full, complete and explicit performance of and compliance with all provisions of this Act by the owner, shall entitle the owner of the motor-driven vehicle for which said tax was paid and on which the decal or emblem has been affixed as herein provided, to operate this vehicle over the streets, roads and highways of the county from the date of purchase until the expiration of the state registration in each year. There will be a grace period as set forth in Tennessee Code Annotated, Section 59-404, for the renewal and purchase of new emblems. When a motor-driven vehicle becomes taxable under the terms and provisions of this Act at a later date than the last day of the grace period set forth in Tennessee Code Annotated, Section 59-404, of each year, the same proportionate reduction shall be made as to the cost of the privilege tax or wheel tax, or the amount to be paid into the hands of the Clerk therefor, as is now made in the issuance of the privilege tax payable to the State of Tennessee and collected by the Clerk, under the provisions of the general laws of this State.

For his services in collecting the aforesaid tax and in issuing the receipt therefor and delivering the decal or emblem to the owner, the Clerk shall be entitled to a fee of seventy-five (75¢) cents. The Clerk will faithfully account for, make proper reports of, and pay over to the Trustee of the county at monthly intervals, all funds paid to and received by him for the aforesaid privilege tax or wheel tax. It shall be and is hereby declared a misdemeanor and punishable as such for any motor-driven vehicle, taxable hereunder, to be driven or impelled over or upon the streets, roads, or highways of the county to which this Act is applicable, state-maintained roads excluded, without payment of this privilege tax levied hereunder and without full and complete compliance with all provisions hereof.

In the event any motor-driven vehicle for which the privilege tax or wheel tax has been paid and the emblem or decal issued and placed thereon, becomes unusable, or is destroyed or damaged to the extent that this motor-driven vehicle can no longer be operated as such, and the owner ceases to operate same on the public roads, streets, or highways of said county, or in the event the owner transfers the title to the motor-driven vehicle, and completely removes therefrom and destroys the emblem or decal issued and placed thereon or affixed thereto, and the owner makes proper application for the issuance of a duplicate decal or emblem to be used by him on the same or on another motor-driven vehicle for the unexpired term for which the original decal or emblem was issued, and the Clerk is satisfied that this owner is entitled to the issuance of such a duplicate decal or emblem, and the owner pays into the hands of the Clerk the sum of seventy-five cents (75¢) Clerk fee and One Dollar (\$1.00) for the decal, the Clerk will then issue to such owner a duplicate receipt, cancelling the original receipt delivered to him by the owner, and will deliver to the owner a duplicate decal or emblem, which shall be affixed to the motor-driven vehicle for which it is issued, as hereinabove provided, and this shall entitle the owner to drive the vehicle on the streets, roads, and highways of such county until the expiration of state registration on that vehicle. Likewise, in the event a decal or emblem becomes obliterated, erased, or defaced, or is destroyed under the provisions of this Act, and is therefor illegible and unusable by the owner, upon proper application made by the owner and filed with the Clerk, showing such circumstances and facts to be true, then the Clerk, upon receipt from the owner of seventy-five (75¢) cents, any issue and deliver to the owner a duplicate decal or emblem.

**SECTION 3.** The tax levied under this Act shall become effective beginning with motor vehicle registrations or renewals made after June 30, 1979, and shall be paid when each registration or renewal of registration is made each year.

**SECTION 4.** The proceeds of the tax to be imposed by this Act shall be collected by the Clerk and paid over by him to the Lincoln County Trustee, who shall distribute the proceeds on the following basis:

- (1) 50% of the proceeds of the tax herein imposed shall be used exclusively to retire the outstanding school bonds of said county.
- (2) 50% of the proceeds of the tax herein imposed shall be used for the maintenance and repair of bridges and roads in Lincoln County as directed by the county legislative body or at the discretion of the county legislative body for retirement of bonds or other indebtedness incurred for the purpose of maintenance and repair of roads and bridges in said county; or for such other purposes as are directed by resolution of said county legislative body.

**SECTION 5.** Any person violating the provisions of this Act, or of any part thereof shall, upon conviction, be fined not less than Twenty-Five Dollars (\$25.00) nor more than Fifty Dollars (\$50.00).

**SECTION 6.** It is the intent of the General Assembly of the State of Tennessee, that this Act be construed as a measure providing for additional revenue for the county affected.

**SECTION 7.** This Act shall have no effect unless it is approved by a majority of the number of qualified voters of Lincoln County voting in an election on the question of whether or not the Act should be approved. Not less than thirty (30) days nor more than eighty (80) days after this Act becomes law, the County Election Commission of Lincoln County shall call an election for Lincoln County. The ballots used in the election shall have printed on them the substance of this Act and voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the County Election Commissioners and certified by them to the Secretary of State as provided by law in the case of General Elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this Act. The cost of the election shall be paid by Lincoln County.

