



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 1929 Chapter 304

SECTION 1. (a) The County Highway Department shall be operated under authority of one (1) Highway Commissioner, who shall be responsible for the overall supervision of the County Highway Department. Presently serving members of the former Highway Commission in office on the effective date of this act shall remain in office until the expiration of the term for which such members were elected and until the successor Highway Commissioner is elected and qualified. The Highway Commissioner shall be elected to serve a four (4) year term at the January 2003, meeting of the County Legislative Body.

(b) The Highway Commissioner shall be a resident of Lauderdale County, and shall not be eligible for election to any other elected County Office. The Highway Commissioner shall be nominated by the County Executive, or the Chairman of the County Commission if someone other than the County Executive. Nominations shall be made and submitted to the County Legislative Body, who by majority vote of members present shall elect a Highway Commissioner to serve a term of four (4) years from the date such person is elected and until a successor is elected and qualified.

(c) Each Commissioner so elected shall immediately after his election, qualify by making and subscribing to an oath before the County Legislative Body, to faithfully and impartially perform the duties of the office, to the best of his skill and ability, and without favor towards, or prejudice against, any person, section or community of Lauderdale County. Such Commissioner shall also enter into bond, in the sum of one hundred thousand dollars, with good and solvent sureties, approved by the County Executive or Chairman conditioned for the faithful performance of his duties, and for the faithful expending of, and accounting for all, monies coming into his hands, or under his control as such Commissioner, or by virtue of his office, and which oath and bond shall be delivered to and kept on file by the Clerk of the County Legislative Body.

(d) In the event of a vacancy on the Commission, caused by the death, resignation, or removal of residence from the County, the same shall be filled by the Commissioner so vacating the office. Such successor shall be elected at the next meeting of the County Legislative Body following the date the vacancy occurs; said Commissioner to be nominated by the County Executive, the Chairman of the County Legislative Body, if the Chairman is a person other than the County Executive, or any member of the County Legislative Body who is present at the meeting of the County Legislative Body when the vacancy is to be filled.

As amended by: Private Acts of 1931, Chapter 373
Private Acts of 1999, Chapter 21
Private Acts of 2001, Chapter 34

SECTION 2. That said Commission shall have full and complete control of all public roads, bridges, and levees in the County, except such as of [sic] or may hereafter be under the supervision and control of the State Highway Department or the Hard Road Commission of the County, and control and supervision of all funds arising from taxes, or other sources designed or set apart for general road, levee or bridge purposes, in the County, and including all funds, arising or collected from County license, or registration of automobiles, motor vehicles, or log wagons, as provided by statute, and all funds allocated, set apart, or appropriated by State Highway Department from automobile tax, or registration fees, or license, gasoline tax or other sources under the general laws of the State of Tennessee. And all such funds shall be placed and kept in one general fund in said counties, to be known and designated as "The County Road and Bridge Fund," and which shall be appropriated to said roads, levees, and bridges, by the County Highway Commission, and paid out upon its order or warrant, signed by the Chairman/Secretary of said Commission. And said County Highway Commission shall also have the right and power to direct and control the place and time when and where those living in the county and owing road time, shall work out the same on the roads, levees and bridges in the county.

As amended by: Private Acts of 1931, Chapter 373
Private Acts of 2001, Chapter 34

SECTION 3. That in addition to the full and complete general powers with which said Commission is hereby invested for the purpose of constructing, working, and maintaining an ample and serviceable system of public roads, in said counties, and all powers necessarily and reasonably implied, to secure such purposes, the said Highway Commission is hereby invested with the following other and additional authority and powers, and the naming of such specific rights, powers, duties, and etc., shall not be construed to restrict but rather to amplify the general power and authority given to it, in this Act, to wit:

(a) To appoint and employ a Superintendent of Roads for said counties, and place him in active control of the construction, working and maintaining of same, under the direction of the said Commission, and to pay him a salary for his services, not to exceed One Hundred Seventyfive Dollars per month, to be paid out of the County Road and Bridge Fund of the County. Said Superintendent of Roads shall be a man of experience, and skill in road, bridge and levee building, and shall have sufficient clerical skill and ability to keep an accurate record of the work, he is carrying on, and to make such reports to the Commission and the Quarterly County Court, as is provided for in this Act. He shall hold his office at the pleasure only of the Commission, and shall obey and carry out the instruction given him in writing by the Commission, as hereinafter provided, and to do and perform all things necessary and expedient to secure the best and most permanent system of public roads, bridges and levees in the County. He shall be required to inspect and oversee all work done by day labor, under overseers or foremen, or by independent contractors, and make report of same to the Commission and no work shall be received and paid for or any contractor settled with, until inspected and approved by the Superintendent of Roads and ordered by the Commission. It shall be the duty of the Superintendent to make constant inspection of the roads in the County under supervision of the Commission and to see that they are properly maintained and kept free from obstructions, and that there are no encroachments on the right of way thereof, and that they are always in the best possible condition for travel, and to do and perform any and all other services with respect to the roads, levees and bridges required of him by the Highway Commission of the County.

COMPILER'S NOTE: The Tennessee Uniform County Road Law, codified in Title 54, Chapter 10 of Tennessee Code Annotated, has superseded or expanded portions of this section. The qualifications of a "Chief Administrative Officer" (which includes among its definitions county road supervisor) elected after 1974 are set out at T.C.A. § 54-7-104. The salary of the Chief Administrative Officer, under T.C.A. § 54-7-106, must be at least 10% higher than the salary of the county trustee. Under T.C.A. § 54-7-108, the Chief Administrative Officer must post a \$100,000 bond, and T.C.A. § 54-7-105 sets a four-year term for Chief Administrative Officers.

