



County Technical Assistance Service  
INSTITUTE *for* PUBLIC SERVICE

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# Chapter IX - Highways and Roads

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# Chapter IX - Highways and Roads

## Road Law

### Private Acts of 1965 Chapter 234

**SECTION 1.** That there is hereby created a Supervisor of Roads who shall have supervision and control over all the county roads and bridges of said county, and over all bridge and highway funds on hand at the effective date of this Act and which thereafter may be raised or become available from any source.

**SECTION 2.** That the Supervisor of Roads of said county must be at least twenty-five years old, must have been a resident of the county for at least five years, and must be experienced in the construction, and maintenance of roads and bridges, and in the use and maintenance of road machinery.

**SECTION 3.** That the term of the Supervisor of Roads of Macon County shall be four years, computed from September 1, 1972, and the said supervisor shall be elected by the qualified voters of Macon County at the general election to be held in said county in August, 1972, and at the general election to be held in said county each four years thereafter. Should a vacancy in said office occur it shall be filled by the Quarterly County Court in the manner provided by law for the filling of vacancies in other county offices by the Quarterly County Court.

As amended by: Private Acts of 1972, Chapter 278

**SECTION 4.** That the Supervisor shall before entering upon the discharge of his duties under this Act take and subscribe to and file with the County Court Clerk an oath that he will perform the duties of his office faithfully, impartially, and without prejudice against or favor to any individual or section of the county and shall execute to the State of Tennessee a bond with a solvent security thereon in the penalty of Twenty Five Thousand Dollars (\$25,000.00), that he will faithfully perform all the duties required of him by this Act and will honestly and faithfully expend and account for all monies coming into his hands or under his disposition as Supervisor, and that he will reimburse the county for any and all expenditures in excess of those permitted by law and his bond shall be approved by the county judge or chairman filed and recorded as provided by law. Such bond may be executed by some solvent indemnity company and if so executed by such a company the premiums are to be paid out of the county road funds.

As amended by: Private Acts of 1969, Chapter 139

**Compiler's Note:** The provision requiring a \$25,000 bond has been superseded by general law. For the current minimum bond amount see Tennessee Code Annotated Section 54-7-108.

**SECTION 5.** That the Supervisor of Roads of Macon County shall be entitled to and shall be paid from the road funds of said county a salary of eight thousand dollars (\$8,000.00) a year to be paid him in equal monthly installments. He shall employ clerical and secretarial help for a salary not to exceed three hundred Dollars (\$300.00) a month and shall employ and fix the compensation of all other employees necessary in his judgment for the carrying out of the duties imposed upon him by this act. The Supervisor of Roads of Macon County shall act as a purchasing agent for all supplies, materials, equipment and machinery required in his judgment for his office and needed to properly construct, repair and maintain the county highway system of roads in said county. Provided, however, that no individual purchase of materials, new equipment or new machinery shall exceed five hundred Dollars (\$500.00), shall be purchased except on competitive bidding after giving notice in a newspaper published in Macon County stating the time and place where bids will be received and the name and general description of the new materials, new machinery or equipment, and provided further that this provision shall not apply to the acquisition and purchase of parts or repairs for or to any machinery or equipment. All bids shall be opened by the supervisor in the presence of two (2) members of the Quarterly County Court who shall be elected annually by the court for that purpose and who shall have authority, with the supervisor, to accept or reject bids. The affirmative vote of a least one (1) of such members, along with the affirmative vote of the supervisor shall be necessary for the acceptance of a bid. For this service the members shall be entitled to receive as compensation eight dollars (\$8.00) a day for each day on which a bidletting meeting is attended. The supervisor is empowered to lease buildings and other real estate for the purpose of properly caring for all county road machinery, tools, materials, and supplies.

As amended by: Private Acts of 1967-68, Chapter 153  
Private Acts of 1972, Chapter 278

**Compiler's Note:** The salary provision of the County Supervisor of Roads has been superseded by general law. For the current minimum compensation of the County Supervisor of Roads, see Tennessee Code Annotated Section 8-24-102.

