



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Highways and Roads - Historical Notes

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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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Highways and Roads - Historical Notes

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

1. Acts of 1855-56, Chapter 218, incorporated the Duck and Elk River Valley Rail Road with a capital stock permitted initially of \$260,000 which could be issued and sold by the Directors. The railroad would run from Shelbyville in Bedford County to the Alabama state line through Lewisburg and Pulaski. Several directors were named in the act from each County who would be in charge of the company until the regular Board was formed and organized.
2. Acts of 1901, Chapter 136, may have been the first comprehensive road law for the State furnishing the foundation upon which many road laws were to follow. The Act applied to all counties under 70,000 in population. Road districts would be the same as Civil districts and the County Court would elect one Road Commissioner from each for two year terms, at a salary of \$1.00 per day, not to exceed ten days in a year. The County Court would fix the number of days to be worked on the road at no less than five nor more than eight, fix the rate for commutation and for teams and wagons. A tax of two cents per \$100 would be levied by the Court, two-thirds of which could be worked out. Commissioners would name overseers for sections of roads in their area who would immediately supervise the programs. All males between 21 and 45 were required to work on roads. Specifications were written for roads, and the manner of handling petitions for opening, closing, or changing roads, and for working prisoners were both specified. The County Court could designate certain roads to be worked by contracts as was granted. This Act was the subject of litigation in Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1906). This act was repealed by Private Acts of 1978, Chapter 198.
3. Acts of 1905, Chapter 478, amended the 1901 Act above in several minor particulars but primarily in the manner of dealing with petitions for closing, opening, and changing roads.
4. Private Acts of 1915, Chapter 564, appears to be the first special road law for Marshall County. Three citizens, one of each from certain geographical areas of the county, would form the County Road Commission serving staggered three year terms. The Commissioners would have general supervision of all roads and bridges exercising such powers as were granted in the Act, making required inspections of roads, and receive compensation as limited therein. Civil Districts and Road Districts were co-extensive and the County Court would appoint a District Commissioner from each for two year terms who would in turn appoint Overseer for one year to supervise two to five mile sections of road. Any district commissioner who appointed a notoriously incompetent overseer was guilty of a misdemeanor. Regulations for the conduct of all these officials were specified. The County Court would fix the compulsory work days on the roads and the rates to be allowed for horses and wagons, and would levy a ten to twenty cent road tax, six cents of which would be used on special county highways. All males between 18 and 50 years of age were required to work the roads under the regulations and policies established by this law. The roads were to be classified into four classes, defined by width in the act, and then the remainder is concerned with establishing procedures for opening, closing and changing roads, for application of the power of eminent domain and for working prisoners on the roads. An abutting property owner's tax of twenty cents per \$100 was ordained against those living on new pikes and highways. This law was construed and its constitutionality upheld except for the furnishing of feed to the horses of the wagon and team in an interesting opinion contained in Galaway v. State, 139 Tenn. 485, 202 S.W. 76 (1918).
5. Private Acts of 1919, Chapter 362, allowed any incorporated turnpike companies in Marshall County to abandon, sell, or dispose of any portion of their roadbeds, provided there shall remain at least five consecutive miles of turnpike with only one toll gate authorized. They may remove or relocate the toll gate anywhere on the turnpike except it could not be in a place less than one mile from the corporate limits of any city or town.
6. Private Acts of 1919, Chapter 459, amended Private Acts of 1915, Chapter 564, by making five the minimum number of days to be worked on the roads and by providing for an ad valorem tax levy between ten and twenty cents per \$100 which would go into a road fund and as nearly as possible the amount collected from a certain road district would be spent there.
7. Private Acts of 1921, Chapter 64, conferred the right to condemn property for road materials by eminent domain upon the County Roads Commissioners of Marshall County and to provide for payment of compensation in damages therefor, and to permit the taking of possession of the condemned property upon the filing of the petition for that purpose.