(b) To appoint and employ in the several districts of the County as they may deem necessary and expedient, overseers or foremen, to assist and work under the orders of the Superintendent of Roads in constructing, working and maintaining public roads, bridges and levees and to pay them such amounts out of the County Bridge and Road Fund, as they may decree proper and right, and which overseers and foremen shall hold their employment at the will and pleasure of the Highway Commission.

(c) To let out by independent contract, the construction, working and maintaining such roads or section of roads, levees, and bridges, as they deem proper, and to pay for the same, when accepted, by warrant drawn upon the County Bridge and Road Fund; or the Highway Commission may authorize all such work done by hired labor under the supervision of the Superintendent of Roads, and such overseers or foremen as the Commission may direct, and to pay for the same, upon warrants drawn on the County Bridge and Road Fund.

(d) To acquire by purchase or rental contract, necessary graders, tractors, drags, engines or other equipment, which they deem necessary or advisable for construction, working or maintaining public roads, levees or bridges, and to place same under the supervision, control, and management of the Superintendent of Roads, who shall take care of same, keep an inventory of same all of the time, and to pay for same, its repair or upkeep, out of the County Road and Bridge Fund.

(e) To make any and all contracts and arrangements which they may deem expedient or advisable with the State Highway Department, or with the Hard Road Commission of the County, for the construction, working, upkeep or maintenance of any of the roads, bridges or levees under their control, or for the services of its force, or employees or the use and operation of such machinery as said State Highway Department or Hard Roads Commission may own or control, on any of the roads, levees and bridges under the control of the Highway Commission and to pay such contract or rental price, as they may agree upon, out of the County Road and Bridge Fund. The Chairman of the Highway Commission shall be the agent to bind the County and make such contracts with the State Highway Department or County Hard Road Commission.

(f) To employ such engineers or skilled workmen as the Commission may deem necessary from time to time, in opening, laying out, constructing, abandoning, working or maintaining roads, levees, and bridges in the County, and to pay them for such services, by warrants drawn on the County Road and Bridge Fund.

(g) To designate the location of all telephone, telegraph, or other poles permitted by law to be placed, along public roads, and to require them to be placed where they will not obstruct the side ditches, or the flow of water, or the working or the maintaining of the road, and the Commission is hereby given the power and authority to move or have moved from the road, or right of way, and such poles or other obstructions, which interfere with the flow of water or proper working or maintaining of public roads. They

are further authorized and empowered to prevent abutting property owners from encroaching upon the right of way or road, or from building levees or dams which hold or obstruct the natural flow of water along said roads, or its side ditches, and they are hereby given such powers, as may be necessary to remove such obstructions, to prevent same and to institute legal proceedings, if necessary, to prevent or remove same and to pay the cost of such proceedings out of the County Road and Bridge Fund. But nothing in the Act or any provision thereof, shall be construed as giving the Highway Commission the right or authority to abandon, tear down, or destroy, the levee built under the orders of the Quarterly County Court across Cold Creek and adjacent to State Highway No. 19, in the 5th Civil District of Lauderdale County, and commonly known as Cold Creek levee, or any jurisdiction or control of same.

(h) To acquire by gift, purchase of [sic] condemnation proceedings, all lands and rights of way, necessary for opening, constructing, building, changing or re-locating public roads, bridges and levees, and to pay for the same out of the County Road and Bridge Fund. It shall be the duty of the Highway Commission to keep in a well bound book in its office, a definite and sufficient record, of all such rights of way or lands so acquired for said purposes showing the County's title to, or rights therein. The Commission is hereby given the power, by and through proceedings to be instituted by the Superintendent of Roads in his name, and under the direction of the Highway Commission in the manner provided by statute, to condemn and take lands and rights of way for roads, bridges and levee purposes, and to employ a counsel to conduct such proceedings or for any other purposes where legal council [sic] and services are deemed necessary to accomplish the purposes of the Act, and to pay the costs and expenses of such suits or proceedings and counsel fees, out of the County Road and Bridge Fund. In all condemnation suits, instituted as herein provided for, the County shall be made a party Plaintiff, and the Commission and Superintendent are authorized to make the County a party Plaintiff to such suits or proceedings, and it shall not be necessary for the County Commission or Superintendent to execute any cost or indemnity bond or any other bond in such proceedings, and immediately upon the filing of or institution of any suit of condemnation under the provisions of this Act, the Commission, its agents, servants and employees, shall have full power and authority to proceed to take the necessary lands, sought to be condemned, and no appeal or other dilatory plea shall delay the opening, changing, construction, or working of any such condemned rights of way or roads.

Provided that it shall not be compulsory with the said Highway Commission to select and appoint a Superintendent of Roads; and if in their discretion they do not do so, then the members of said Commission themselves shall perform all the duties prescribed above for the Superintendent of Roads in addition to their general powers and duties prescribed by this Act, and for which services they shall receive the compensation herein provided for the Superintendent of Roads in addition to the salary of Twenty-five Dollars each per month allowed them by this Act as such Commissioners, it being the purpose of this Act to empower the Quarterly County Court of the county to supplement their salary of Twenty-five Dollars per month only when they have selected and contracted to pay a Superintendent of Roads as provided in this Act.

