



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,

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Chapter IX - Highways and Roads

Bookkeeper

Private Acts of 1957 Chapter 37

AN ACT to amend Chapter 125, House Bill 481, Private Acts of the General Assembly of Tennessee, for the year 1953, the caption of which Act is as follows: "AN ACT to amend Chapter No. 90 of the Private Acts of 1937, the caption of which is as follows: AN ACT to provide a system of public roads and bridges in counties having a population of more than 28,000 and less than 28,050, according to the Federal Census of 1930, or any subsequent census; to provide for the constructing, reconstructing and repairing of all public roads and bridges in said counties; to provide for the condemning of private property for public roads and bridges and building materials for same; to provide the levying of taxes for these purposes; to declare the violation of certain provisions of the Act to be misdemeanors; to create the office of County Highway Commissioner and define his duties; and to repeal Chapter 642 of the Private Acts of the Tennessee Legislature of 1917, and all laws in conflict with this Act.

SECTION 1. That Section 1 of said Act be, and the same is, hereby repealed.

SECTION 2. That the County Highway Commissioner be authorized and empowered to employ a bookkeeper to be selected by him at a salary not to exceed Three Hundred (\$300.00) Dollars per month to be paid from the funds of the County Highway Department in the same manner as the salaries of other employees of the County Highway Department are paid.

As amended by: Private Acts of 1961, Chapter 64
Private Acts of 1965, Chapter 46

SECTION 3. That the books of the County Highway Department be kept at the office of the County Highway Department.

SECTION 4. That this Act take effect on the 8th day of July, 1957, the public welfare requiring it, but that this Act shall not become effective until the same has been approved by a two-thirds roll call vote of the members of the Quarterly County Court of Giles County, Tennessee.

Passed: February 7, 1957.

Highway Commissioner

Private Acts of 1939 Chapter 415

SECTION 1. That in all counties having a population of more than 28,000 and less than 28,050, according to the Federal Census of 1930, or any subsequent Federal Census, all public roads and bridges not designated as State Highways and Bridges shall be considered the County Road System, and this Act shall apply to all such counties.

SECTION 2. A County Highway Commissioner shall be elected by the qualified voters of the County at the general election to be held in November, 1968, and shall take office August 1, 1969, and shall serve until September 1, 1972, or until his successor is elected and qualified.

A County Highway Commissioner shall be elected at the general election to be held in August, 1972, and every four (4) years thereafter to serve for a term of four (4) years. The Commissioner shall be a person skilled and experienced in road and bridge building, of good moral character, a freeholder of the County, and not a member of the County Court. Before entering upon his duties, he shall execute a bond in the sum of twenty thousand dollars (\$20,000.00) for the faithful performance of his duties and the proper accounting for all funds and properties coming to his hands, the cost of the premium of the bond to be paid out of the County road funds.

As amended by: Private Acts of 1967, Chapter 489

SECTION 3. The County Highway Commissioner shall devote all of his time to his office and shall receive as compensation an amount equal to that provided by general law for the County Court Clerk of the County, said amount to be paid in equal monthly installments out of the County road fund.

As amended by: Private Acts of 1967, Chapter 489

SECTION 4. That the said County Highway Commissioner shall have complete charge and supervision of laying out, building, reconstructing, repairing, maintaining, closing all County Roads and Bridges. And the said Commissioner is hereby authorized to employ and fix the compensation of such employees as, in his judgment are necessary to carry out the duties of his office.

SECTION 5. That all applications to open, change and close all county roads shall be made by written petition to the Commissioner, stating the Civil District or Districts in which the road is located giving complete description of the present road, desired change, and land owners to be affected thereby. The said Commissioner shall within ten days after the application has been filed with him notify, in writing, the first person named on the petition, and all land owners affected, of the day on which he will be present at the beginning point, which day shall be not less than five days after the petition is filed with him. If any land owner affected is a non-resident of the State, then a ten days written notice to his agent, tenant, or attorney, who is a resident of the county shall be a legal notice. The Commissioner shall attend at the appointed time and place, and act upon the application, assess the damages against the County, not to exceed double the assessed value for taxes, and report in writing his action to the County Judge, and shall file with the Judge all papers in connection with the case.