**SECTION 8.** This Act is declared severable in construction, it being the legislative intent, hereby expressed that should any section or provision of said Act be declared unconstitutional by a court of competent jurisdiction, such Act would have been passed without the unconstitutional parts thereof.

**SECTION 9.** 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 July 1, 1979.

PASSED: April 5, 1979.

## Taxation - Historical Notes

### **Assessor of Property**

The following acts were superseded, repealed or failed to win local ratification, but they are listed here as a reference to laws which once affected the assessor in Lincoln County. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1919, Chapter 566, stated that the Tax Assessor in Lincoln County, identified by the use of the 1910 Federal Census figures, would be paid the sum of \$2,000 per year as compensation for his services, payable annually on July 1 of each year; provided, that the work of the Tax Assessor has been completed, but, if the work of the Tax Assessor has not been completed, the compensation will not be paid until it is. The salary will be paid out of the regular funds of the county on the warrant of the County Judge, or Chairman.
2. Private Acts of 1927, Chapter 686, made it the duty of the Tax Assessor of Lincoln County to keep one office open at the Courthouse during reasonable business hours where he, or a deputy, would be present to discharge the duties of the office. The Tax Assessor would also be on hand at each of the voting precincts, either in person or by deputy, once each year to meet with the people of that precinct for the purpose of assessing taxes, property, and polls, after at least ten days notice of such meeting had been given. All persons not on hand at the voting precinct were required to go to the office of the Tax Assessor for the same purposes within the time established by law. It was the duty of the county court to furnish the Tax Assessor with an office and furnishings at the courthouse. This act was repealed by Chapter 68, Private Acts of 1935.
3. Private Acts of 1933, Chapter 360, stated that the Quarterly Court of Lincoln County shall fix the compensation of the County Tax Assessor at its regular January, or April, term which salary shall not be less than \$1,000 nor more than \$2,000 per year, which sum shall include all allowances for deputy tax assessors.

4. Private Acts of 1935, Chapter 68, expressly repealed Chapter 686, Private Acts of 1927, which regulated to some degree the activities of the office of Tax Assessor in Lincoln County.
5. Private Acts of 1953, Chapter 75, provided that the Tax Assessor of Lincoln County would be paid \$3,000 per year in equal monthly installments out of the regular funds of the county.
6. Private Acts of 1963, Chapter 42, amended Chapter 75, Private Acts of 1953, by increasing the salary of the Tax Assessor of Lincoln County from \$3,000 to \$7,000 per year. This act was allegedly repealed by Chapter 252, Private Acts of 1963, below, but that act was rejected by the Quarterly County Court and never became a law, but there is no printed evidence that this act was ever considered by the Quarterly County Court since it was supposed to be repealed by Chapter 252 of this same year. The Home Rule Amendment to the State Constitution would necessitate the approval of Chapter 42 before it became a law.
7. Private Acts of 1963, Chapter 252, amended Chapter 75, Private Acts of 1953, by increasing the salary of the Tax Assessor from \$3,000 to \$7,000 and specifically repealed Chapter 42, Private Acts of 1963, but this act was rejected by the Quarterly Court of Lincoln County thus becoming null and void for all purposes.