As amended by: Private Acts of 1931, Chapter 373

(i) To employ an attorney to represent and advise such Commission whenever in the opinion of a majority of the Commission such employment is to the public interest and to fix a reasonable compensation for the services of such attorney.

As amended by: Private Acts of 1947, Chapter 856

SECTION 4. That the members of the County Highway Commission may draw a salary of Twenty-five Dollars each, per month, to be paid to them monthly, upon warrant drawn on the County Road and Bridge Fund, signed by the Chairman/Secretary, but the Quarterly County Court, may at any time authorize the payment to any member of the Commission such additional amount for services rendered, as it may deem proper and just.

As amended by: Private Acts of 2001, Chapter 34

SECTION 5. That the said Highway Commission shall maintain an office in the County Seat of the County, where all the books and records, etc., pertaining to its work shall be kept, and it is authorized to employ such clerical help as may be necessary and to pay this or such other expenses, out of the County Road and Bridge Fund, as may be necessary to carry on its work, and to keep such records and to maintain such office at the County Seat of the County. The Commission shall be required to set a day, at least once each month, on which the Commission is going to conduct Commission business. Such day shall be a fixed and regular day to be selected, designated, and published, for the purpose of carrying out the work of the Commission and to hear and consider petitions and complaints. The Chairman/Secretary of the Commission shall keep an accurate account of all business transacted, and accurate minutes of the meetings, in a well-bound book and which minutes at the next meeting shall be read, approved and signed by the Chairman/Secretary. It shall be the duty of the Chairman/Secretary to list all claims and accounts against the Commission in a well bound book and to keep all such claims and vouchers always on file in his office and shall keep a list of all warrants drawn on the County Road and Bridge Fund in the

order drawn as well as all stubs of warrants drawn on said fund and all paid vouchers or receipts shall be carefully filed and kept, and all of which records shall be at all reasonable times, subject to the inspection of any official of the County or any tax payer or other person having an interest therein.

As amended by: Private Acts of 2001, Chapter 34

SECTION 6. That no claim or account or other amount shall be paid out of the County Road & Bridge fund except upon warrant drawn by the Highway Commission, and signed by the Chairman/Secretary of the Commission, and which warrants shall be drawn upon the funds in the hands and custody of the County Trustee, and no such warrant shall be drawn unless and until an itemized statement of such claims for which it is drawn, has been filed with Commission, and passed, approved, and ordered paid in a regular meeting of the Commission, or special meeting called for that purpose, and only upon a vote of the majority of the said Commission. In all matters and transactions of the Commission, unless otherwise provided by law or this Act, pertaining to their duties, said Highway Commission shall act as a body, and not as individuals and no act or transaction shall have been deemed to be authorized and directed by the said Commission, unless done in a regular or called meeting in which all members are present, or have had ample notice to be present, or ample notice of the purpose of said meeting, and shall be passed on and ordered by a majority of said Commission, and in all matters pertaining to the business of the Commission, the Chairman shall have the right, and be required to vote like the other Commissioners. A majority of such Commissioners, shall constitute a quorum for the transaction of any and all business coming before the Commission. The papers, books and records of the said Highway Commission shall be open to the inspection of the revenue agents and revenue or financial committee of the County. And the revenue or financial committee of the County shall make quarterly audits of the books, papers, vouchers, and other acts of the commission with reference to finances just as it is required to do of the other officials of the County, and report said audit to the Quarterly County Court. The Commission shall require the Superintendent of Roads to make out and file with it, at each monthly meeting, an itemized and detailed statement of the work done by him, and likewise to make a report to each meeting of the Quarterly County Court of the work done by him and the funds expended for same, and on what account and also an inventory of all tools, machinery, equipment, and road material on hand, and under his supervision and control. The Highway Commission shall give its instruction to the Superintendent of Roads and its overseers and foremen working under him in writing signed by the Chairman/Secretary, and then only such instructions as its minutes show were adopted and ordered in a meeting of the Commission and passed in the way above prescribed.

As amended by: Private Acts of 2001, Chapter 34

SECTION 7. That no member of the Highway Commission or Superintendent of Roads shall be interested, directly or indirectly in a financial way in any road contract or the sale or purchase of any material or equipment for road work, nor shall any such contract, purchase, or sale, be made with any person related to any member of the Commission, or the Superintendent of Roads, within the third degree.

COMPILER'S NOTE: The general law prohibiting conflict of interest in county highway department contracts and purchases is found at T.C.A. § 54-7-203.

SECTION 8. That neither the County Highway Commission, nor any one working under their direction, shall make any contract calling for the expenditure of a greater sum of money or incur any liability for any one year, in excess of the amount of cash on hand or under the control of the County Highway Commission, or in excess of sixty per cent of the uncollected, anticipated, tax levy, or funds reasonably expected to be collected for roads, bridges, or levee purposes, from all sources as provided by law for that year, and all such contracts in excess of said amounts, or liabilities incurred above said amounts shall not be an indebtedness of, or collectible against the County, the Highway Commission, nor out of the future and succeeding years income, or collections from all sources of taxes, and other sources for roads, bridges or levee purposes. But it is hereby expressly provided that the County Highway Commission be and it is hereby authorized and empowered, to borrow each year, the sum of not exceeding Ten Thousand Dollars (\$10,000.00), in anticipation of that year's income from taxes and all other sources, for roads, bridges and levees, but they shall not at any time, borrow or have outstanding indebtedness exceeding Ten Thousand Dollars, and before any further borrow can be made by the Highway Commission, it shall first repay the Ten Thousand Dollars or any part thereof, then borrowed, unpaid and outstanding. Said loan or loans, if made under these provisions shall be the direct obligation of the County, and a first lien and charge against the taxes and other moneys to be thereafter collected by law for Highway [sic], bridge and levee purposes, and shall be repaid first out of said funds, when collected by the Trustee. Said County Highway Commission will evidence said loans by a warrant or certificate of indebtedness, or short time note signed by the Secretary and countersigned by the Chairman of the Highway Commission, and signed also by the County Judge or Chairman, same may bear interest at a rate not exceeding 6% per annum, but shall not be sold for less than par and such certificate shall be exempt from all state, county and municipal taxes in Tennessee, and shall not be payable in a greater length of time from date than one year, and before any money may be borrowed under the provisions of this Section, all outstanding loans,

must have been paid.