The County Judge shall consider the whole matter, and make such orders as he may deem best for the interest of the public, and if any money is assessed the County Judge shall draw a warrant upon the County Treasury for a sufficient amount to pay the same, but he shall not draw the said warrant until the time allowed, hereinafter, for appeal shall have expired. Any interested party may appeal to the next term of the Circuit Court and there the case shall be heard in the form and manner as is now prescribed by law in such cases.

SECTION 6. That said Commissioner shall have charge and control of the construction of all the County Bridges and shall make all necessary repairs thereon, and the cost therefor shall be paid out of the Bridge Fund, hereinafter provided for.

A bridge shall be considered a span of 12 feet and over.

SECTION 7. That all applications for the erection of a new bridge shall be made by written petition to said Commissioner, stating the district in which the bridge is to be located, over what stream the bridge is to be erected, and on what public road. Within ten days after the filing of said petition the Commissioner shall investigate and make a report in writing to the next term of the Quarterly Court as to the necessity of said bridge, exact location, size, kind, and the probable cost thereof and any other facts that might aid the Court, and the Court shall then determine the whole matter and make such appropriations, from the Bridge Fund, hereinafter provided for, as it may deem necessary.

SECTION 8. That the Quarterly Court is hereby authorized and empowered to levy a Bridge Tax on all taxable property, outside of incorporated towns in the County in any amount that it deems necessary up to \$1.20 on the \$100.00 worth of taxable property. Said tax to be levied, assessed and collected in the same manner as other taxes are now levied, assessed and collected by the County. The Trustee shall place all funds coming from this source in a separate fund designated as the Bridge Fund.

SECTION 9. That the Quarterly Court is hereby authorized and empowered to levy a road tax on all taxable property in the County, outside of incorporated towns, in any amount that it deems necessary up to \$0.30 on the \$100.00 worth of taxable property. Said tax to be levied, assessed, and collected in the same manner as other taxes are now levied, assessed, and collected by the County.

SECTION 10. That any and all moneys, taxes, fines, fees, or forfeitures, from whatever source derived, belonging to the Road or Highway Funds of the County together with the County's apportionment of the Gasoline Tax from the State shall be paid in to the hands of the Trustee, and shall be kept separate and apart from other funds in a fund designated as the County Road Fund.

SECTION 11. That the Trustee shall receive the same compensation on such money collected under this Act as he is now allowed by law for the collection of like taxes, and the Trustee is hereby required to ascertain that each warrant paid out of the Bridge Fund shall read Bridge Fund, and each warrant paid out of the County Road Fund shall read County Road Fund.

SECTION 12. That the said Commissioner shall have control, management and custody over all road tools, machinery, and material and shall purchase all necessary implements, machinery, tools, and material, and provide for the proper storing and safe keeping of the same. All sums of money paid out by said Commissioner shall be paid by a warrant drawn on the County Trustee, stating for what purpose said warrant is drawn, and to whom payable, and shall be signed by the Commissioner and countersigned by the County Judge, and shall be payable out of the County Road Fund.

SECTION 13. That the said Commissioner shall make a complete, simple itemized report of the work done, the civil district in which the work was done, and the amount spent for each item, such as, gasoline, oil, labor, material, machinery, and any and all other expenditures, which report shall be made to each Quarterly meeting of the County Court.

SECTION 14. That it shall be a misdemeanor for any person to place any post, post-holes, gates opening into road, bushes overlapping ditches, glass, broken bottles, stoneware or any trash or any other obstruction in any public road, or in the ditches thereof, in said counties; and any person so doing upon

conviction shall be punished by a fine of not less than \$5.00 nor more than \$25.00 and all costs, and the Road Commissioner shall have the power and authority to remove or cause to be removed any obstruction from the roads or ditches of the county, and the expense of such shall be paid by the person who has placed or caused to be placed upon the road or ditches such obstruction.

SECTION 15. That the Commissioner may place signs on or near the bridges in said counties, not on roads designated as state highways, showing the load capacity of said bridges, and it shall be a misdemeanor for anyone to cross said bridge with a greater load than as designated by said sign, or signs, and anyone guilty of violating the provisions of this section shall be punished by fine of not less than \$5.00 nor more than \$25.00, and shall be liable to the County for all damage done to said bridge, and it shall be the duty of the road Commissioner to institute civil proceedings for the collection of said damage and any amount so collected shall go into the Bridge Fund created by this Act.

