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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

Road Law

Private Acts of 1941 Chapter 212

COMPILER'S NOTE: Sections of this law may have been superseded by general law. See Tennessee Code Annotated.

SECTION 1. That in and for all counties of said State having a population of not less than 26,776 and not more than 26,780 according to the Federal Census of 1930, there is hereby created and provided for a county road superintendent, the office of which is hereby created and provision for which is herein made. To be eligible for said position the superintendent shall be a person of not less than twenty-five years of age, shall have been a resident of the County for not less than two years continuously next preceding the date of his first election to said office under this Act, and shall have at least an aggregate of four years actual experience within the ten years next preceding election of him as such superintendent in public road building and maintenance work, and in the capacity as a superintendent, construction or maintenance engineer, or other similar supervisory capacity equal to or above that of a public road construction or maintenance foreman, and in either or more than one of said capacities shall have had such experience as an employee of a State, County or Federal government, or road contractor engaged regularly or principally in public road building work. The superintendent in each such County shall be elected by the people for a term of four years, the first such election to be by the general election in August, 1942, and his successor to be elected each four years thereafter, as in the years 1942, 1946, and so on. Any person elected to said office to serve until his successor shall have been elected and qualified as provided by this Act. In the event of the death, resignation, refusal to serve, removal, or frequent and extensive absence from the County, or removal from office as herein provided, of the superintendent, then a successor to serve for the remainder of the unexpired term shall be elected by the Quarterly Court at its next regular or special term following the occurrence of any such reason for the election of a successor, except when any such reason shall occur within the ten days next preceding a regular or special election, in which last mentioned event the election shall be deferred until the next regular election following the expiration of such ten-day period of time, any successor elected to serve for an unexpired term to serve until his successor shall have been elected and qualified as provided by this Act.

As amended by: Private Acts of 1949, Chapter 339
Private Acts of 1951, Chapter 519

SECTION 2. That Eugene A. Simms be and is hereby designated and appointed to serve as the county road superintendent in each such County until the next regular election and qualification of the first or initial elected superintendent under this Act to be elected at the next regular election, the general election of August, 1942, as hereinbefore provided.

SECTION 3. That the County road superintendent or any acting County road superintendent as herein provided for shall before discharging any duties or exercising any power or authority as superintendent take and subscribe to before and file with the County Court Clerk an oath to fully, faithfully, and impartially perform his duties and shall execute a bond in the sum of Five Thousand Dollars (\$5,000.00), payable to the State of Tennessee, with a corporate surety as surety thereon to do business in the State of Tennessee, said bond to be approved by the County Judge and to be conditioned upon the full satisfaction and impartial performance of his duties as Superintendent, which bond shall also be filed with the County Court Clerk, who shall record the oath and bond upon the public records of his office, and preserve the originals that he files in his office.

SECTION 4. The compensation of the County Road Superintendent shall be ten thousand dollars (\$10,000) a year, payable in equal monthly installments out of the road fund of the County, which shall be his full and entire compensation for his services.

As amended by: Private Acts of 1947, Chapter 25
Private Acts of 1963, Chapter 45
Private Acts of 1963, Chapter 46
Private Acts of 1967-68, Chapter 389

SECTION 5. That all laws now or that may hereafter be in force applicable to the misfeasance and nonfeasance of public officials be applicable to the County Road Superintendent serving at any time under this Act.

SECTION 6. That the County Road Superintendent shall have the authority and it shall be his duty to execute and, therefore, have charge of supervising and directing the road work in all of its phases,

including the appointment, assignment to jobs, fixing of the compensation or basis therefor, control, transportation of the employees, and also shall have custody, control, assignment to work, repairs or maintenance, supervising and direction of the operation and use of all equipment for or used in road building in the maintenance work of each such County, including all that may be on hand when this Act becomes effective, and all which has heretofore been or may hereafter be acquired by the County or its road authorities or agencies, whether by purchase, lease, rental, or otherwise, and on the effective date of this Act, or as soon as the qualification has occurred, the Superintendent shall take and have custody, control, and charge of all such equipment. As hereinbefore provided, the Superintendent and his subordinates shall execute the work with the recognition of and in conformity to the plans, proposals, designations as he may deem fit, wise, and necessary for the public welfare of the County road program in its entirety in each such County. All of said road employees shall serve at the pleasure of the Superintendent and shall be responsible to him. The Superintendent shall, in turn, be responsible to the people for the execution of the road work hereinbefore outlined and designated, including the control and use of the employees and equipment, and other duties as in this Act imposes upon him.