**SECTION 6.** That said supervisor shall have the following powers and authority among others set out in

this Act and under the limitations and conditions hereof, to wit:

- (1) Supervision, control and management of all public roads and bridges of the County, and of all laying out, building and construction of roads, bridges and culverts or other work and construction necessary.
- (2) To open, change, widen, close or restore roads of the county to public use, subject to the approval of the Quarterly County Court of the acquisition of any necessary rights-of-way for such purpose either by purchase or the exercise of the power of eminent domain. If the Quarterly County Court approves the acquisition of rights-of-way and it becomes necessary to exercise the county's right of eminent domain, the court may institute condemnation proceedings under the general laws of eminent domain. Damages for the taking of property for county road purposes by eminent domain shall be a charge against the general fund of the county.
- (3) To make or cause to be made all plans and specifications for the work or construction of roads and bridges, and to make or cause to be made all necessary surveys.
- (4) To make any classification necessary of any and all roads of the County.
- (5) To take any action necessary to prevent the obstruction of roads, or injury thereto, or bridges and other highways property of the County, and to regulate the load limit on said bridges of the County.
- (6) To maintain an office and keep accurate, complete, and full records of his office including the following:
  - (1) An "Accounts Payable" record book in which shall be listed all purchases, dates of purchases, from whom purchases made (sic), prices, dates of payments, amounts paid, balances due, and warrant numbers for payments made;
  - (2) A "Payroll Record" book listing employees, their social security numbers, addresses, number of exemptions, dates of payments, amounts earned, amounts deducted for social security payments and income tax, net amounts paid, a warrant number and other pertinent information;
  - (3) expense accounts, and;
  - (4) contracts, which records shall be open to the public at all times.
- (7) To issue all warrants for labor, supplies, machinery, materials, salaries, rents, and all other purchases used by his office which warrants shall be drawn on the County Trustee and payable out of the County Road Fund.
- (8) To have charge of and to take care of all County road machinery, tools, materials and supplies.
- (9) (a) To make a written report to the Quarterly County Court at each regular meeting of the Quarterly County Court of all purchases made or contracted for by the Highway Department, payments made, outstanding obligations, and outstanding warrants at the end of the quarter, and a full annual report at the October Term.
  - (b) To submit the written report to the office of the County Judge and to two (2) members of the Quarterly County Court, elected to work with him, at least five (5) days before the submission of the written report to the Quarterly County Court, the two (2) members of the Quarterly County Court having the duty and responsibility of making a thorough and complete examination of the report and of taking any voluntary action on their part to substantiate or refute the report, and giving their independent report and appraisal of the County Highway Department to the Quarterly County Court at the same time the report is made by the Supervisor.
- (10) To devote his entire attention to the duties of his office.
- (11) To employ such capable men of good moral standing as workmen, agents, servants, foremen, overseers and assistants as may be necessary to carry out the provisions of this Act.
- (12) To have the management, control, and supervision of all laborers employed by him, said employees to be at all times subject to his orders and to be under his control, and he may discharge any of them for reasonable cause.
- (13) To operate within his budget for any particular fiscal year, except that he shall be allowed credit for any contracts which he has made with the state or federal governments for the construction of roads and for which the money has not been received during the fiscal year for which the report is made.

As amended by: Private Acts of 1967-68, Chapter 153

Private Acts of 1969, Chapter 139

**SECTION 7.** Two (2) members of the Quarterly County Court shall serve as a Quarterly County Court advisory committee to the County Road Supervisor, their duties and responsibilities being that of conferring with and advising the county road supervisor on the duties of the Supervisor, and advising the Quarterly County Court of the financial condition and any substantial changes in the financial conditions of the County Highway Department.

As amended by: Private Acts of 1969, Chapter 139

**SECTION 8.** That this Act shall be effective on and after September 1, 1968, provided, however, that the election of the Supervisor of Roads of Macon County who is to take office on that date shall be held as above provided at the August, 1968, general election.