SECTION 9. That it is hereby made the duty of the said Highway Commission and they are hereby empowered to have prepared by the Superintendent of Roads or such other persons, as they may see proper to employ, during January or February, a list of all persons subject to road duty, for that year, or any part of that year in said County, and they are authorized to pay out of the County Road & Bridge Fund for said services not exceeding Ten Cents for each name so listed and reported; and when said list is prepared, it shall be approved, by the Superintendent of Roads, and a copy of same furnished by the maker to him, a copy filed with the Commission, and a copy filed with the Trustee of the County.

SECTION 10. That the said Highway Commission is hereby authorized and empowered to construct, work, lay out, maintain, acquire by purchase, gift or condemnation under the general laws of the State, and hold and control public roads in the county of such width and grade, kind or character, either dirt roads or hard surface roads, as they may desire to or see proper to do, and may abandon, open, close, restore, widen, open up new roads, or change location of any existing road or any public bridge or levee, whenever they, in their discretion, see proper to do so, and whenever such is deemed by them to be for the public interest and benefit. All such applications for opening up new roads, or closing, changing, restoring, abandoning or widening any public road, levee or bridge already existing and falling under the provisions of this act, may be done by petition filed, by the Highway Commission, the Superintendent of Roads (in which case the County shall also be joined as petitioner) or any citizen or tax payer of the county, in the County Court addressed to the County Judge or Chairman of the County Court; and ten days written or printed notice or summons accompanied with a copy of the petition, shall be served on all land owners [sic] over whose land said opening, closing, or changing would occur, and on any person or landowner, who would be affected by opening up a new road or changing the location of any such road. And any such person or landowner, so affected, who desires to contest the matter of said petition, or the changing of any such road, bridge or levee or re-locating and opening up any such new road, may file such defense to the same as he may desire to deem proper, within ten days after being served with such notice or summons. After the pleadings are filed, or any party so summoned fails to appear and plead within the time provided herein, the cause shall be heard by the Judge or Chairman of the County Court upon the pleadings any proof introduced orally before the court or in writing in the form of depositions, records or certified copies by any of the parties to the cause; and the Court will decide upon the whole case and decree whether it is to the public interest and benefit to open up such new road, or close, abandon, change, re-locate or widen any such road, bridge or levee, and shall adjudge the amount of damages, if any, and the value of any lands taken for such road purposes to be paid any party to the suit so affected and to render judgment for the same against the county, and the said Highway Commission is authorized to and will be ordered by the Court to pay the same or any costs adjudged against the county out of the county road and bridge funds under their control; and the court is authorized to adjudge the costs in such case in such way as in his sound discretion he deems proper. But in all cases where the Highway Commission or the Superintendent of Roads files such petition to appropriate land or property for such road purposes or locating new roads or re-locating existing roads it shall not be necessary for the County Highway Commission or the Superintendent of Roads to execute any cost of [sic] indemnity bond or any other bond in such proceedings, and immediately upon the filing of or institution of any such suit for condemnation of property under the provisions of this section, and the service of the notice or summons on the party owning or interested in such property, the County, its Highway Commission, the Superintendent of Roads or their agents, servants or employees, shall have full power and authority to proceed to take the necessary land or property sought to be condemned for that purpose, and no appeal or other dilatory plea shall delay the opening of such road or the changing, construction, re-locating, widening or building such proposed road, bridge or levee. Any party dissatisfied with the judgment or decree of the court, may pray and have perfected an appeal to the next term of the Circuit Court for the county, upon the execution of a cost and appeal bond, in the manner provided for the appeal of other civil cases; and the case shall be tried de novo in the said Circuit Court. Provided, That where the Highway Commission, the County, or the Superintendent of Roads prays an appeal it shall not be necessary to execute an appeal bond for such appeal unless the Court trying the case shall expressly order that such appeal bond be so executed.

As amended by: Private Acts of 1929 (Ex. Sess.), Chapter 34

SECTION 11. That it shall be the duty of the Highway Commission to give attention to all of the public roads of the County, without favor or partiality to any section of the County, without neglect to any section of the County. And while they are given wide latitude and discretion in working, constructing, repairing, and maintaining the bridges and levees and roads in the County, they are specially directed to apply this Act justly with its benefits to all parts of the County, and they are hereby expressly required to construct, work, repair, and maintain the roads, bridges, levees, and to open up new roads, to serve the public travel in each civil district of the County, in reasonable proportion to the taxes collected from said district for said purposes, and they may be required to do so by appropriate legal proceedings, instituted

for that purpose, by any person materially affected, damaged or injured or deprived of the benefits of this Act, by their neglect or refusal to do so.