SECTION 7. That each of the said counties is hereby constituted and declared to be a unit with respect to all matters pertaining to such public roads therein as hereinbefore mentioned, and all funds and revenues of every nature and from every source for road and bridge purposes, on hand or to the credit of the County or of any district road fund, or receivable by the County or its road authorities or any road district or fund from any source, and all such funds as may hereafter be received, shall and they are hereby directed to be placed in, credited to and constitute the "Road Fund" of the County, that fund being hereby specifically created and thus designated, all such funds to be received by the Trustee of the County and credited to said fund. From and after the effective date of this Act no such funds in any of said counties shall be paid out by the Trustee, nor shall any warrants thereon be issued or honored, except by way of disbursements from said road fund in the manner or by the method as hereinafter provided.

SECTION 8. That the Quarterly County Court in each such County shall have the authority, which is hereby specially and expressly delegated to it, to levy in each or any year a tax on all taxable property within the County, outside of the limits of incorporated towns or cities, for road and bridge purposes, to be assessed and collected as are other taxes on property for County funds or purposes, and which, when collected by the Trustee, or received by him from other sources such as from Clerks of Courts, etc., shall be placed in and credited to the said road fund and be disbursed only as provided by this Act; provided, however, that any such tax so levied for road and bridge purposes, and which shall be designated as the "County Road Levy," shall not exceed the rate or basis of twenty cents (20¢) on each One Hundred Dollars of assessed valuation of the taxable property.

SECTION 9. That the County Court Clerk, the County Road Superintendent, and the County Judge shall be and constitute a Roadwork Purchasing Committee, of which the County Judge shall be chairman and preside over the meetings of the said committee, and he shall cause minutes to be made of and preserved as public records of the County of all meetings of the Committee at which transactions or matters of importance occur or shall be authorized, especially those involving the expenditure of any sum of money. Any two of said committee shall constitute a quorum, and said Roadwork Purchasing Committee shall have the authority to purchase all necessary equipment and supplies for the operation of the road work in each such County.

SECTION 10. That from and after the effective date of this Act disbursements from the road fund shall be only in the manner or by the method as now herein provided, to-wit: Payrolls for the payment of compensation to all incumbent and employed personnel, the Superintendent and all other employees, shall be made by or under the authority of the Superintendent and be approved and certified by him in duplicate, one copy of each of which he will retain for his records or files, the other copy of which shall be filed with the County Judge and Financial Agent of the County, who will issue warrants, to be counter-signed by the Superintendent, in payment of each payroll item. The provision applies to all regular incumbent or employed personnel, but not to instances of services rendered at or for brief intervals by outside or third persons, such as special or out of the ordinary services, in which instances invoices or statements shall be rendered, in duplicate, checked, approved and certified for payment as in the cases of invoices for supplies, materials, fuels, etc., as hereinafter mentioned. All statements or invoices for materials, supplies, equipment, rentals, contract considerations or payments, partial or otherwise, special services as just hereinabove mentioned, or for other payments than those to be made under payrolls as hereinabove provided shall be itemized and submitted in not less than duplicate copies, shall be checked, approved and certified by the Superintendent, in duplicate, one copy of each of which he shall retain and preserve for his records or files, the other copy of which shall be filed with the County Judge and Financial Agent, who will issue warrants, to be counter-signed by the Superintendent, in payment. All such warrants shall issue from a warrant book, which shall remain in the office and custody of the County Judge, and with duplicates or stubs so as to constitute a proper and permanent record of

the dates, numbers, amounts, payees and purposes of all warrants drawn upon the Road Fund, and the County Judge, acting as County Judge and Financial Agent, separately from and independent of his membership on said Roadwork Purchasing Committee and his chairmanship thereof, shall so issue and keep records of all warrants issued, and other such records in connection with receipts of and disbursements of the road funds as he may deem proper, and, in so acting, it shall be his duty to see that the provisions of this Act are complied with before any warrant is issued, and he shall have no authority to issue such a warrant except when its issuance, or the payment of the obligation involved, shall be authorized under this Act and be in compliance with the provisions of this Act. He shall preserve, of course, as public records of his office, all payrolls, invoices and statements under which such warrants issue, and shall prescribe and adopt a system of the necessary forms of payrolls, warrants, registers and other records necessary under the provisions of this Act. In the event that, by action of the Quarterly County Court as hereinbefore mentioned, the expenditure or supervision of the expenditure of road funds of the county should be vested in some other governmental agency, such as the Department of Highways of the State, then all such payrolls, invoices and statements to be paid out of funds the supervision of the expenditure of which may have been so vested shall be so approved and certified by the County Judge for payment by the proper official or representative of such other governmental agency, by which agency purchase or other obligations, for materials, supplies, fuels, equipment, rentals, etc., and for payroll labor and services, payable from funds the expenditure or supervision of expenditure of which shall have been so vested, shall be incurred or created, rather than by the said Roadwork Purchasing Committee and Superintendent, respectively, as hereinbefore provided, and by which agency, in such event, employment, control, direction, discharge, fixing of compensation and other supervision of employees, payable out of funds the expenditure or supervision of which shall have been so vested, shall be exercised, rather than by the Superintendent as herein provided.

