



County Technical Assistance Service  
INSTITUTE *for* PUBLIC SERVICE

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# Chapter IX - Highways and Roads

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

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

Sincerely,

The University of Tennessee  
County Technical Assistance Service  
226 Anne Dallas Dudley Boulevard, Suite 400  
Nashville, Tennessee 37219  
615.532.3555 phone  
615.532.3699 fax  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

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# Chapter IX - Highways and Roads

## Commissioner of Highways

### Private Acts of 1982 Chapter 189

**SECTION 1.** The office of Commissioner of Highways for McMinn County is hereby created. The Commissioner of Highways shall be considered the chief administrative officer for the purposes of the County Uniform Highway Law, Tennessee Code Annotated, Title 54, Chapter 7. The powers and duties of the Commissioner of Highways shall be as specified in the County Uniform Highway Law as codified in Tennessee Code Annotated, Section 54-7-101 et seq.

**SECTION 2.** The Commissioner of Highways shall be elected by the qualified voters of McMinn County in accordance with the General Election Laws of the State of Tennessee in the General Election to be held in August, 1982, and every four (4) years thereafter. Upon certification of the results of the August, 1982, Election, the Commissioner of Highways shall take office September 1, 1982, for a term of four years.

A vacancy in the office of Commissioner of Highways shall be filled by an appointee of the county legislative body as provided by law, and shall serve until a successor is elected at the next county-wide election occurring after the vacancy.

**SECTION 3.** The county legislative body shall have the authority to set the salary of the Commissioner of Highways at a rate higher than the minimum salary established in Tennessee Code Annotated, Section 54-7-106.

**SECTION 4.** Notwithstanding any provisions of the law to the contrary and for 1982 only, the County Election Commission of McMinn County is authorized to modify the filing deadlines for nominating petitions required by Tennessee Code Annotated, Title 2, Chapter 5, to the extent determined to be necessary and practical in order to accomplish the purposes of this Act, but only if the effective date of this Act falls after the qualifying deadline applicable in such county as set out in Tennessee Code Annotated, Section 2-5-101.

**SECTION 5.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of McMinn County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

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

Passed: February 1, 1982.

## Roads

### Private Acts of 1991 Chapter 83

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

- (1) "Chief Administrative Officer" means the chief administrative officer of the county highway department as defined in Tennessee Code Annotated, Section 54-7-103, the same being the Commissioner of Highways for McMinn County according to Chapter 189 of the Private Acts of 1982.
- (2) "County road" or "county highway" means a public road not maintained by any other governmental entity and designated by the county legislative body as being located in the county and having sufficient use and importance so that the county, through its county highway department is authorized to maintain the road.
- (3) "County road list" means a listing of the roads designated as county roads by providing a name, description of beginning and ending points, and classification of each road on the list.
- (4) "Interested property owner" means a person or legal entity that holds a legal or equitable interest in real property (other than a leasehold interest) adjacent to a public road, or person or legal entity that has access to the public road by way of easement or right of way.
- (5) "Public road or public highway" means any road recognized by law as a way open to all the people, without distinction, for passage and repassage at their pleasure.

**SECTION 2.**

(a) The chief administrative officer shall review the status of public roads and county roads in the county prior to January 1 of each year and shall make recommendations to the county legislative body as to the public roads that should be designated as county roads, the classification of the county roads, the roads that should be removed from the county road list, the private roads or rights of ways that should be accepted as gifts by deed or other instrument to become county roads, any real property or rights of way that should be purchased or condemned to become county roads, and any public road (including any county road) that should be closed.

(b) After receiving the recommendation of the chief administrative officer, the county legislative body shall, at least annually and prior to February 1 of each year, designate and update previous designations of county roads. The county legislative body may accept or reject the recommendations of the chief administrative officer required under subsection (a), but the county legislative body shall not make any designation, nor accept any road as a county road, nor alter any classification, nor remove a road from the county road list, nor act to purchase or condemn land for a county road, nor close a public road, without first receiving the recommendation of the chief administrative officer. The county legislative body may request the recommendation of the chief administrative officer concerning any action it make take regarding the county road system and the public roads in the county at any time during the year. The chief administrative officer shall respond to such requests with a recommendation within sixty (60) days of receiving such a request. The roads designated as county roads by the county legislative body shall be entered on the county road list. The county road list shall be maintained by the chief administrative officer and a copy of it shall be kept by the county clerk.

(c) The removal of a public road from the county roads list or the fact that a public road is not designated as a county road shall not impair its public character allowing all persons, without distinction, to pass over said road, but the removal of a public road from the county road list shall remove any obligation of the county to maintain said public road.

(d) The chief administrative officer shall develop a classification system for the county roads based upon width of right of way, width of roadbed, and type of roadbed and surface. All county roads shall be classified in accordance thereto. The classification of all county roads shall be made a part of the county road list. The classification of the county roads shall be updated at least annually by the chief administrative officer in conjunction with the update of the county road list.