8. Private Acts of 1921, Chapter 826, permitted the County Court of Marshall County by using population figures to purchase any turnpikes, toll roads, or roads, including road beds, bridges, and toll houses within the limits of the county, and to operate the same after purchase and collect proper toll rates. If there should be an excess of money from the tolls, the rates would be reduced, or the excess would be placed in a fund to buy other turnpikes. The powers conferred herein would be exercised by the Quarterly County Court who would determine the method of financing. They could hire a Superintendent of Turnpikes at \$50 a month or less, to be in charge of all the county-owned turnpikes. Accurate records of all the financial transactions would be kept and presented to the County Court.
9. Private Acts of 1921, Chapter 834, allowed all persons, firms, or corporations owning and operating toll roads in Marshall County to charge tolls for motor vehicles passing through their gates in accordance with a table for toll rates set out in the law, the highest being fifty cents for a truck over 1½ tons capacity.
10. Private Acts of 1923, Chapter 262, made the County Road Commissioners also the Commissioners of Turnpikes and Toll Roads in Marshall County to exercise the powers and to discharge the duties therein imposed. They would inspect all the turnpikes at least twice a year and cause each company to repair their roads as the Commissioners directed, any failure to do so being declared punishable by action of the Attorney General.
11. Private Acts of 1933, Chapter 172, was the next road statute for Marshall County although it did not repeal the 1915 Act. This Act created the position of County Road Superintendent and placed upon him all the duties formerly assigned to the County Road Commission. The Superintendent salary would be \$900 a year plus no more than \$50 per month automobile, or traveling expense. The Act agrees in most particulars with its predecessor except that the (1) ad valorem tax rate for roads was set at from five to twenty cents, (2) the Superintendent was elected by the people for two years but could be fired by the County Court, (3) compulsory road working days were from five to ten for males 21 to 50 years old, and (4) Whit A. Bryant was named as the first Road Superintendent to serve until September 1, 1934. This Act and all amendments were repealed by Private Acts of 1945, Chapter 148.
12. Private Acts of 1935, Chapter 491, amended Private Acts of 1933, Chapter 172, by (1) defining one state of incompetency for which the County Court could dismiss the Road Superintendent as being his failure to work at least 75% of those eligible for road work, (2) by providing the penalty for violation of the prohibition against contracting with family and relatives to the 4th degree of consanguinity to be twice the amount involved in the contract same to go in the general road fund, (3) at least one-half of the ad valorem road tax collected in a certain road district would be spent in that district, (4) by deleting Sections 16 through 30 and rewriting them to assess all males 21 to 50 years of age with three 8 hour days labor or payment of a commutation fee of \$1.00 by June 1 of each year and (5) that all former Road Commissioners would return all tools, equipment, and road funds in their hands over to the Road Superintendent immediately.
13. Private Acts of 1937, Chapter 874, amended Private Acts of 1935, Chapter 491, in Section 5, by adding a provision that the Road Superintendent must first obtain the approval of the county purchasing committee of all contracts to purchase and purchases by him before any warrant would be paid, and further, that he must secure approval by the Quarterly County Court by Resolution of all persons to be employed by him and their salaries, and, he would furnish to each meeting of the Quarterly Court an inventory of all tools, supplies, and equipment and a statement of all cash or other valuables on hand, and a list of all contracts outstanding or incomplete.
14. Private Acts of 1939, Chapter 449, repealed Private Acts of 1935, Chapter 491, in its entirety, amended Private Acts of 1933, Chapter 172, to make Section Two read that the County Road Superintendent would be elected for four years beginning in August, 1940, but could not succeed himself, but this would not affect the term of the current official. Then the remainder of Chapter 172 was repealed in full, and a new one written. Some of these provisions were (1) roads were classified into three classes of State and County Roads, (2) the Road Superintendent would keep financial records and make specified reports, (3) the Superintendent would keep his office in the Court house, (4) the salary would be \$75 per month and expenses, (5) he must be trained in road building and observe all restrictions placed on purchasing, (6) he would have charge of all workhouse prisoners and keep accurate records on them. The remainder of the act was similar to the ones which came before.
15. Private Acts of 1941, Chapter 395, amended Private Acts of 1939, Chapter 449, by striking out the second paragraph of Section 9 which provided that the Road Superintendent could not purchase any article over \$25 without the consent of the County Judge and, in no case, unless sufficient funds to pay were present. The Superintendent could not work on any private property