SECTION 16. That if any Section or part of this Act for any reason be held unconstitutional or invalid, the same shall not affect the constitutionality or validity of the remaining parts or sections of this Act, but the same shall remain in full force and effect as if the unconstitutional or invalid part had been omitted.

SECTION 17. That all counties coming within the provisions of this Act shall be exempt from the provisions of Section 2778 and 2813 inclusive of the Code of Tennessee.

SECTION 18. That Chapter 90 of the Private Acts of Tennessee of the year 1937, and all laws and parts of laws in conflict herewith, be and the same are hereby repealed.

SECTION 19. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 1, 1939.

Highways and Roads - Historical Notes

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

1. Acts of 1821, Chapter 6, Section 1, required the respective County Courts to classify all the roads of their counties into three classes, (1) the stage roads and those of equal importance, (2) roads at least 12 feet wide which would afford loaded wagons a secure passage, and (3) roads which would accommodate a horse and rider and for going to the mill. This was probably the first constructive legislation of a broad nature regarding roads.
2. Private Acts of 1839-40, Chapter 99, Section 5, allowed the directors of the Columbia, Pulaski, and Elkton Turnpike Company to abandon the completion of the road between Pulaski and the state line under certain terms and conditions set out in this Act.
3. Private Acts of 1840-41, Chapter 130, authorized the installation of 10 toll gates between Columbia and the Alabama state line, and houses for the attendants.
4. Private Acts of 1851-52, Chapter 315, provided that upon the application of the President of the Columbia, Pulaski, Elkton, and Alabama Turnpike Company, the Quarterly County Court may appoint 12 Commissioners to locate a toll gate at some convenient point no less than one and one-quarter and no more than two miles north and south of the courthouse in Pulaski.
5. Private Acts of 1855-56, Chapter 218, permits Giles County to subscribe a discretionary amount of stock, but only after the favorable referendum election, in the construction of a railroad from Shelbyville to the Alabama state line via Lewisburg, and Pulaski.
6. Acts of 1901, Chapter 136, was a general road law applying to all counties under 70,000 population, providing for a road commissioner from each road, or civil district, prescribing their duties, authorizing a road tax and requiring the commissioners to appoint overseers for each section of road; specifying who was subject to road duty, how much they were compelled to do and under what circumstances they could commute. Prisoners could work the roads which the county court was again obligated to classify into 4 classes according to their width and function. Petitions to repair or change roads would be filled with the court who would determine the priorities of work.
7. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, Item 6 herein, by exempting some counties from its operation but primarily by transferring the decision on the priorities of road alteration and repair and the agency for the reception of petitions for a change from the Quarterly County Court to the Road Commissioner of the district.
8. Private Acts of 1907, Chapter 424, required the Road Commissioners in Giles County within twelve months from the Act's passage to remove roads of the first, second, and third class from stream

beds except where there is a ford. If anyone is damaged thereby the Commissioner shall appoint two disinterested freeholders to assess the same and report the entire matter to the Quarterly County Court. All mail roads were to be considered as one of the first three classes and all gates removed from them. All males, 18 and 50 years old, were subject to road duty.