**SECTION 9.** That this Act shall be void and of no effect unless it shall be approved by a majority of the qualified voters of Macon County in a special election to be held on Saturday, May 22, 1965, and the Commissioners of Elections for Macon County are directed to call such election and cause the same to be conducted in accordance with the statutes governing special elections and to certify the results thereof.

Passed: March 15, 1965.

## Highways and Roads - Historical Notes

The following is a listing of acts which once had some effect upon the county road system in Macon 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 186, Section 28, appointed Peter Wilkinson, John C. Marshall, Samuel E. Hare, J. B. Short, H. S. Young, John R. Brooks, Anderson Bratten, Sam Sullivan, William Robinson, W. R. Carr, W. B. Moren, Joel Chitwood, and Ephriam Parsley, as Commissioner, to open books and take subscriptions up to \$7,000 to build a turnpike from Lafayette to the Jackson County line by way of Red Sulphur Springs.
2. Public Acts of 1901, Chapter 136, created Road Commissioners for every county in the State under 70,000 in population. The County Court would elect one Road Commissioner from each Road District, commensurate with the civil districts of the county. The Court was empowered to levy a special road tax of two cents per \$100 property valuation, two-thirds of which could be worked out on the roads. Suitable reports must be made by the Commissioners on all road matters in their district. Specifications for some types of roads were included, and procedures established for the disposition of petitions to open, close, or change roads. Roads must be classified according to state standards, and the County Court would contract, if desired, for the maintenance and repair of roads selected by them. The Board could employ an engineer at \$2.00 per day, or less, and would be paid themselves as the Justices of the Peace were paid up to 12 days per year. This Act was involved in Carroll v. Griffith, 117 Tenn 500, 97 S.W. 66 (1906).
3. Acts of 1905, Chapter 478, amended the 1901 Act, Item 2, above, in several minor particulars, but dealt primarily with changes in the procedures to be followed when hearing and disposing of petitions to open, close, and or change roads.
4. Private Acts of 1911, Chapter 439, applied to Macon County and Trousdale Counties. The Act created a Board of Public Highway Commissioners composed of five men, who were citizens of the county, who were to be elected by the Quarterly County Court for terms of two years. Once appointed, the members would meet, be sworn, and elect a Chairman and Secretary from among their own number. The members were prohibited, subject to fines, from having any interest in any contract, or in any business concern dealing with the county. The Board would manage and control all public roads and bridges, the county workhouse and jail, and the road hands who were compelled to labor on the public highways. The Board might employ an engineer and were encouraged and authorized to take advantage of any available assistance from other levels and branches of government. All males, outside of the cities, between the ages of 21 and 50 were required to work on the county roads from four to six days as the County Court might decide, or pay a stipulated commutation fee for every day of work missed. The Quarterly County Court was permitted to levy a special road tax between ten and thirty cents per \$100 property valuation.
5. Private Acts of 1913, Chapter 87, was substantially the same as the preceding 1911 Act except this act applied only to Macon County. It created the same five member Board under the same conditions and prohibitions. The Board could employ a surveyor and an engineer. A special road tax was authorized and could range between thirty cents and one dollar per \$100 valuation; roads

hands could commute for 75 cents a day, or \$2.50 for the whole assignment, plus they must furnish their own small tools. The eminent domain procedures were more detailed and the Board adjointed to follow them. This Act, and its amendment, Private Acts of 1929, Chapter 385, are the basis of the litigation in the lengthy reported case of Macon County v. Dixon, 20 Tenn. Appeals 425, 100 S.W.2d 5 (1936).