### **Taxation**

The following is a listing of acts pertaining to taxation in Lincoln County which are no longer effective. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1813, Chapter 43, Section 10, was the authority for the commissioners appointed to lay off the town of Fayetteville in Lincoln County to lay a tax on each retail store, hawker, and peddler doing business in the city which was not to exceed the sum of \$5.00.
2. Acts of 1870-71, Chapter 50, authorized the counties and the cities of Tennessee to levy taxes for county and municipal purposes in the following manner (1) that all taxable property be taxed according to its value upon principles established in regard to state taxation, and (2) the credit of no county or city shall be loaned or given to any person, firm, or corporation, unless a majority of the Quarterly County Court shall first agree to submit the question to a referendum vote of the people and that the referendum be carried in favor then by no less than three-fourths majority. Some counties exempted themselves from the three-fourths margin of approval in the referendum for the next ten years saying that a simple majority would suffice.
3. Private Acts of 1919, Chapter 657, levied a vehicle tax on all carts, buggies, surveys, wagons, traction engines, automobiles, and motorcycles in Lincoln County. The tax was levied in accordance with a schedule of amounts per type of vehicle set up in the act. The county court clerk would collect the tax, register the vehicle and issue a tax to be placed on the conveyance showing the tax had been paid. Fines for violations ranged from \$5.00 to \$50.00 and the Sheriff and his deputies would enforce this law. This act was repealed by Chapter 76, Private Acts of 1935, Item 12, below, and was held to be constitutional against an attack of double taxation in Wilson v. State, 143 Tenn. 56, 224 SW 168 (1920), and was cited as the ruling case in a legislative procedural question posed in State v. Collier, 160 Tenn. 403, 23 S.W.2d 897. Private Acts of 1929, Chapter 558, amended Chapter 657, Private Acts of 1919, above, in Section 1, by reducing the tax on one-horse wagons from \$3.00 to \$2.00 and on all other types mentioned in the schedule the tax was reduced to \$2.00. The clerk must furnish a metal tag to everyone paying the tax to be placed on the particular vehicle which, if it is lost, the vehicle owner must replace at his expense.
4. Private Acts of 1931, Chapter 233, created the position of Delinquent Poll Tax Collector for all counties between the population range of 22,193 and 30,000 which would include Lincoln County. The Collector would be appointed by the County Judge or Chairman, to serve two year terms. All polls not paid by May 1, 1931, and by March 1 of every year thereafter were declared to be delinquent. The Trustee would compose a list of those unpaid on that date and give the same to the Delinquent Poll Tax Collector who would receive 70 cents plus the same fees for collecting as the Trustee. The list as compiled by the Trustee, constituted judgments against those on it and the Poll Tax Collector could issue distress warrants for the amount due. He must use only the receipt books furnished him by the Trustee, could inspect any payroll in the county or other records, issue summons for witnesses and conduct hearings. All monies collected hereunder would be paid to the Trustee. This act was repealed, as amended, by Chapter 757, Private Acts of 1931.
5. Private Acts of 1931, Chapter 270, amended Chapter 657, Private Acts of 1919, which set up a vehicle tax in Lincoln County by adding a provision at the end of the second paragraph in Section 5 which authorized the county court clerk of Lincoln County to pay to the City Clerk of the cities all tax money generated by the payment of the vehicle tax by residents of corporate cities on

vehicles used primarily within the boundaries of the above mentioned cities and towns. Cities were required to devote these funds to improving and repairing their streets and alleys. This act was repealed immediately by the one below.

6. Private Acts of 1931, Chapter 355, expressly, immediately, and entirely repealed Chapter 270, Private Acts of 1931, above, which would have shared the vehicular tax revenue with the incorporated cities and towns in Lincoln County.
7. Private Acts of 1931, Chapter 518, amended Chapter 223, Private Acts of 1931, in Section 2, by rewriting the first sentence to the effect that all poll taxes levied on eligible male citizens not paid by May 1, 1931, and by March 1 of the year following their due date thereafter were declared to be delinquent, and shall be turned over to the Delinquent Poll Tax Collector. Section 3 made it the duty of the collector to assess any person whom he finds to be delinquent where that person's name is on the Trustee's list or not and add the same to his rolls.
8. Private Acts of 1931, Chapter 757, repealed Chapter 223, Private Acts of 1931, as amended by Chapter 518, in its entirety.
9. Private Acts of 1933, Chapter 75, amended Chapter 657, Private Acts of 1919, Item 3, above, by adding a new Section setting up a privilege tax in Lincoln County on all wagons, traction engines, and automobiles, including trucks, which were used on public highways. The rates were \$2.00 for a wagon, \$5.00 for a traction engine, and \$3.00 for a car, or truck, all to be paid to the county court clerk. People who were liable for the tax could work it out on the public roads according to the schedule of days specified in this act but must notify county officials of their election to work and they would be assigned to some work area. Violators would be punished by fines and imprisonment at the discretion of the judge.
10. Private Acts of 1933, Chapter 258, seems to be a duplicate of Chapter 75, above, which levied new vehicular taxes in Lincoln County.
11. Private Acts of 1935, Chapter 76, expressly repealed Chapter 657, Private Acts of 1919, Item 3, above, in its entirety, as the same was amended.
12. Private Acts of 1949, Chapter 269, was the authority for the Quarterly Court of Lincoln County to levy a privilege tax by Resolution on the owners of motor vehicles operating in the county, taking into consideration the size, weight, and length of the particular vehicle. The tax would be payable to the county court clerk at the same time the State License was being sold and the State license shall not be issued to anyone in Lincoln County until this tax has been paid. The funds would be paid over to the Trustee who would apply the same to a special road and bridge fund. Failure to do so would subject the offender to a fine. This act was repealed by the one following.
13. Private Acts of 1951, Chapter 113, repealed Chapter 269, Private Acts of 1949, Item 13, above, specifically.
14. Private Acts of 1984, Chapter 217, was the first hotel/motel privilege tax for Lincoln County. It has been superseded by Private Acts of 1986, Chapter 192, which is the current hotel/motel privilege tax.
15. Private Acts of 1985, Chapter 103, amended Private Acts of 1984, Chapter 217, primarily by directing that the funds raised by this act be used to enhance public education. This act was never acted upon by local government and its provisions are not included in the current hotel/motel privilege tax for Lincoln County.

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