



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter IX - Highways and Roads

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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

Road Law

Private Acts of 1931 Chapter 630

SECTION 1. That for the purpose of providing a more efficient system of laying out, building, constructing, and reconstructing and repairing the public roads in this State in counties having a population of not less than 34,000 nor more than 34,100 inhabitants, by the Federal Census of 1930, or by any subsequent Federal Census; all public roads in said counties shall be classified as post roads and/or district roads. The post roads shall consist of those roads used by the Federal Government in the distribution and transportation of U.S. mail, and the district roads shall consist of all other public roads.

SECTION 2. That the road districts of the said counties shall be co-extensive with the civil district thereof; and the Road Superintendent shall keep on file in his office a statement showing the various road sections in the various districts and also such road sections as are partly within one district and partly within another district; and the said Road Superintendent shall make a report to the Quarterly Court of said county at the regular quarterly session of said Quarterly Court, in which report said Superintendent shall make an itemized statement of the expenditure or disposition of all road and bridge funds during the quarter, showing in said report to whom such funds have been paid and the amount paid each person, and for what service same was paid, and on what roads and bridges said services were performed. A copy of said Quarterly Report hereby directed to be made shall be mailed through the United States Post Office by the said Road Superintendent to each member of the Quarterly Court not less than five days before each regular quarterly session of said Quarterly Court.

As amended by: Private Acts of 1937, Chapter 92

SECTION 3. That the Quarterly County Court at its January term, 1933, and its January term every two years thereafter shall be authorized and empowered to elect a County Road Superintendent to hold office for the term of two years from date of election. Said Road Superintendent shall be a person skilled and experienced in road and bridge building, and of good moral character, and upon election shall execute a bond to be approved by the County Judge in the sum of \$20,000.00 for the faithful performance of his duties, the cost of said bond to be paid as an expense to the office, and proper accounting for all funds and property of the county or district coming into his hands. He shall maintain an office in the courthouse of the county and shall be allowed to employ such clerical help as he deems necessary for the efficient conduct of the duties of his office, and he shall be furnished with an automobile, and the expense of its maintenance and upkeep, which is to be used only in the performance of his duties. The Quarterly County Court shall have the authority to discharge or dismiss said Road Superintendent, giving him ten days' notice by charges in writing for any malfeasance, misfeasance, or incompetency in office, and upon the discharge or dismissal of said Road Superintendent as aforesaid or his death or resignation, said Quarterly Court shall elect another to fill out the remainder of the term. The Road Superintendent shall be paid the sum of not less than \$2,400.00 nor more than \$3,600.00 per year, the amount to be fixed by the Quarterly Court before the biennial election of said Superintendent, payable monthly by a warrant drawn on the general road fund provided for in this Act.

As amended by:
Private Acts of 1937, Chapter 92
Private Acts of 1945, Chapter 31
Private Acts of 1949, Chapter 341
Private Acts of 1953, Chapter 241
Private Acts of 1968, Chapter 347
Private Acts of 1971, Chapter 93
Private Acts of 1977, Chapter 91

SECTION 4. That the County Road Superintendent shall have charge, supervision and control of the construction and reconstruction, repairs and maintenance of all post roads, district roads and bridges, unless it is otherwise expressly provided by law that the State shall have said charge, supervision and control of some or all of these things. He shall designate as a matter of record in his office from time to time the several and various roads upon which all of the general and all of the special road funds and all of the other road funds shall have been expended, and he shall also have the full charge of all the road work and the expenditures of such funds as he may deem for the best interest of the roads, and shall purchase all necessary tools and machinery for the use of any or all of the public roads within the county.