**SECTION 3.** The county legislative body may appropriate either county highway funds or county general funds for the purpose of acquiring real property, including rights of way (by purchase or exercise of the power of eminent domain), building, repairing, and maintaining county roads and bridges and to operate ferries connecting county roads or connecting a county road with any other public road.

**SECTION 4.** The county legislative body may close a county road or a public road not maintained by any governmental entity located in the county upon first receiving the recommendation of the chief administrative officer and following procedures which shall be adopted by the county legislative body that shall provide for a public hearing, notice to interested property owners, public notice, award of compensation for any damages, and transfer of the county's interest in the road where appropriate. Appeal of any action by the county legislative body regarding closing of a road and awarding damages may be made to the Chancery Court.

**SECTION 5.** The chief administrative officer shall establish standards for the acceptance of subdivision roads and private roads as county roads; however, the standards for acceptance of subdivision roads shall not be inconsistent with any subdivision regulations established by a county or regional planning commission. A copy of any approved standards shall be maintained by the chief administrative officer and by the county clerk. Once these standards have been established, a road shall not become a county road that does not conform to these standards. However, a party offering a subdivision or private road to the county may receive conditional acceptance of such road as a county road upon recommendation by the chief administrative officer and approval of the county legislative body, and by posting security in the form of a bond payable to the county in such amount as would be required to bring the road into compliance with the established standards for acceptance. The bond shall be with a corporate surety approved by the county executive and in such amount as set by the chief administrative officer.

The bond shall be delivered to the county clerk. The bond shall be canceled by the chief administrative officer with the approval of the county executive when the terms of the bond have been met. The private party offering a road under this section may cause work to be performed on the road after such road has received conditional approval as a county road and until the bond is canceled. If the road is not in compliance with the standards for acceptance within one year of the date of delivery of the bond to the county clerk, then the bond shall become due and payable, and the proceeds shall be paid into the county

highway fund to pay for the work required to bring the designated road into compliance with the acceptance standards. The county highway department shall bring a conditionally approved road into compliance with the approved standards after receiving bond proceeds for this purpose. After the bond is canceled or after bringing the conditionally approved road into compliance with the approved acceptance standards, the road shall be a county road.

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

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

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

Passed: April 29, 1991.

## Highways and Roads - Historical Notes

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

1. Private Acts of 1833, Chapter 192, authorized Asbury M. Coffey to open a turnpike road in McMinn County.
2. Acts of 1849-50, Chapter 256, authorized the survey of a route for a public road from the town of Athens in McMinn County to Telico Plains in Monroe County. Road commissioners were appointed to lay out, mark and determine the damages resulting from the location of the roads.
3. Acts of 1851-52, Chapter 9, repealed sections four and five of the Acts of 1849-50, Chapter 256.
4. Acts of 1851-52, Chapter 288, authorized construction and collection of tolls for a turnpike road from McElwee's Factory in Meigs County to Athens in McMinn County.
5. Acts of 1859-60, Chapter 114, authorized three classifications of roads for maintenance purposes. A road tax was levied upon voter approval in the March election of county officers. The residents of the county could approve or reject the road tax upon thirty days notice prior to the given election.
6. Acts of 1911, Chapter 324, authorized McMinn County to defray one-half the expense of building a bridge across the Hiwassee River at Charlestown, Tennessee by issuing bonds in the amount of \$16,000. The cost of constructing other bridges in the county was defrayed by issuing bonds in the amount of nine thousand dollars (\$9,000). The bond interest was five (5) percent annually and due in a period of from five to thirty-five years. The total bond issue was twentyfive thousand dollars (\$25,000) denominations.
7. Private Acts of 1915, Chapter 196, regulated the laying out, working, changing, operating, and closing of public roads. It also created a Board of Public Road Commissioners with three year terms. The Board of Road Commissioners was authorized to employ a county Road Supervisor and district supervisors, as well as having control of the prisoners in the county work house sentenced by law to work on public roads. Chapter 196 also provided for raising funds and road duty for males between 21-40 years of age. The term of duty was not less than five (5) nor more than eight (8) days, but could be commuted through paying a sum of \$3.75.
8. Private Act of 1915, Chapter 652, gave authority to the County Highway Commission to condemn right of ways and to determine the value of the condemned right of ways. In addition, the County Highway Commission could establish the manner and form in conducting condemnation proceedings.
9. Private Acts of 1917, Chapter 240, implemented amendments to the Private Acts of 1915, Chapter 196. First, the Board of Road Commissioners received the same per diem allowed the Justices of the Peace. Next, the Road Supervisor was employed, for a three (3) year term rather than a one (1) year term. This act repealed the one above.
10. Private Acts of 1919, Chapter 762, reinstated Private Acts of 1915, Chapter 196, but was repealed by Private Acts of 1923, Chapter 535.

