



County Technical Assistance Service  
INSTITUTE *for* PUBLIC SERVICE

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# Chapter IX - Highways and Roads

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

Sincerely,

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# Chapter IX - Highways and Roads

## Highway Commissioner

### Private Acts of 1937 Chapter 242

**SECTION 1.** That in counties of this State having a population of not less than 19,900, nor more than 20,000 by the Federal Census of 1930, or any subsequent Federal Census, there is hereby created the Office of County Highway Commissioner.

As amended by: Private Acts of 1990, Chapter 171

**SECTION 2.** At the August 1990 General Election, and every four (4) years thereafter, there shall be elected by the qualified voters of McNairy County, a County Highway Department, whose term shall be for four (4) years beginning September 1 following election. The candidates for the office of County Highway Department shall possess the qualifications required by and have the powers and duties specified in the County Uniform Highway Law (Tennessee Code Annotated, Title 54, Chapter 7). The County Highway Department shall be paid the salary established in Tennessee Code Annotated, Section 54-7-106.

As amended by: Private Acts of 1947, Chapter 43  
Private Acts of 1953, Chapter 567  
Private Acts of 1963, Chapter 86  
Private Acts of 1965, Chapter 192  
Private Acts of 1969, Chapter 125  
Private Acts of 1972, Chapter 310  
Private Acts of 1973, Chapter 80  
Private Acts of 1990, Chapter 171

**SECTION 3.** All expenditures from the highway funds of said county shall be by means of a warrant signed by the Commissioner of Highways and drawn upon the highway funds in the hands of the County Trustee. It shall be the duty of the County Highway Department to keep a permanent record of the amount, payee, number, and consideration of each warrant so drawn by him and upon request shall furnish an itemized list of said expenditures and such other information as may be requested to the County Legislative Body. Such records shall be kept during the calendar year in which they were drawn and for the two next succeeding calendar years, during which time such record shall be open to inspection, during reasonable hours, by any interested taxpayer of said county.

As amended by: Private Acts of 1972, Chapter 310

**SECTION 3-A.** That the County Highway Department shall submit to each Quarterly Session of the County Court a full and complete report of his activities as such County Highway Department, showing in each report the amount of road funds on hand at the beginning of the quarter, together with the amount expended for labor, supplies, materials and equipment, and the amount expended on each account, together with a list of articles purchased, the number of laborers employed, the number of new miles constructed or the fractions thereof, and where located, during the quarter for which said report is made. Each of said reports shall be published by the Commissioner of Highways in some newspaper of general circulation in said County at the time it is submitted to the County Legislative Body.

The County Highway Department shall have an annual audit of all books and records of the County Highway Department made by some firm of certified public accountants prior to the regular April term of the County Legislative Body, and a copy of said audit shall be submitted to the County Legislative Body at its regular April term, beginning with the April term, 1941.

All expenses incident to publishing the said quarterly reports and the expenses of the annual audit of all books and records of the County Highway Department as hereinbefore provided, shall be paid by the County Highway Department out of the road funds coming into its hands as other obligations are paid.

As amended by: Private Acts of 1972, Chapter 310  
Private Acts of 1990, Chapter 171

**SECTION 4.** That the County Highway Department of said counties is hereby authorized to open and close and re-locate such roads as in his judgment may be necessary to provide an adequate and complete system of County Highways and for the purpose of opening or relocating the roads, the power of eminent domain is expressly conferred upon such County Highway Department. In case it becomes necessary to procure right-of-way for any road by eminent domain proceedings, the County Highway Department shall serve upon the landowner affected, if he be a resident of said county, a notice five days in advance of the proposed taking of his intent to take such lands, accompanied by a reasonable definite description of the lands sought to be taken, together with a notice that on the day mentioned in his notice that a jury of view will be concerned for the purpose of assessing the damages occasioned by such taking. It shall be

the duty of the sheriff of counties to which this Act applies, upon application by such official to the County Highway Department to appoint the jury of view consisting of three persons, who shall go upon the land described in said notice, shall assess the damages occasioned by the taking thereof and shall file their report in writing in the office of the County Court Clerk of counties to which this Act applies. All damages for rights-of-way taken under this Act shall be paid out of the general county fund of said counties and shall be a definite charge there against. Any person deeming himself to be aggrieved by the action of the jury of view may have such action reviewed by petition for certiorari filed in the Circuit Court of counties to which this Act is applicable within twenty days after the filing of such report by the jury of view in the office of the County Court Clerk. However, upon the hearing in the Circuit Court upon such petition for certiorari the action of the county Highway Department in selecting the particular land to be taken shall be final but the power of the County Highway Department to condemn and the amount of damages occasioned by such condemnation shall be open to investigation by such court. Either party, upon the trial in the Circuit Court, may have a jury in the same manner as now provided by law for other civil cases. Any party aggrieved by the judgment of the Circuit Court may appeal from it to the Court of Civil Appeals and by certiorari to the Supreme Court as now provided by law for other civil cases.

As amended by: Private Acts of 1990, Chapter 171

Passed: February 16, 1937.