SECTION 5. That said Road Superintendent shall have full charge of the workhouse and all the workhouse prisoners that have been or may be hereafter committed to the workhouse of said county, and he may work such prisoners, or cause them to be worked by contract or otherwise, upon the post roads and

district roads of the county, and he shall have the power to make necessary provision for a Superintendent of the workhouse and such guards as he may find necessary, and the necessary provisions in his discretion for the transportation of prisoners to and from their places of work. And shall in his discretion have the right to board and keep said prisoners in the county jail whenever he deems the number of prisoners insufficient to maintain a county workhouse or camp; provided that when said prisoners are kept in jail that nothing herein be construed to release the Sheriff or jailer of any responsibility of such prisoners now or hereafter imposed by law except when the prisoners are actually at work under the orders of the Road Superintendent and provided that the jailer shall have only one turnkey fee for each prisoner. (sic)

All of the workhouse expenses shall be paid out of the county tax fund and said Superintendent shall on the first of each month certify to and file the accounts of the workhouse for the preceding month with the County Court Clerk, who shall place the same on the appropriation book of the county; and said accounts so certified and filed shall be paid out of the county tax account by a warrant issued by the County Court Clerk and countersigned by the County Judge or Chairman.

SECTION 6. That all applications for the erection and construction of a new bridge shall be made by written petition to said Road Superintendent, 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 said petition has been filed with said Superintendent, he shall investigate the facts in regard to the same, and make report in writing to the Quarterly County Court as to the necessity of said bridge, the exact location, size, kind, etc., needed, the probable cost of same, and whether the approaches thereto can be obtained and the probable cost thereof and any other further facts to aid the Court in determining the public necessity thereof and the approximate cost thereof, and the said Quarterly County Court shall then determine the whole matter and make such appropriation as it may deem necessary and advisable.

The said Road Superintendent shall have charge and control of the construction of all bridges in the county and shall make all necessary repairs thereon, and the costs of construction of any new bridges and all repairs on bridges shall be paid out of the bridge fund of the county, if any, and if no bridge tax is levied, then by appropriation by the Court of the county tax fund.

A bridge shall be considered a span of twelve feet and over, and all less than this shall be considered a culvert.

SECTION 7. That the said Road Superintendent shall have the power and authority in his discretion to condemn under the laws of eminent domain all lands necessary for the locating of the bridges, rock quarries, chert or gravel beds and other material necessary for building and repairing same, in the manner provided for the taking of private property by public corporations, and shall also have the power to condemn private property for roads for ingress and egress to rock crushers, rock quarries, chert or gravel beds, setting machinery, road camps, etc., and in case of suit, or other proceedings brought to delay or prevent the exercise of those powers, the Road Superintendent shall on behalf of and in the name of the county give a satisfactory indemnity bond in not more than double the amount of the estimated damages and proceed with the work; when necessary to enforce this provisions (sic) or Act, appropriate suits shall be brought in the Circuit Courts existing within the counties where the properties to be condemned are located and in and under the proper legal style for such cases, and by the County Attorney of the county, and if none, by an attorney selected by the Quarterly Court, as attorney for the plaintiff, when requested by the County Road Superintendent.

SECTION 8. That all applications to open, change, abandon or restore to the public use any and all public roads shall be made by written petition to the County Road Superintendent, stating the district or districts in which the road is located, giving complete description of the present road, and the desired changes, and the landowners to be affected thereby. But if at any time said County Road Superintendent shall be related by affinity or consanguinity to within the fourth degree, counting by civil law, to any property owner affected by any changes asked for in a petition, or any person signing any petition, then and in that event said Road Superintendent shall be ineligible to act upon said petition, and the County Judge or Chairman shall appoint another of the required qualifications to act in his stead upon the petition. The said Road Superintendent within ten days after the application has been filed with him, shall notify in writing, giving five days' notice, the person first named on the petition, as well as all of the owners of land affected by the proposed change, except such as may waive notice in writing, of the day on which he will be present at the beginning point mentioned in the petition to act on the application. If any landowner affected by the proposed change should be a non-resident, then ten days' written notice to his agent or attorney, residing in the county, shall be legal notice. The said Road Superintendent shall attend at the appointed time and place, if he has given the proper notice as required by him, and shall act upon the application, assess what damage, if any, he shall consider to be due from the county for said changes; and it shall be his duty in assessing damages to take into consideration the incidental benefits to the said landowner, which may arise from the building of the said road, and to offset the same against any

incidental damages.