SECTION 11. That all workhouse prisoners in each of said counties shall be, and they are hereby required to be, worked on the said public roads of the County, direction, supervision and control of which prisoners, while being so worked, shall be by the official or agency charged with the execution of the work according to where the expenditure or supervision of expenditure of the fund is vested out of which payment of such workhouse prison labor is to be paid, but the superintendent of the workhouse, including the Sheriff as ex officio superintendent if there be no separate workhouse, shall designate guards, not exceeding two in number, to serve at his pleasure, for the purpose of the safekeeping of such prisoners to and from work, furnishing of tools and equipment for use by such labor, shall be paid for out of the road fund, and the sum of One Dollars (\$1.00) per day for each day of such work by each such prisoner shall be paid out of said road fund into the general county treasury, payable monthly, as or towards reimbursement to said general county fund on its outlay for the payment of boarding or feeding and clothing expenses of such prisoners. Such prisoners shall be worked at hard labor, and for the purpose or with the view of punishment, as contemplated by other applicable law, but with the view and purpose also, under this Act, of serving the ends sought by roadbuilding projects and expenditure of public funds therefor.

SECTION 12. That the Quarterly Court of each County is hereby delegated with the authority to, at its January term of court each year, regulate, and require any free labor they may deem necessary, and said free labor so regulated, designated, and required, shall be under the supervision of the County Road Superintendent, and any refusal to perform any such free labor so designated and required by said Quarterly Court shall be considered a misdemeanor, and any violation shall be punishable as such by law.

SECTION 13. That if, for any reason, any section, part or portion of this Act shall be held to be unconstitutional or invalid, such shall not affect nor invalidate any other section, part or portion of this Act which may not be held also to be unconstitutional or invalid, the legislative intent being hereby declared to be that any and all parts of this Act which may not be held to be invalid shall be effective and operative irrespective of the unconstitutionality or invalidity, if any, of any other part or parts of this Act, so far and to the extent that such interpretation, distinguishment, enforcement and operation may be possible.

SECTION 14. That this Act take effect from and after April 1, 1941, the public welfare requiring it.

Passed: February 13, 1941.

Highways and Roads - Historical Notes

The following is a listing of acts which once had some effect upon the county road system in Lawrence 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, directed the Courts Pleas and Quarter Sessions of the respective