6. Private Acts of 1915, Chapter 694, amended Private Acts of 1911, Chapter 439, as it stated in the body of the Act, but specified Chapter 439, in the caption. The 1911 Act was applicable to Trousdale and Macon Counties but this amendment affects Macon County only according to the population figures quoted. Section 9 was amended by adding a provision for working out the number of days on the road, or for paying the commutation fees. In 1915, four days would be worked, or commuted, in July, and the remainder of the time worked or commuted, in September. In 1916, two days shall be worked in April, two days in July, and the remainder in September and it was the duty of the overseer to see that this law is carried out and to notify the road hands accordingly.
7. Private Acts of 1917, Chapter 57, amended Chapter 87, Private Acts of 1913, in Section 3 by requiring that the order show to what Civil District the amount drawn was charged; in Section 6, by permitting the Quarterly County Court to levy a special tax for road hands from 50 cents to \$1.00 per \$100 property valuation and to fix the days for road hands to work from four to six; the tax shall be collected as any other tax and the Trustee shall keep accounts showing from what Civil District the tax was collected so that it may be spent therein, and he shall report to the Chairman of the Board of Public Commissioners the amount of road money in each Civil District; in Section 10, by authorizing the Board to purchase any tools needed in each district and to pay for them out of the tax money belonging to that district. This Act was repealed by Private Acts of 1925, Chapter 35.
8. Private Acts of 1917, Chapter 330, amended Private Acts of 1913, Chapter 87, Section 13, by requiring the Board of Public Commissioners to avoid all heavy grades on roads and to keep roads out of creeks and water courses, especially upon a petition of a majority of the people receiving mail on that road in the creek, or water course, that the road is dangerous. A schedule of fines was provided for those who did not observe and obey the requisites of the Act.
9. Private Acts of 1919, Chapter 523, amended Private Acts of 1911, Chapter 439, Item 4, above, in Section 9, by inserting a new provision allowing road hands \$1.50 per day for their work and \$3.00 per day for a hand furnishing a double team, or wagon. Anyone who was obligated to work on the roads by law could commute by hiring an able bodied man to work in his place, or by paying \$1.50 per day for each day missed. A work day was defined as an eight hour day.
10. Private Acts of 1923, Chapter 150, established a schedule of toll fees to be charged in Macon County on each turnpike ranging from ten cents for a one-seat, two passenger vehicle, to seventy-five cents for a three ton truck.
11. Private Acts of 1925, Chapter 35, expressly repealed Private Acts of 1917, Chapter 57.
12. Private Acts of 1925, Chapter 308, amended Section One, Private Acts of 1919, Chapter 523, by reducing the \$1.50 allowance per day to road hands to \$1.00.
13. Private Acts of 1927, Chapter 75, amended Chapter 87, Private Acts of 1913, in Section 2, by adding a provision that the Board of Public Commissioners assign the labor to be done, the road hands to their duties, and direct the expenditure of the road and bridge funds in such ways, places, and times as they deemed best for the county. The County Trustee was to keep account of all road money collected in each Civil District and the Board was to expend that money only in the district in which it was paid.
14. Private Acts of 1927, Chapter 94, is an exact duplicate of Chapter 75, Private Acts of 1927.
15. Private Acts of 1929, Chapter 385, amended Chapter 87, Private Acts of 1913, in Section 3 by adding a provision which conferred upon the Board of Public Commissioners the power to contract with any person, firm, or corporation, for the purchase and delivery of road equipment, and to issue warrants, providing that the Trustee would call in these obligations and pay them when funds did become available, but the total amount of such debts should not exceed \$1,500 at any time. Section 1 was changed to provide that the members of the Board would serve for whatever compensation the County Court may set, and the Chairman of the Board could be paid extra if the County Court desired to do so.
16. Private Acts of 1931, Chapter 214, was the new road law for Macon County. This Act created a County Highway Commission to which it names H. C. Robertson, W. C. Grisson, E. M. McDonald, R. M. West, and J. J. Eden, who would hold office until their successors were elected in the

general August election in 1932, who would be freeholders elected one from each district. They would be sworn, and bonded, and choose a Chairman and Secretary from their own members, who would preside over meetings to be held in some office in the courthouse. The Commission would manage, control, and supervise all roads and bridges, the county workhouse, and the county jail for all of which they had the power to make needed rules and regulations. The Commission could employ an engineer, a surveyor, and the road hands necessary. Members would all be paid \$3.00 per day, but the Chairman would be paid as the Court directs and the Secretary would get \$50 per year extra. All males between 21 and 50 were subject to road duty, and the Commissioners would appoint overseers to work at \$1.00 per day, road hands would be paid \$1.00 a day, or \$3.00 per day with team. There would be two road funds, a general road fund made up of 60% of all road purpose income, and a district road fund composed of 40% of all road purpose income.