He may adjourn the hearing from day to day and summon witnesses and administer oath to the witnesses. When said Superintendent has reached his conclusion or decision, he shall report his action or finding to the next regular session of the Quarterly Court of the county, and with his report or findings file with the County Court Clerk the original petition and notice to the land-owners, and a full report of his action on the same stating the location of the road so opened, abandoned or changed, and the damages allowed by him to the parties damaged. And the Quarterly Court shall confirm or overrule the report of the Road Superintendent and enter its action thereon on its minutes. And if any money or damages is awarded in the action of the Quarterly Court thus taken, the County Judge shall draw a warrant or warrants upon the county treasury for a sufficient amount to pay any and all damages to the landowners thus confirmed by the Quarterly Court; provided, he shall not draw said warrants until time allowed hereinafter for appeal shall have expired. Any interested party may appeal to the next term of the Circuit Court as to the amount of damages allowed only; provided, he shall perfect his appeal within twenty days from the date of confirmation of a report by the said Court as aforesaid. The County Road Superintendent may, of his own motion and by his own initiative, open, change, abandon, or restore to the public use any road or roads, without petition, by observing all the essential requirements as set out above in the case of petition.

When the Quarterly Court shall confirm a report of the Road Superintendent to take any land for road purposes it may be taken at once, as in case of rail-roads or other common carriers, and the owners shall have recourse on the county for damages only, and the County Judge shall issue a writ of possession directed to the Sheriff of the county, commanding him to put the said road right of way into the possession of the said Superintendent for the use of the county.

SECTION 9. That no road official shall hire to himself any wagon and team, or sell to the county directly or indirectly any material, or contract with himself or any other road official, or county official, in any manner pertaining to the construction of roads or maintenance of the workhouse, or with any one related to him by affinity or consanguinity within the fourth degree, according to the civil law. The violation of this provision shall be a misdemeanor and upon conviction the fine imposed shall be equal to twice the amount involved and when collected, paid to the County Trustee to be credited to the general road fund.

SECTION 10. That the Quarterly County Court shall at its first meeting after the passage of this Act, and thereafter at the January term of each year levy as a special tax for county road purposes an ad valorem tax on all property in the county of not more than Twenty-five Cents on each \$100.00 taxable property to be collected by the County Trustee, provided all merchants' ad valorem tax and privileges are to be collected by the County Court Clerk.

All the taxes collected by the Trustee from the above property tax, or other tax sources for county road purposes, including gasoline and other taxes collected from or received by the county through the State or any of its agencies, and the merchants taxes in this Section hereinafter provided shall be and constitute a general fund. And the Quarterly County Court of any county coming within the provisions of this Act shall levy an annual tax on all merchants taxed or assessed with an ad valorem tax taxed as such by the State at a rate or sum of not less than Ten Cents nor more than Twenty-five Cents on each \$100.00 of taxable value and this shall apply to all merchants taxed ad valorem tax within the county, which tax shall be when collected and paid credited by the Trustee of the county to the said general road fund. Said tax shall be collected by the County Court Clerk as other privilege and merchant ad valorem taxes are collected.

As amended by: Private Acts of 1937, Chapter 92

SECTION 11. That the salary of said Road Superintendent and the expenses of his office and expenses and disbursement of all kinds which are authorized by this act, and except where otherwise expressly provided, shall be paid out of the said General Road Fund as created and defined in this Act, and shall be paid in the following manner, to-wit: The said Road Superintendent shall on the first day of each month file with the Clerk of the County Court an itemized statement of all expenses and accounts of his office for the preceding month, showing the amount due, to whom due and the date due and for what, and shall certify that the same is due, correct and unpaid and thereupon the Clerk of the County Court shall place the same on the Appropriation Book and shall, in payment of such certified expenses and accounts, issue warrants drawn on said General Road Funds in the hands of the Trustee of the County, which warrants shall be countersigned by the County Judge, and which warrants shall be made payable in the amounts and to the persons to whom the same is shown to be owing by said certified itemized statement of the Road Superintendent; provided that except as may be otherwise expressly authorized by this Act, warrants shall not be issued or money expended in any calendar year in excess of the General Road Fund collected from all taxes that year, plus whatever balance of General Road Funds from a previous year or years may be on hand and unexpended in said General Road Fund, and plus any delinquent taxes for previous years collected during the said calendar year.

As amended by: Private Acts of 1937, Chapter 92

SECTION 12. That the County Court Clerk shall receive 2% for collecting and paying over to the Trustee on the amounts collected by him under this Act; and the County Trustee shall receive his compensation as to any funds collected by him or received by him under this Act under provisions of the general law relating to the compensation paid the said Trustee.