- or use county personnel or material thereon unless the owner pays in full for all the costs which would go to the credit of the general road fund. Violation would subject one to a fine of \$10 to \$500.
16. Private Acts of 1943, Chapter 358, amended Private Acts of 1939, Chapter 449, by reducing the term of the Road Superintendent from four years to two years beginning in September, 1944 and serving until 1946 when he would be elected for a two year term, and by repealing all the rest of Section 3.
 17. Private Acts of 1945, Chapter 148, repeals Private Acts of 1933, Chapter 172, and all the Acts amendatory thereto.
 18. Private Acts of 1945, Chapter 171, was the road law substituted for the repealed act above. The changes were not every great except the term of the Road Superintendent was for two years, his salary would be \$2,100 a year, his bond, \$5,000, and he could hire a Clerk, or Bookkeeper at a salary not to exceed \$75 per month. The County Judge must approve his purchases over \$25, the Sheriff would be the ex-officio Superintendent of the Workhouse, and there were no provisions for compulsory road labor. All the other provisions were re-enactments of the prior laws. This act was repealed by Private Acts of 1953, Chapter 336.
 19. Private Acts of 1947, Chapter 138, amended Private Acts of 1945, Chapter 171, by deleting all of Section 16 and inserting a new provision that all taxes collected from the road tax source, or any other similar source, for county purposes, and other road taxes including the receipts from the State or Federal Governments, shall constitute the general road fund of the county.
 20. Private Acts of 1947, Chapter 580, amended Private Acts of 1945, Chapter 171, by adding at the end of Section 10 a provision that nothing in this Act shall supersede or conflict the provisions of the Tennessee Code as applying to the Board of Workhouse Commissioners, and that the Board may in its discretion prescribe the labor to be done by prisoners and such work need not be confined to roads alone but may be done on buildings, grounds, etc, or on other work in which the county may be interested.
 21. Private Acts of 1953, Chapter 336, repealed Private Acts of 1945, Chapter 171, in its entirety, effective on September 1, 1954.
 22. Private Acts of 1953, Chapter 337, was the new road law for Marshall County. This Act created four Highway Districts out of the Civil Districts, and also a County Highway Commission composed of one member from each District and the County Judge, as Chairman, who would be selected by the Quarterly County Court at its July, 1954 meeting and at every two years thereafter. The Commission would meet on the first Monday of every month thereafter, after selecting one of their members as Secretary. The Commission would select a County Road Superintendent at a salary not to exceed \$300 per month, who would be 25 years old, or more, and skilled in road and bridge building and maintenance, not related to any member of the Commission and who was required to take an oath and make a bond. The Commission would be in overall charge of the road program in the county, and would negotiate with the State Highway Department to rent or lease equipment, have general supervision over all expenditures of gasoline tax money, but could not contract for anything unless sufficient funds were available to pay. No employee was permitted to work nor any material of the county be used on private work at the risk of those guilty being immediately discharged. The Sheriff would turn over all county prisoners for work on the road and accurate records would be kept concerning these prisoners by the Commission on the amount of work they did towards working out their fines and costs. This act was repealed by Private Acts of 1955, Chapter 238.
 23. Private Acts of 1978, Chapter 186, amended Private Acts of 1955, Chapter 238, in Section 5 by removing the requirement that the Road Superintendent maintain an office in the Courthouse.

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