17. Private Acts of 1931, Chapter 432, amended Private Acts of 1931, Chapter 214, Section 2, by establishing the standards by which roads would be classified into four classes by width and surfacing. Section 5 was amended by giving the Commission the power to contract with any person, firm, or corporation to purchase and deliver all necessary road equipment, and to issue warrants for their costs although no funds exist at the time to pay for them, and also for all necessary materials, labor, and rights of way under the same conditions. When funds became available to pay, the Trustee called the warrants in and paid them; the Commission was given the authority to retain counsel at any time and to pay him for his services.
18. Private Acts of 1933, Chapter 151, created a Department of County Roads in Macon County to be controlled and managed by a five member County Road Commission and a Road Supervisor, all of whom must meet the qualifications set up in the Act, which precluded county officials and members of the County Court from being members of the Board, or the Supervisor, and members of the county road commission from being elected to the County Court. The county was divided into five zones, composed of whole civil districts, which were to elect one member of the Commission. The Commission would meet on the first Tuesday of each month and be paid \$3.00 per day for each regular meeting but would receive nothing for special meetings. This Act specifies all the powers and all the duties of the Commission, which would make all the purchases for the roads, soliciting bids on all items over \$350. The Act named G. C. West, Charlie Tooley, C. E. Reid, O. D. Wilburn, and W. J. Jared as the first Commissioners. The powers and the duties of the Road Supervisors are enumerated, and the Trustee was obligated to keep adequate records and accounts. All males, outside incorporated cities, between 21 and 50 years of age, were required to work 6 eight hour days on the roads or pay \$6.00 commutation fee for missing. Arrangements were included for prisoners to work on roads under certain conditions. This act was repealed by Private Acts of 1943, Chapter 152.
19. Private Acts of 1933, Chapter 540, amended Private Acts of 1911, Chapter 439, above, by deleting the population figures making that act applicable to Macon County, thus removing the county officially from the requirement of the Act.
20. Private Acts of 1933, Chapter 703, amended Chapter 151, Private Acts of 1933, by adding a provision which required a performance bond of \$1,000 from the Road Supervisor, in Section Three by limiting the number of Board meetings for which per diem rates would be paid for attendance to three per month and by adding a sentence at the end of the Section which allowed the Chairman \$15 per month for performing the clerical duties of his office, which would be in addition to his regular per diem pay as Commissioner.
21. Private Acts of 1935, Chapter 415, amended Private Acts of 1933, Chapter 151, by changing the compensation of the Commissioners from \$3.00 per meeting to \$100 per year each, and by adding a new Section 6 which stated that the County Road Supervisor will be employed for a two year term and will enter upon his duties on the first Tuesday in September following the regular general August election.
22. Private Acts of 1937, Chapter 369, amended Private Acts 1933, Chapter 151, by increasing the annual pay of the Commissioners from \$100 to \$150 per year, payable quarterly, and by increasing their term of office from two to four years. Section 6 was amended by increasing the employment period of the Road Supervisor from two to four years. Section 5 was amended to allow the Road Supervisor a salary of \$150 per month and permit him to employ a General County Foreman to serve at his discretion at a salary of \$100 per month; further, to authorize the Road Supervisor to build, or buy, a suitable building for a garage and a warehouse, limited to \$1,500 in all, which must be located within one mile of the courthouse, and which would be held in trust for the use and benefit of the county. Section 11 was amended to give the Trustee authority to administer and to account for all county road funds.