- Tennessee counties to classify and index the public roads in their counties into three classes according to the width of the road and the surfacing materials. The classes ranged from stage roads down to one wide enough to pass a single horse and rider. The court was empowered to assign hands to repair and maintain the roads.
2. Acts of 1847-48, Chapter 159, Section 11, named Daniel Bentley, William McKnight, Jr., and John H. Beeler, all of Lawrence County, and Anthony Buckner, Henry Miller, and John Gant, of Maury County, as Commissioners to open books and to sell stock to make a turnpike road from Lawrenceburg which would intersect the turnpike road from Columbia to Waynesboro at some point between Waynesboro and Mount Pleasant as the stockholders might direct. The road must meet all the specifications in the act. The company would be named the Lawrenceburg Turnpike Company. This road would be regulated by the same rules applicable to other roads in similar situations. The Company had the power to extend their road from Lawrenceburg to Pulaski in Giles County.
 3. Acts of 1851-52, Chapter 280, Section 13, incorporated the Pulaski and Lawrenceburg Turnpike Company which company intended to construct a turnpike, or a macadamized road, from Pulaski in Giles County to Lawrenceburg, in Lawrence County, while possessed of all the same rights and privileges belonging to the Franklin Turnpike Company. This Act named R. M. Bugg, F. T. McLauren, Noah Hancock, S. M. Bentley, B. M. Moore, and T. D. Deavenport, as the Commissioners with the authority to procure the stock for the company in such an amount as was needed to build the road.
 4. Private Acts of 1857-58, Chapter 99, Section 7, incorporated the subscribers and stockholders for building a turnpike from Mount Pleasant, running with the Military road in Maury County, to Lawrenceburg. The name of the company would be the Mount Pleasant and Lawrenceburg Turnpike Company whose officials were empowered to stop the road at any point after five miles had been completed. The authorized capital stock was \$5,000 and Seth R. Kittrell, W. G. J. Hunter, J. H. Kittrell, Edmond Wiltshire, Thomas P. Stone, James H. Granberry, Henry Goodloe, and S. P. Jordan were named as Commissioners to sell the stock to raise that amount.
 5. Acts of 1901, Chapter 136, was a general road law applicable to every County in Tennessee under 70,000 population. The County Court would elect one Road Commissioner to serve two years from each of the Road Districts in the County. Road Districts and Civil Districts were co-extensive with each other. The Commissioners must be sworn, bonded, and would be in charge of all roads, bridges, road hands, tools, and materials used in that District, at a compensation of \$1 per day not to exceed 10 days in one year. The County Court would fix the number of days the road hands would labor compulsorily on the roads at no less than five days and no more than eight. The Court was allowed to levy a general road tax of two cents per \$100 property valuation for each day of labor the court prescribed for the road hands. District Commissioners would name for a one year term the Road Overseers in their District, who would be in charge of a specific section of road in the District. He would serve as many days as are assessed to road hands without compensation, but for each additional day he would receive one dollar per day, not to exceed six dollars in one year. All males between the ages of 21 and 45 were subject to compulsory labor on the public roads. Petitions to open, close, or change roads were to be filed with and disposed of by the Road Commissioners, who would file his report with the County Court. All roads must meet the basic specifications established in the Act.
 6. Acts of 1903, Chapter 533, amended Acts of 1901, Chapter 136 to require the Road Commissioner to file his report on opening roads with the County Chairman or Judge instead of at the next quarterly term of the County Court. Both Acts were the subject of a constitutionality challenge in Morgan County in the case of Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1906).
 7. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, increasing the compensation of the Road Commissioners. The sections on eminent domain were revised to provide for action by the County Court as to damages.
 8. Private Acts of 1919, Chapter 623, was the first specific road law for Lawrence County. The Act provided that the Lawrence County Court at its January term in 1920 would select a Road Supervisor for each Civil District (Road District), who would supervise the public roads, bridges and overseers in that District. He would be sworn, execute bond in the specified amount, and serve a two year term. Regulations were made for the payment of labor and materials in each District. Supervisors were to be paid \$2.50 per day not to exceed 20 days per year. The Road Supervisor must assign road hands to the particular section of road upon which they were to work the number of days stipulated by the County Court which could be no less than five nor more than ten. The Court would levy a road tax of no less than 20 cents nor more than 50 cents which would be held as a separate road fund by the Trustee. All parties were instructed to keep good records

of all transactions and accounts. Road Supervisors would appoint overseers for each section of road who were expected to work the required number of compulsory days as others did (but only as overseers) and who would be paid \$1.50 per day for each day above that number up to ten dollars each year. All males between the ages of 21 and 45 were subject to road duty but could commute by paying \$1.50 for each day required. The District Road Supervisor would act on requests to open, close, or change roads and report his determination to the Judge of the County Court. This Act was repealed by Private Acts of 1939, Chapter 440, and by Private Acts of 1937, Chapter 703.