SECTION 12. That all male inhabitants of any county coming under the provisions of this Act, twenty-one years old, and under fifty years of age, except those living within incorporated towns, and those exempted by the Quarterly County Court of the County at its January term of any year (and no later term), and then for only one year at a time, shall work on the public roads in his county, six days, of nine hours per day, in two periods, with an hour for dinner, between the two periods, during each year; and those moving into the county or out of any incorporated town in the county into the county in said county, or those moving out of the county or out of the country into any incorporated town in the country [sic], and those coming twenty-one years old, or becoming fifty years of age. [sic] shall work or commute for the proportionate part of the year, during which they are of road working age, under the provisions of this Act. Any one so subject to road duty, shall be required to work upon two days personal or written notice of the time and place to commence, either served in person, or left at their known place of residence, with some adult member of his family, which two days notice shall include the day upon which it is served, all road hands shall be warned and required to work upon the road, in the civil district of the County, in which they reside at the time they are warned. Such notice may be served by the Superintendent of Roads, or any contractor, overseer, foreman, or any other person designated by the County Highway Commission or having charge of said work; and any person, so owing road duty may be warned in one notice; to work any number of consecutive days or all the times he owes on his six days work required of him under this Act. But any person subject to road duty may commute and be relieved of working on said roads, by paying to the County Trustee of the County the sum of Five Dollars (\$5.00), before April 1st of the year during which he owes road duty, provided for the year 1929, he may commute by June 1, 1929. But, if he fails to so commute by that time, he cannot do so thereafter, except upon the written permission of the Highway Commission, and then only, by paying to the Trustee, One Dollar per day, for each and all of the remaining six days work, he owes for that year. Any person who wilfully fails, or refuses to work, after being warned, or to commute, as provided above, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Eight Dollars (\$8.00), or more than Twenty-five Dollars, for each offense and confined in the County Jail or workhouse until he pays or secures such fines and costs of the case; and each day's refusal or wilful failure to so work, in response to such notice so served on him, shall constitute a separate offense, and subject him to a separate punishment.

It shall be the duty of the Superintendent of Roads or one or more of the County Highway Commissioners to swear out a warrant before some Justice of the Peace of the County, and to prosecute all persons wilfully failing or refusing to work, after being so warned, unless they commute as herein provided; and such persons shall not be allowed to commute after being so arrested, without consent of the Justice of the Peace before whom he is brought, and the Superintendent of Roads or the said County Highway Commission and then only, upon the payment of all costs and such fine, as the Justice of the Peace may impose, if he pleads guilty, and submits his case to the Justice of the Peace. Grand Juries of such Counties are given inquisitorial powers over such offenses, and Justices of the Peace of the County, are given jurisdiction of such cases under the small offense laws; and they shall issue a warrant for the arrest of such persons, whenever it shall be made to appear in writing, that the offense has been committed, and any Justice of the Peace, shall have jurisdiction to try and determine the case under the law governing small offenses, before Justices of the Peace. All fines collected for the violation of this law, shall be paid into the hands of the County Trustee, and be credited to and accounted for as a part of the Road & Bridge Fund of the County, and be under the supervision and control of the County Highway Commission. The Highway Commission or the Superintendent of Roads under the direction of the Highway Commission, is authorized to make such contracts, with persons owing road time, for the use of teams and tools on the road, in payment of road time, as they may deem proper and just.

As amended by: Private Acts of 1931, Chapter 11

SECTION 13. That the Quarterly County Court of any County, to which this Act applies, may at its January or any subsequent term of any year, assess a special privilege tax not in excess of the amount assessed by the State, upon any or all privileges, declared to be and assessed as privilege tax by the State, for the purpose of raising a special fund, to be used on the public roads, levees and bridges of said County, and provide for the collection of same, and when so collected, the same shall become a part of, and be controlled and expended as a part of the County Road & Bridge Fund, by the Highway Commission. Or, the Quarterly County Court may assess a special tax on any article of commerce or merchandise assessed by the State, not in excess of the amount so assessed by the State, and provide for the collection of same and shall become a part of the County Road & Bridge Fund, and expended by the Highway Commission in the construction, working, and maintenance of the roads, levees, and bridges in the County.

SECTION 14. That if for any reason, any part, or any section of this Act, shall be held invalid, or unconstitutional, then that fact shall not invalidate the balance of this Act, it being the legislative intent to

have passed all of the rest of the Act, irrespective of the illegal part, and the balance of this Act, shall be considered good and valid and in force, without reference to the invalid part.

SECTION 15. That all laws and parts of laws in conflict with this Act, be and the same are hereby repealed, and this Act take effect from and after April 2, 1929, the public welfare requiring it.

Passed: March 25, 1929.

Highway Funds

Private Acts of 1931 Chapter 670

SECTION 1. That upon the receipt from the State of the gasoline tax allocated and paid over by law to the Trustee of all counties of the State having a population of not less than 23,400 and not more than 23,410, under the Federal Census of 1930, or any subsequent Federal Census, the Trustee shall pass said funds to the account of "The County Highway and Bridge Funds" of said Counties and said funds after being so deposited shall be subject to the control and may be expended by the County Highway Commission or County road authorities of said counties in constructing, maintaining and improving the county highways or roads, and for purchasing such machinery, material and equipment, or paying salaries allowed by law to such Highway Commissioners or authorities, necessary clerk or office hire and expenses, as the said Highway Commission or County Highway authorities may deem proper or direct, and in the manner provided by law in such cases; provided that the administrative expenses of the Lauderdale County Highway Commission, consisting of commissioners [sic] salaries, clerk hire, office rents, lights, telephone bills, fixture repairs, office supplies, stamps, stationery, forms, etc., or other necessary administrative expenses, not to exceed, \$ [sic] not exceeding 10% of the total of such funds received from the State during the year for any one year. [sic] or so much thereof as may be necessary, shall be paid out of the amounts received from the two cents gasoline tax fund allocated and paid over to the Trustee of Lauderdale County and taken into account in determining any surplus to be applied at the end of the year to the payment of bonds or interest thereon.