SECTION 13. That all of said funds and taxes provided for in this Act and all funds to be expended on any of the roads of said county and lawfully received from any or all other sources by or on behalf of or for the use of the County, except where otherwise expressly provided, and the same shall be paid out by said Trustee only on warrants signed as provided by this Act.

Said General Road Fund shall be expended likewise for such machinery, tools, labor and other road purposes of the County as is deemed advisable by said Road Superintendent and for the use and benefit of the various road sections of the county and in such proportions on the various road sections and districts of the county as in discretion of the Road Superintendent is to the best interests of the County, payment for such expenditures to be made only in the amounts and on the warrants drawn as provided for by this Act. Provided, however, that no machinery or tools of any character costing in excess of One Hundred (\$100.00) Dollars shall be purchased or contracted for purchase until, and unless, the said Road Superintendent, upon his written application, shall have been authorized by the Quarterly Court of the County to purchase such tools or machinery.

However, expenditures and disbursements from said General Road Funds shall not include any damages for rights-of-way or work-house expenses, both of which items shall be paid out of the County Tax Account as provided by this Act.

As amended by: Private Acts of 1937, Chapter 92

SECTION 14. That no contract shall be made or funds expended, by the County Road Superintendent in any one year, exceeding the total taxes collected under this Act for said year plus the receipts of the county for road purposes from all sources other than assessments ad valorem and on merchants, for the previous year. Provided that if the Quarterly County Court on the recommendation of said Road Superintendent should determine that economical permanent road construction requires more immediate funds than available from the said levy and collections, then the Quarterly Court is authorized and empowered to issue or direct the issue of county warrants for such purposes and in such denominations as they deem best, to bear interest not to exceed 6% per annum, payable semi-annually; said warrants to be signed by the County Judge or Chairman of the County Court and countersigned by the County Court Clerk, and provided, further, that not more than \$30,000.00 can and shall be issued, and outstanding at one and the same time; provided, further, that the said Quarterly Court is authorized, in the event that it shall determine, on the recommendation of said Road Superintendent, that an economical permanent road construction is required and sufficient funds are not available, to issue bonds for such amount as may be deemed necessary, without the approval of popular vote but in the discretion of said Quarterly Court; the said bonds and interest thereon to be in such amounts and due at such times as the Quarterly Court may determine, and to be provided against and retired in the same way and manner as other county bonds and bonded indebtedness, and as provided by the Quarterly Court; and provided, further, that said Quarterly Court may issue or order the issuance of either warrants of the description and of the terms aforesaid or bonds as aforesaid; for another purpose, to-wit: to pay off the indebtedness incurred by the County Road Superintendent under former Acts and before the passage of this Act and not paid before the passage of this Act, provided the total bonds or/and warrants issued to pay said past indebtedness shall not exceed \$30,000.00; the said bonds last named and interest thereon to be authorized, provided for and issued and paid as other bonds herein provided for are to be authorized, issued, and paid. Any other funds provided for in this Section except those to pay past indebtedness shall be expended by said County Road Superintendent under the direction and resolutions of the Quarterly Court providing said funds; and those provided for past indebtednesses shall be placed in said general road fund and disbursed by said Superintendent therefor.

SECTION 15. That if it at any time becomes necessary in the opinion of said Road Superintendent to expend more funds for machinery or tools or appliances than have been provided or made available under this Act, he shall present the matter to the Quarterly Court of the county which is hereby empowered to authorize the expenditure of further funds for said road purposes to be taken care of by tax levies or issuance of further bonds under the terms providing for bonds and warrants in this Act, as said Quarterly Court may deem best.

SECTION 16. That it shall be a misdemeanor for any person to place any post, portholes, gates opening into the 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 \$50.00 and all costs, and the Road Superintendent shall have the

power and authority to remove 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.

As amended by: Private Acts of 1975, Chapter 196

SECTION 17. 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 or the remaining parts of 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 18. That Chapter 428, of the Private Acts of Tennessee of the year 1923, as more fully described in the caption of this Act and all laws and parts of laws in conflict with this Act 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: June 25, 1931.

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