9. Private Acts of 1920 (Ex. Sess.), Chapter 6, amended Private Acts of 1919, Chapter 623, by reducing the minimum levy for the tax on roads from twenty cents to ten cents per \$100 property valuation. This Act was repealed by Private Acts of 1937, Chapter 703.
10. Private Acts of 1921, Chapter 716, amended Private Acts of 1919, Chapter 623, in Section 1 to provide that Road Supervisors were to be paid \$3.00 per day for an 8 hour day of work up to 30 days each year. Section 5 was changed to require the Road Overseers to give at least two days warning to road hands before they were to report for work. Section 12 was modified to define a wagon and team and to establish the commutation rate at \$2.50 per day for a team of two animals, and at \$1.25 per day for one animal. This Act was repealed by Private Acts of 1937, Chapter 703.
11. Private Acts of 1937, Chapter 703, created a three member County Highway Commission and a position of County Road Superintendent who would have general supervision of all county roads, bridges, highways, and culverts in the County. A Commissioner must be at least 21 years old, a county resident for five years, could not be a member of the County Court, and no two could live in the same civil district. The three current Commissioners were continued in office until the expiration of their terms, the new members would serve initial staggered terms and then terms of three years. The Chairman of the Commission was to be named by the County Court and sworn into office for a one year term. Members would be paid from \$75 to \$350 annually, and the Chairman from \$150 to \$450 annually, plus the amount of the bond premium. The Road Superintendent would be appointed by the Quarterly County Court to a two year term, be sworn and bonded from \$3,000 to \$10,000, would be paid a salary set by the Quarterly Court which could be no less than \$900 and no more than \$1,500 per year, plus travel expenses up to \$50 monthly. Joe Graves, named as the Superintendent in the Act, would be paid \$1,200 annually in equal monthly installments. The duties of the Commission and its power and authority were all detailed, as well as that of the Road Superintendent. All males, outside cities, between 21 and 45 years of age must work from four to eight days on the roads as set by the Court but could commute at a cost of 50 cents per day. Failure to do either was a misdemeanor. Owners of wagons and teams had to work from 2 to 5 days, or pay 50 cents per animal and/or wagon for each day missed. The Road Superintendent must submit reports on the status of roads to the County Court and Commission as soon as work was completed, and the Quarterly Court would set the amount to be paid to foremen and overseers. The Commission could have obstructions removed and prescribe requirements for building driveways. The Commission could exercise the power of eminent domain when needed, and dispose of petitions to open close, or change roads, provided the procedures in the Act were followed. County workhouse prisoners could be worked on the roads under certain conditions. The Quarterly Court had the authority to levy a general road tax of no less than five cents and no more than thirty cents per \$100 which was to be used in the District from whence it came. The Commission could issue notes not exceeding the aggregate of \$10,000 upon a 2/3 vote of the Court at 5% interest, or less, and to mature from 3 to 10 years. Supplies could be purchased but all over \$200 had to be on competitive bid. The Commission could employ engineers and clerical help and the Superintendent would select the foremen and overseers. An office must be kept open at the Court House in the county seat and the Commission would meet on the first Monday in every month. This Act was repealed by Private Acts of 1939, Chapter 440.
12. Private Acts of 1937 (Ex. Sess.), Chapter 12, amended Private Acts of 1937, Chapter 703, in Section 16 by rewriting the first two paragraphs to require the owners of wagons and teams to furnish the same for road work if they resided outside of a city for no less than two nor more than five days. Commutation rates were fixed at fifty cents per animal and/or wagon per day and a legal description of a team was incorporated. This Act was repealed by Private Acts of 1939, Chapter 440.
13. Private Acts of 1937 (Ex. Sess.), Chapter 15, amended Private Acts of 1937, Chapter 703, in Section 27 by providing that when the Road Superintendent and the County Workhouse Commission deemed it impractical to work prisoners on the public roads for any reason justifiable

in their discretion, the prisoners would be worked under the supervision and control of the Sheriff, as the ex-officio superintendent of the Workhouse. This Act was repealed by Private Acts of 1939, Chapter 440.

14. Private Acts of 1939, Chapter 440, expressly repealed Private Acts of 1937, Chapter 703, and all the amendments to that Act, and did not revive any of the acts which might have been repealed by Private Acts of 1937, Chapter 703.
15. Private Acts of 1939, Chapter 441, established a County Road Commission of three members who were to be 21 years of age or more, a resident of the county for five years, could hold no other office and no two to whom could live in the same civil district. The Quarterly Court would elect the first members for staggered terms and after the initial terms for 3 year terms, with specific provisions for filling vacancies if one occurred. The Act named J. P. Conway, Fred Usher, and Alec Wright as the first three members, Conway to be the Chairman. All would be sworn and bonded for \$2,500 and the Chairman would execute an additional bond of \$2,500. The Quarterly Court would fix the salary of the members not to exceed \$200 annually with the Chairman being paid an added \$200, all to be taken from the road funds. Members of the Commission could be removed by a 2/3 vote of the Quarterly Court but the procedures for doing so specified in the Act were to be closely followed. The Chairman, named by the Quarterly Court, would represent the County in its transactions with the State. The County Road Superintendent, selected by the Quarterly Court for two year terms, must be 25 years of age, or older, and experienced in the art of road building and maintenance. Joe Graves was named to serve as such until another could be chosen under the procedures of this Act. The salary would be decided by the Quarterly Court but could not exceed \$1,800 per year. The Quarterly Court was empowered to levy a road tax up to twenty cents per \$100 property valuation. The Road Superintendent, the Commissioners, and the County Judge would constitute the Purchasing Committee who would supervise and manage all the purchasing for the Department under the rules promulgated in the Act, all purchases over \$500 to be on competitive bid. Workhouse prisoners could be worked on the roads for which guards could be hired at \$1 per day and preference was to be given local residents in the award of contracts within the Highway Department. This Act was repealed by Private Acts of 1941, Chapter 211.

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