23. Private Acts of 1937, Chapter 443, also amended Private Acts of 1933, Chapter 151, Section 11, by adding a paragraph which provided that the funds allocated to Macon County would be expended exclusively by the Commission, and the County Court had no authority or power to provide for the expenditure of the funds by the State Department of Highways.
24. Private Acts of 1937 (Ex. Sess.), Chapter 15, amended Private Acts of 1933, Chapter 151, by striking Section 8 and 9 from the Act which sections dealt with compulsory labor on the county roads for males between the ages of 21 and 50, relieving them of this burden.
25. Private Acts of 1943, Chapter 152, expressly repealed Private Acts of 1933, Chapter 151, and its amendments.
26. Private Acts of 1943, Chapter 153, created a Road Commission in Macon County which would be composed of the County Judge, one other to be named by the Court, and the Road Supervisor who would be elected by the people. No county official, or member of the County Court, could serve as the second member, or as the Road Supervisor. The commission, to which the Act named W. A. Moss, as Chairman at \$300 a year, and Jesse Ford was named Supervisor, at \$150 per month, for the next two years, would meet on the first Tuesday of every month. The Supervisor would be in immediate charge of all the work, the tools, and all the employees. The Commission sets the salaries, and acts as the purchasing agent for the road department. The Commission would rent, or build, a garage, or warehouse, for \$1,500, or less, to be used by the Department. The County Court could levy a special road tax not to exceed five cents per \$100 property valuation which would go into the Road Fund and was to be placed in the hands of the County Trustee. All purchases over \$350 were to be bought on bid.
27. Private Acts of 1947, Chapter 249, was the next Road Law for Macon County. This Act created a five member Road Commission, and a Road Supervisor, to control and manage all the public roads, bridges, and highways in the county, the qualifications of each being specified in the Act. The County would be divided into five road districts, composed of whole civil districts, from each one Road Commissioner would be elected. The Act named G. W. Deckard, Winford Bentle, Ralph Duncan, Arenett Cothron, and Louie Parkhurst, to serve until the next general election. The Commission would appoint a Road Supervisor. The Commissioner would select their Chairman and meet once a month on a regular basis. The members would be paid \$5.00 per meeting and the Chairman an additional \$100 per year, all paid on a quarterly basis out of the road funds. The Road Supervisor would draw from \$150 to \$200 per month and have the use of a pick-up truck. The Commission would handle the purchasing, and everything over \$500 was to be acquired by bids. The constitutionality of this Act was upheld in William v. Cothron, 199 Tenn. 618, 288 S.W.2d 698 (1956). This Act appears to be superseded by Private Acts of 1965, Chapter 234.
28. Private Acts of 1949, Chapter 103, amended Private Acts of 1947, Chapter 249, in Section 7, by changing the Commission's regular meeting day to the first Tuesday in each month and by raising the pay of the Commissioners from \$5.00 to \$12.50 per month payable quarterly, the Chairman was given an extra \$180 per year. Section 2 was amended by requiring the Road Supervisor to be a five year resident of the county, at least 25 years of age, and to meet other qualifications as the Commissioners may from time to time establish.
29. Private Acts of 1955, Chapter 76, would have amended Private Acts of 1947, Chapter 249, Section 2 by raising the Board membership from five to nine; by deleting Section 3 and inserting a new Section establishing nine road districts composed of whole civil districts, and by naming Raymond Burrow, Ray Witcher, Elzora Shrum, and Ottis Doss to fill the new positions. The Act then amends Chapter 103, Private Acts of 1949, by requiring the Road Superintendent to have five years experience and by changing the population figures in the Act's caption. All of these were rejected by the Quarterly Court of Macon County and did not become effective.
30. Private Acts of 1955, Chapter 241, amended Private Acts of 1955, Chapter 76, above, which was not approved by the Quarterly Court, by striking the amendment which required the Road Supervisor to be a resident of the county for five years.
31. Private Acts of 1986, Chapter 160, was not ratified at the local level of Macon County. The Act would have amended Private Acts of 1965, Chapter 234 relative to the road laws of Macon County.

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