In the event of sickness or other disability of any member of the commission provided for in the law pertaining to the construction and maintenance of public roads in Lauderdale County, Tennessee, so that such commissioner is unable to perform his duties as such, then any other member of the commission is authorized and empowered to perform his said duties in his place and stead, and for such services the commissioner so performing said duties shall receive a salary equal in amount to the salary to which the disabled commissioner is entitled, and this provision shall be construed to become operative from and after January 1, 1937, said salary to be in addition to the salary to which the commissioner so performing said services is entitled. And in the event of the sickness or other disability of more than one of the said commissioners, the commission [sic] still performing his services and duties as such is empowered to employ any person deemed by him to be competent to perform the duties of the second one of the commissioners which has become so disabled, to perform his duties, for which the active commissioner is entitled to contract and pay out of the said road funds for the services of the person so employed an amount not to exceed \$75.00 per month. Any commissioner so disabled for a longer term than 12 months shall not be entitled to draw any salary for his services as such commissioner after the expiration of the 12 months period. And in the event of the sickness or inability of the Secretary (who is also the bookkeeper) to the commission to perform his duties as such, then the commissioner or the active member or members thereof are empowered to employ an Assistant Secretary and Bookkeeper to perform such duties and to pay such Assistant Secretary a salary not to exceed the sum of \$75.00 per month, until such time as the regular Secretary and Bookkeeper may be able to resume his work, and during the time that such Assistant Secretary is employed and performing said duties the regular Secretary shall receive no compensation for services as such Secretary.

As amended by:

Private Acts of 1933, Chapter 16

Private Acts of 1937, Chapter 590

SECTION 2. That at the end of each calendar year, the County Highway Commissioners or County Road authorities in such counties, shall notify the Trustee of any and all warrants drawn against said funds and unpaid and any and all outstanding contracts entered into which will necessitate any of said funds received during that year to meet and liquidate and the amount of same, whether said contracts are to be performed in that year or not. Any of said funds received during the year and not expended by the Highway Commission or the County Road authorities, or against which no warrants have been drawn and unpaid, or not necessary to meet and liquidate any contracts as referred to above, at the end of the calendar year, shall be passed by the Trustee to a County Highway Liquidation Fund, and used by the Trustee in paying off the principal and/or interest, or buying in the county highway bonds of said county,

as distinguished from county bonded indebtedness incurred for building State Aid Roads or Federal Aid Roads, whether said bonds be due or not; and the Trustee of the County is authorized to use the same for said purposes whenever said bonds, whether due or not, can be paid with accrued interest or purchased at par or less and accrued interest on such bonds, it being the intent and purpose of this amended Act to direct that any surplus of funds received during any calendar year be applied to the payment or purchase of said county highway bonds and accrued interest, as distinguished from bonded indebtedness of said counties incurred in building State Aid or Federal Aid Roads in said county.

As amended by: Private Acts of 1933, Chapter 16

SECTION 3. That when said bonds are purchased or paid off by the Trustee it shall be his duty to carry same to the proper authorities of the county and have the same cancelled and recorded and filed as cancelled bonds in the same way and manner as the law requires when said bonds are presented by the owners or holders of same and presented for payment and paid when they fall due, it being the purpose of this Act to have said bonds cancelled and retired as a part of the said bonded indebtedness of the county whenever the Trustee either pays same off when due or purchases same with said funds. If at any time the Trustee has not sufficient funds to purchase any of said bonds or pay the same off, he is authorized and directed to use such of said funds as he has in his hands in paying semi-annual interest then due on any or all of the said county highway bonded indebtedness; and if no such interest is due, he is directed to hold and deposit any such funds as he may have in his hands and which he has not been able to use in the purchase or payment of any of said bonds as directed hereinabove on interest just as he does other county funds until such time as he may have the opportunity to purchase or pay same; and the interest collected by him on such funds shall be deposited and kept and used by him as a part of the principal for the purposes set out in this Act.

SECTION 4. [Deleted by Private Acts of 1933, Chapter 16]

As amended by: Private Acts of 1933, Chapter 16

SECTION 5. [Deleted by Private Acts of 1933, Chapter 16]

As amended by: Private Acts of 1933, Chapter 16

Passed: June 29, 1931.

Sand and Gravel

Private Acts of 1923 Chapter 256

COMPILER'S NOTE: The sale of rock, crushed stone and other road materials by counties to individuals under certain circumstances is prohibited by T.C.A. § 54-7-202 and T.C.A. § 12-8- 101. See also Op. Tenn. Att'y Gen. 85-063. Dredging in navigable waters is regulated by federal law, see, e.g., 33 U.S.C. § 403, and by various state laws, rules and regulations.