9. Private Acts of 1913, Chapter 187, was a general road law for Giles County which required the Quarterly County Court to elect three competent people to be a Public Road Finance Auditing Committee whose broad powers were enumerated in the Act. The position of County Road Supervisor was created and his duties spelled out; fixed a privilege tax on different types of conveyances and levied a special road tax of 25 cents per \$100 property valuation on real and personal property. The Act repealed all those in conflict with it.
10. Private Acts of 1913 (Ex. Sess.), Chapter 11, specifically repeals Private Acts of 1913, Chapter 187, Item 9, regular session, above, in its entirety.
11. Private Acts of 1917, Chapter 642, was a road law for Giles County which required the Quarterly County Court to elect a road supervisor for each district, every two years, who would have charge of public roads, bridges, and the overseers of each road section. Each road district would include 3 or 4 Civil Districts. County Trustee would pay charges for materials and labor which must be itemized and presented to the County Judge for approval. The road tax levied could not exceed 20 cents per \$100 and be used only for road purposes. Roads would be classified, males from 21 to 50 must work on them or commute for \$5.00 daily and the methods for opening, closing, etc. in the act would be followed. This Act was specifically repealed by Private Acts of 1937, Chapter 90.
12. Private Acts of 1919, Chapter 190, amends Private Acts of 1917, Chapter 642, above, by rewriting Section 1 to provide a road supervisor for each civil district instead of each road district; gives the road supervisors in the civil district the same authority as the other had; eliminated the \$5.00 per day commutation cost and left this matter to the discretion of the court.
13. Private Acts of 1921, Chapter 252, made all gravel bars in the county subject to condemnation by the road commissioners and two other disinterested parties which condemnation shall last for a period of one year or longer but the compensation for the condemned gravel bars shall be confined to the agreed price of one year.
14. Private Acts of 1921, Chapter 609, abolishes the office of Turnpike Superintendent without referring to any prior act which might have created this position.
15. Private Acts of 1923, Chapter 605, amended Section 7, Private Acts of 1917, Chapter 642, the road laws for Giles County, by providing the Road Supervisors with authority, whenever a road is changed, to open and establish proper and necessary roadways and outlets along the most direct and practical route and over and across any lands, to enable land owners in the area to reach such new or altered roads.
16. Private Acts of 1933, Chapter 874, granted the County Court the authority to apply one-half of the gasoline tax funds of the county to the payment of any bonded indebtedness of the county which was incurred for the construction of highways.
17. Private Acts of 1937, Chapter 90, establishes itself through its caption as the road law for Giles County, and specifically declares that Private Acts of 1917, Chapter 642, the prior road law, and all other conflicting laws were thereby repealed.
18. Private Acts of 1939, Chapter 415, also sets up to be the road law for the county and expressly repeals Private Acts of 1937, Chapter 90, above, and all conflicting laws. All the provisions of the 1937 Act are carried over into the 1939 Act except for Sections 12, 13, 14, and 15, which are all concerned with working roads with citizen labor, a condition which was later repealed by state law, and which the county could eliminate if it so desired. Then, the Sections of the 1939 Act were renumbered accordingly, and a new Section 15 added as shown in our published act herein.
19. Private Acts of 1953, Chapter 125, is an amendment to the road law but purports to amend Private Acts of 1937, Chapter 90, which as allegedly been repealed by Private Acts of 1939, Chapter 415, of which no mention is made in this Act. This Act amends Section 4 by permitting the books of the county highway department to be kept by the County Auditor at his office and a special assistant bookkeeper from the highway department would be furnished him for these books. This amendment might just as well have been made to Section 4, of Private Acts of 1939, Chapter 415. All of this was nullified by Private Acts of 1957, Chapter 37, Section 1, which was properly ratified by the local governing body.
20. Private Acts of 1953, Chapter 125 also amended Section 6 by adding some new language at the end which required the County Highway Commissioner to obtain the written approval of the

magistrates in the civil districts affected before any new road, bridge, or reopening of roads could be started and, if the magistrates could not agree, then the matter must be submitted to the county court whose decision would be final.

21. Private Acts of 1955, Chapter 151, recites that it is to amend Section 3, Private Acts of 1953, Chapter 125, the amendatory act mentioned in the above paragraphs, but Private Acts of 1953, Chapter 125, does not have a Section 3 to be amended. It is obvious from the amending language in Section 1 that Section 3, Private Acts of 1937, Chapter 90, is the one intended to be amended, said section dealing with the compensation of the county highway commissioner, setting the limits thereof between \$2,400 and \$4,800 annually. This Act also was rendered obsolete by a later amendment, Private Acts of 1965, Chapter 47, which did not cite any prior legislation to be affected by it.
22. Private Acts of 1957, Chapter 37, permitted the employment of a bookkeeper and the return of the books to the highway department. This Act as amended, is published in this volume under a sub title and does not further affect the road law.
23. Since Private Acts of 1965, Chapter 47, did not specify the Act it was amending but simply states a minimum sum of \$6,000 per year for the compensation of the County Highway Commissioner.

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