11. Private Acts of 1921, Chapter 577, stated that in McMinn County the County Court may provide that the funds derived from a special road tax for constructing new roads in the County may be expended on any particular road designated by the County Court.
12. Private Acts of 1923, Chapter 536, gave the County Court authority to appoint a Board of Road Supervisors for a four year term. The Board of Supervisors had the general supervision, control and management of the construction, maintenance and repair of all roads and bridges in the county. The Board of Road Supervisors also provided for the management and control of county jails and workhouses with respect to public roads. Lastly, the Board of Road Supervisors appointed District Commissioners who in turn appointed Road overseers. District Commissions had the authority to enter into contracts; assess damages; and to open, change, or close roads with the approval of a majority of the Board of Road Supervisors.
13. Private Acts of 1927, Chapter 151, repealed the Private Acts of 1923, Chapter 536, "the McMinn County Road Law".
14. Private Acts of 1927, Chapter 400, provided for a Public Road Supervisor; defined his duties, term of office; salary; and provided for the appointment of overseers and other necessary officials, other powers of the supervisor included opening, closing, maintaining, building, and working on the public highways.
15. Private Acts of 1929, Chapter 114, amended Private Acts of 1927, Chapter 400, Section 4, by increasing the salary of the Road supervisor from \$2,000 to \$2,500 annually; by increasing the daily pay rate of the overseer in Section 7 for the days he worked, over and above the mandatory number, from \$1.50 to \$2.50; by making the approval of the County Judge necessary in securing the services of an engineer and by increasing the salary of the Secretary to the Road Supervisor from \$300 to \$1,000 annually in Section 18.
16. Private Acts of 1933, Chapter 254, repealed the Private Acts of 1927, Chapter 400, and provided for a County Road Superintendent instead of a Public Road Supervisor as set out in the Private Acts of 1927, Chapter 400.
17. Private Acts of 1933, Chapter 726, amended the Private Acts of 1933, Chapter 254. Chapter 726 provided for a Public Road Supervisor rather than a County Road Superintendent.
18. Private Acts of 1935, Chapter 163, created a three member Board of Road Commissioners in McMinn County giving it the general supervision of all the roads in the county and to appoint a County Road Supervisor. The Act named Harry Dixon, J. F. Howard, and K. C. Robinson as the first Commissioners who would serve until September 1, 1936, when their successors, elected to two, four, and six year terms in the August election, would take over the offices. Afterwards the terms of office would be for six years. The Commissioners would select their Chairman, employ the counsel necessary to execute the provisions of this Act, and employ a County Road Supervisor for four year terms unless summarily removed by the Commissioners before that time. The Road Supervisor would assume and discharge the specific responsibilities set out in Section 3, and all those which may be incidental to these. The Commissioners would meet at least once each month at the Courthouse in Athens, being paid \$5.00 for each day thusly spent, and the Road Supervisor's salary would not exceed \$2,500 per year, payable monthly. The Road Supervisor would be in immediate charge of the roads and the road department and may appoint such foremen and overseers as considered essential. The Supervisor could also work for the State on the roads in this County. He would be sworn, bonded, and in charge of all material, equipment, and supplies. The workhouse prisoners would be in his custody while working on the roads to pay fines and he may employ guards for them at \$3.00 per day, or less. Regulations for expending funds are incorporated in the Act to which all would adhere and the amount is limited to the tax total available. The Supervisor was to have a Secretary at \$1,000 per year. The Quarterly Court was permitted to levy a special road tax of ten cents per \$100 property valuation and a Bridge tax of five cents per \$100 property valuation. This Act was repealed, with its amendments by Private Acts of 1947, Chapter 346.
19. Private Acts of 1935, Chapter 219, repealed Private Acts of 1927, Chapter 400, which provided for a Public Road Supervisor and defined his duties.
20. Private Acts of 1935, Chapter 582, amended Private Acts of 1935, Chapter 163, Section 5, by fixing the annual salary of the County Road Supervisor at \$2,500 maximum.
21. Private Acts of 1937, Chapter 633, amended Private Acts of 1935, Chapter 163, above, by adding a new Section 2 which provided that the present road Commission would hold their respective offices until the expiration of their respective terms or until their successors were elected. Their successors would be elected by the Quarterly Court, but this Act would not affect the tenure of any current members.

22. Private Acts of 1943, Chapter 270, amended Private Acts of 1935, Chapter 163, by striking Section 15 and inserting a new Section 15 which granted authority to the Quarterly Court to levy a special road tax of not less than two cents per \$100 and a bridge tax of not less than five cents per \$100.
23. Private Acts of 1945, Chapter 163, amended Chapter 163, Private Acts of 1935, by increasing the annual salary of the Secretary to the Road Supervisor from \$1,000 to \$1,200.

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