SECTION 1. That hereafter, for the purpose of building and improving public roads and highways, in counties of this State having a population of not less than Twenty-one Thousand Four Hundred and Ninety and not more than Twenty-one Thousand Five Hundred, and in counties of this State having a population of not less than Thirty Thousand One Hundred and Fifty and not more than Thirty Thousand Four Hundred, by the Federal Census of 1920, or by and subsequent Federal Census, that any Road Commissioner, Road Superintendent or other road official provided for by law, shall have the right to remove and use for improving or building public roads in said counties, sand, gravel, or other road building material, from beds of navigable streams, below low-water mark, within the boundaries of their respective counties, provided that in so doing no such official, acting under this authority, shall interfere with or obstruct the free us [sic] of any stream for the purpose of navigation.

SECTION 2. That said counties, acting by and through the County Trustee, are hereby given and granted the exclusive right to sell sand, gravel or other road material from the beds of navigable streams, within said counties, below low-water mark, and acting by and through the County Trustee, are hereby authorized and empowered to sell and enter into contracts for the sale of the same, as hereinafter stipulated and provided, and the Trustee of the county shall receive the money in payment for the same and shall be by him placed in the general road fund of the county, to be expended and disbursed only for road purposes, as now provided by law for the expenditure and disbursement of the general road fund of the county.

SECTION 3. That any person, firm or corporation desiring to purchase and remove, sand, gravel, or other road building material, from the beds of navigable streams, within the boundaries of said counties, shall have the right to do so, by first entering written agreement, contract or stipulation with the Trustee of the county, agreeing to pay to the county and into the hands of the County Trustee, one and one-half cents

for each cubic yard of gravel, sand or other road building material so taken or removed by it or them and that an accurate and correct account and record of all gravel, sand or other road building material so taken or removed by it or them from the beds of navigable streams, below low-water mark, within said counties, will at all times be kept and that a complete itemized statement and account of the same will be rendered monthly to the Trustee of the county and payment made to him at said time at the rate of one and one-half cents per cubic yard, as aforesaid, for the amount removed or taken during the preceding month, and further agreeing that the County Trustee or any other person appointed by him, shall at all times have access to and the right to inspect all books, records, accounts and papers kept as aforesaid and to permit the Trustee at any and all times, if he desires to do so, to put an inspector on the job to check up and keep an account of the material of sand, gravel and other material being removed and taken, as aforesaid, and provided, further, that any person, firm or corporation so agreeing shall also before commencing operations for the removal of said sand, gravel or other material, enter into a bond, payable to the county, in the sum of One Thousand Dollars, conditioned for the faithful performance of said contract and agreement and guaranteeing the payment of the amount due the county for the material so removed, as hereinbefore provided.

SECTION 4. That any person, firm, or corporation who shall hereafter remove any sand, gravel or other road building material from the beds of navigable streams, below low-water mark, in said counties without first having fully complied with all the provisions, stipulations and conditions set forth in Section 3 of this Act, shall be guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than Five Hundred Dollars nor more than One Thousand Dollars, in the discretion of the Count and jury, for each offense, and provided that each day of unauthorized removal of such sand, gravel or other material from said streams shall constitute a separate offense. And the grand juries of said counties are given inquisitorial powers of the violation of this Act.

SECTION 5. That the said counties are hereby given the right and are authorized and empowered to institute and prosecute civil action and suits in the courts of this State to recover from and person, firm or corporation the value of any sand, gravel or other material removed from the beds of navigable streams in said counties, as fixed by this Act, and to bring civil action and suits on said agreements and bonds provided for in this Act, or to bring any other civil action that may be deemed right and necessary to enforce the provisions of this Act. And the Trustee of the county is hereby authorized to bring such suits above provided in the name of the county and to employ counsel for that purpose.

SECTION 6. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 13, 1923.

Highways and Roads - Historical Notes

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

1. Acts of 1837-38, Chapter 251, incorporated the Ripley and Covington Turnpike Company to build a causeway and bridge across the Hatchie River and bottom from Ripley to Covington, and appointed Reason T. Byrn, Guy Smith, Griffy L. Rutherford, Joseph Wardlaw, Samuel V. Gilliland, Dabney Philips, F. R. Smith, William C. Hazen, James N. Smith, Joseph Collier and Samuel Holmes as Commissioners.
2. Private Acts of 1857-58, Chapter 131, authorized the Quarterly County Court of Lauderdale County to classify the county roads and to assess property and poll taxes to be applied to keeping up and repairing the county roads. The Quarterly Court was directed to appoint one or more county road supervisors who would be paid \$1.50 per day for their services. The first nine sections of this Act, which were all that applied to Lauderdale County, were repealed by Private Acts of 1859-60, Chapter 180.
3. Public Acts of 1899, Chapter 368, was a road law applying to all counties under 110,000 in population. The county courts in every county in the state were directed to elect one Road Commissioner every two years to be responsible for all of the roads and bridges in the county. The Road Commissioner was to be paid \$2 per day for his services up to a maximum amount which depended upon the population of the county. Road labor was to be performed only during May, June, July, August and September. Each county was directed to levy a road tax of not less than 5¢ nor more than 40¢ per \$100 property value. The position of road overseer was abolished and all road work was to be done by contract, with each contractor having the benefit of the road hands assigned to his section of the road. All males between 18 and 50 were required to perform road labor and pay poll tax.