## Highways and Roads - Historical Notes

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

1. Acts of 1843-44, Chapter 31, Section 4, granted to George G. Adams, J.L. Rushing, and James Kerr, a franchise for a turnpike road to run from the Hardin County line near the east end of Willie Lucas' land to Purdy. They would have the right to charge toll rates for twenty years. The road must be at least 18 feet wide, kept properly maintained and drained, and clear of obstructions. William Rogers, John Linsey, and William Scratt, were appointed Commissioners to supervise the construction of the said road, inspect it at periodic intervals, and to institute the rates of toll to be charged. Anyone who crossed a gate without paying the toll was subject to prosecution and fine.
2. Acts of 1901, Chapter 136, applied to all the counties under 70,000 population, according to the 1900 census, and seemed to be the first statewide road law which served as a pattern for very numerous public and private acts for roads which followed. The County Court would divide the County into road districts, coextensive with civil districts, and appoint one commissioner from each road district to the Commission which would exercise general supervision over all the public roads, bridges, and overseers in the county. The County Courts would decide the number of days one would work on the roads and who would be compelled to do so, and to levy a two cent tax per \$100.00 for general road purposes. This act stated all males between ages of 21 and 45 must work on the roads. There were some specifications for roads, and the procedures to open, close, or reroute roads were prescribed. Prisoners could work on roads under certain conditions of which work accurate records were required to be kept and contracts to repair as well as to build roads could be made. This act was the subject of litigation in Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1906).
3. Acts of 1905, Chapter 478, amended the 1901 Act, above, in several minor particulars among them being the method for petitions to for opening, closing, and rerouting roads to be filed and acted upon.
4. Private Acts of 1923, Chapter 601, establishes a schedule of tolls to be charged for vehicles passing through toll gates on toll roads and, turnpikes, ranging from five cents for motorcycles to \$1.25 for trucks which weigh over five tons. No turnpike could have over two toll gates, and if a vehicle was not mentioned in the act, a reasonable charge would be made for its passage.
5. Private Acts of 1925, Chapter 464, seemed to be the first road law for McNairy County. The Act created a road system with Hallie Hamm and its Supervisor who would serve until his successor was elected and qualified in January, 1927. The County Court would select a Supervisor for a term of two years who with the one named herein, have charge of all the roads, bridges, levees, culverts, etc. He would classify all the roads in the county and be in charge of all the males between 21 and 50 years of age who would be working on them for at least 10 eight hour days each year. The Supervisor could obtain dirt, sand, or gravel to maintain the roads, even by eminent domain, if necessary. He could appoint foremen and overseers who would be responsible for certain sections of each road. A road tax from ten to fifty cents could be levied on each \$100

of taxable property and a privilege tax could be imposed in addition to that. Compensation was fixed for the people of this Act, purchasing procedures and limitations were prescribed and regulations made for working prisoners and penalties were provided for failure to comply with the provisions of this Act. This act was repealed by Chapter 336, Private Acts of 1937.

6. Private Acts of 1925, Chapter 563, authorized the Quarterly County Court of McNairy County, using 1920 population figures, to issue interest bearing notes, or warrants, to provide funds for highway purposes and projects which would not be in excess of \$5,000 to be issued in such a way and manner as the Court should determine, but this act shall not affect or prohibit any other bond issues.
7. Private Acts of 1927, Chapter 97, amended Chapter 464, Private Acts of 1925, Section 10, the Road Law for McNairy County, as follows "there shall be due on January 1 of each year, and shall be paid on or before the first Monday in March of each year except that in 1925 it shall be paid by May 1." The act concerned a \$5.00 vehicular payment.
8. Private Acts of 1929, Chapter 640, amended Chapter 464 of the Private Acts of 1925 in four minor instances and by authorizing the County Judge to represent the County in any dealings and negotiations with the State Department of Highways and Public Works for which all his expenses incurred thereby would be paid.
9. Private Acts of 1931, Chapter 541, amended Chapter 464, Private Acts of 1925, the then McNairy County road law, by requiring that road hands be assigned to work on the highways nearest or most convenient for them (2) by giving the County Judge or Chairman, concurrent authority with the Supervisor to classify roads, (3) by reducing the commutation charge for road bonds from \$5.00 to \$2.00, the fine for failure to comply from \$25.00 to \$5.00, and by requiring a five day notice to work on the roads be given instead of two, (4) by making the levy of a special road tax permissive instead of mandatory reducing the maximum tax limit from 50 cents to 25 cents and deleting requirement to levy a special privilege tax for the roads, and (5) by revising all the purchasing limitations and practices.
10. Private Acts of 1931, Chapter 758, stated that the State Highway Department would have and exercise full control, direction and supervision over the expenditures of all funds received by McNairy County for road purposes from the State from all sources including registration fees and gasoline taxes. The State could expend the funds itself giving the County Judge an account of the expenditures or, in its discretion, permit the road authorities of the county to spend them.
11. Private Acts of 1935, Chapter 566, amended Chapter 464, Private Acts of 1925, by rewriting Section 10 which changed the required work days for road hands to five 8 hour days and the commutation price to \$2.50 for the five days, and a three day notice would be given to each eligible worker. The Trustee would issue distress warrants against those who elected to commute but did not pay by January 1 of the following year. The Supervisor would immediately discharge any person who was employed to work on the roads and who did his work in an unsatisfactory manner. The act also contained three more minor amendments.
12. Private Acts of 1937, Chapter 336, specifically and entirely repealed Chapter 464, Private Acts of 1925, as amended, the road law for McNairy County.

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