4. Acts of 1901, Chapter 136, was a road law applying to all counties under 70,000 in population. The County Courts were directed to elect a Road Commissioner for each road district (co-extensive with civil districts), to hold office for two years and to receive for his services \$1 per day, not to exceed \$10 per year. The Road Commissioners were directed to appoint an overseer for each section of public road, to be responsible for the road work on his section of road. Males between the ages of 21 and 45 were required to perform road labor. The County Courts were directed to levy a road tax not exceeding 20¢ per \$100 property value on all taxable property outside cities and towns.
5. Acts of 1905, Chapter 146, was a road law applying only to Lauderdale County. The Quarterly County Court was given general supervision of the public roads and bridges, and was directed to classify the roads into four classes: (1) 30 to 60 feet wide; (2) 25 to 40 feet wide; (3) 18 to 25 feet wide; and (4) 14 to 20 feet wide. Petitions to open, close or change roads were to be heard by the County Judge or Chairman. Road Districts and Road Commissioners were abolished. The County Court was directed to appoint road overseers for each section of road. All males between 21 and 50 years old were required to work six days on the road or pay a commutation fee of \$6.
6. Acts of 1905, Chapter 478, amended the general road law contained in Acts of 1901, Chapter 136, to change the method for opening, closing and changing roads.
7. Acts of 1907, Chapter 9, was a road law applying only to Lauderdale County. The County Court was directed to appoint a road commissioner in each civil district to serve a two year term. The road commissioners were to appoint and supervise the road overseers. Repairs and ditching could be done at any time, but plowing and grading could only be done between May 15 and October 1. All males between 21 and 50 years old were required to work the number of days established by the County Court or send an able-bodied substitute, or pay \$1 per day. The district road commissioners were authorized to have the road work in their district performed by contract if they so desired, with the district commissioner to supervise the work in conjunction with the magistrates in the district.
8. Acts of 1907, Chapter 268, amended Acts of 1907, Chapter 9, to require that all petitions to open, close or change roads be in writing and filed with the County Judge or Chairman, and to change the procedure for determining damages. The age at which males were required to begin road labor was lowered from 21 to 18.
9. Acts of 1909, Chapter 198, amended Acts of 1907, Chapter 268, to change the minimum age for road labor back to 21.
10. Private Acts of 1911, Chapter 460, was a new road law for Lauderdale County. The County Court was directed to appoint three road commissioners for the county. The road commissioners were to appoint a district commissioner for each civil district. The road commissioners and district commissioners were to serve three-year terms. The district commissioners were to take charge of and supervise the overseers. All males between the ages of 21 and 50 were required to perform road labor or send an able-bodied substitute, or pay 50¢ per day not worked if paid before April 1 or \$1 per day if paid after April 1. Districts were permitted to have their road work done by contract, to be supervised by the District Commissioner in conjunction with the Justice of the Peace in the district. The district commissioner was given broad discretion with regard to widening of roads. Applications to open, close or change roads were to be made by written petition to the County Judge or Chairman. The County Court was authorized to levy a road tax between 15¢ and 25¢ per \$100 property valuation. This act was repealed by Private Acts of 1919, Chapter 216.
11. Private Acts of 1915, Chapter 67, amended Private Acts of 1911, Chapter 460, to permit the road commissioner to live within or outside the corporate limits of any town and residence within the limits of a city or town would not disqualify him from office, and to require those who were excused from road duty because of a physical disability to show they were also released from poll taxes at the same time.
12. Private Acts of 1915, Chapter 414, amended Private Acts of 1911, Chapter 460, to abolish the system of three road commissioners and create the office of County Superintendent of Public Roads, who would assume and discharge all the duties of the commissioners and serve a three-year term. The superintendent was required to be a civil engineer but was not required to be a resident of the county. The superintendent was given charge of all roads and road projects in Lauderdale County. This act was repealed by Private Acts of 1919, Chapter 215.
13. Private Acts of 1917, Chapter 37, amended Private Acts of 1915, Chapter 414, to remove the requirement that the road superintendent be a civil engineer.
14. Private Acts of 1919, Chapter 215, repealed Private Acts of 1915, Chapter 414, abolishing the office of County Superintendent of Public Roads.

15. Private Acts of 1919, Chapter 216, repealed Private Acts of 1911, Chapter 460.
16. Private Acts of 1919, Chapter 368, was a road law applicable only to Lauderdale County. The County Court was directed to appoint a road commissioner for each civil district for two year terms, who would take charge of and supervise the road work in their districts, including the road overseers and all assigned road hands. The Commissioner would be paid 35¢ per hour for all time in excess of the required road work days if he filed a sworn statement with the County Judge. All males between the ages of 21 and 50 were required to work the number of 8-hour days specified by the County Court or furnish an able-bodied substitute, or pay a fine of at least \$5 but not more than \$25 per offense. Districts were permitted to have their road work performed by contract. Petitions to open, close, widen or change a road were to be heard by the County Judge. The county court was directed to appoint committees for the building of bridges and levees, and a three-member committee to have charge of all heavy road equipment.
17. Private Acts of 1923, Chapter 553, was a road law which applied only to Lauderdale County. The act provided for a County Road Supervisor, to be appointed by the Quarterly County Court each January. The supervisor was to be in charge of all roads and bridges, tools, vehicles and equipment, and purchase supplies as needed with the approval of the County Judge. The salary of the supervisor was \$1,200 per year, which could be supplemented by the Quarterly County Court. Districts would continue to have commissioners and overseers. All males between the ages of 21 and 50 were required to work the number of days specified by the County Court or furnish an able-bodied substitute, or pay \$6 per day not worked. Districts were permitted to have their road work performed by contract. Petitions to open, close, widen or change a road were to be heard by the County Judge or Chairman. This act was repealed by Private Acts of 1925, Chapter 72.

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