



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 1951 Chapter 111

**SECTION 1.** That in counties of this State having a population of not less than 15,000 nor more than 15,100, by the Federal Census of 1940, or any subsequent Federal Census, there is hereby created the office of County Highway Commissioner. Such County Highway Commissioner shall be paid a salary of eight hundred dollars (\$800) a month, payable in equal monthly installments out of the County Highway funds. He shall be a man of practical experience in the upkeep and maintenance of roads. His term of office shall be for two years from September 1 next following his election and until his successor shall be elected and qualified. The County Highway Commissioner is hereby authorized to employ a Supervisor of Roads at a salary not to exceed five hundred dollars (\$500.00) a month, and a bookkeeper at a salary not to exceed four hundred dollars (\$400.00) a month, such compensation in each case to be paid in monthly installments from County Highway Funds. To fill the vacancy occasioned by the creation of this office, Jordan Hanna is named as such Commissioner until September 1, 1952.

At the August Election 1952 such Commissioner shall be elected by the qualified voters of counties to which this Act applies and biennially thereafter. He shall qualify by taking oath to faithfully execute the duties of his office and shall execute bond in such sum as may be required by the Quarterly County Court for the faithful performance of his duties and for the safe-keeping of materials which may come into his care and custody.

As amended by:

Private Acts of 1967-68, Chapter 151

Private Acts of 1969, Chapter 16

Private Acts of 1974, Chapter 182

**SECTION 2.** That the County Highway Commissioner as herein created shall have general supervision over the construction, repair and maintenance of all roads, bridges, ferries, gravel pits and other like structures which form a part of the County Highway System. The County Highway Commissioner shall submit to each January Term of the Quarterly County Court a road budget covering all the roads in the County Highway System. This budget shall contain the name of each road, a number thereto which may be assigned by the Commissioner, a general description of the termini of such road, the number of miles embraced therein and the amount of money allocated by the Commissioner to such road for the ensuing calendar year.

The Commissioner is hereby prohibited from transferring funds allocated to one road to any other road and is likewise prohibited from spending any road funds allocated to another road. Any funds allocated to any road during any calendar year and not expended such calendar year shall not revert but may be expended upon said road, in addition to the succeeding year's appropriation during such succeeding calendar year. Such road budget shall be published by the Commissioner in some newspaper of general circulation in counties to which this Act applies, the expense thereof defrayed from highway funds. He shall have the care and custody of all road equipment belonging to said County, shall have charge of the storage and repair of the same and shall employ such labor as may be needed at a rate of pay to be fixed by him. All applications to open, close or change roads in the County Highway System shall be made to said County Highway Commissioner, who shall act upon the same. Condemnation proceedings may be instituted by said County Highway Commissioner for the purpose of opening new roads or changing existing roads, in which case the procedure shall be as that now provided by general law.

At each January term of the Quarterly County Court, the Commissioner shall make a report showing the expenditures for the entire year, which report shall detail the expenditure upon each road by quarters and such report shall likewise show the balance due to each road on the County Highway System. Such report shall likewise be published at once in some newspaper of general circulation in the County to which this Act applies, the expense thereof to be paid out of County Highway Funds. All disbursements from highway funds shall be made upon warrant of the County Highway Commissioner.

It shall be unlawful for any commissioner to expend more during any calendar year than he received during the previous calendar year and for any such over expenditure, he shall be liable upon his official bond and it shall be no defense to an action thereon that the County received the benefit of such other expenditure.

The commissioner shall, before assuming office, execute bond in the sum of \$25,000, payable to the County and conditioned for the faithful performance of duty upon his part and also conditioned to reimburse the County for any and all expenditures in excess of those permitted by law.

At least five days prior to each regular session of the Quarterly County Court, the commissioner shall report to that body in detailed itemized form his receipts and disbursements for the quarter ending 20 days prior to the time upon which such Quarterly County Court is scheduled to meet, which report shall also show a balance due to each road of the county highway system. Such report shall be filed with the county court clerk and open for inspection by any taxpayer of the county.

As amended by: Private Acts of 1957, Chapter 57  
Private Acts of 1989, Chapter 80  
Private Acts of 2016, Chapter 64

**SECTION 3.** That Chapter 60, Private Acts of 1949, the title to which is as follows: "An ACT to regulate and provide for the working of the public roads, including public ferries, in counties of this State with a population of not less than 15,000, nor more than 15,100, by the Federal Census of 1940, or any subsequent Federal Census, and to provide a Commissioner of Highways for such counties and to define and set forth his powers, obligations, duties, and right," be and the same is hereby repealed.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: January 31, 1951.

## Highways and Roads - Historical Notes

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

1. Acts of 1806, Chapter 31, appointed Joseph Hawkins Windle, Thomas Faris, and William Evans as commissioners to view the most eligible way to open a public road from the waters of Poplar Creek in Roane County over the Cumberland Mountain between the heads of the Wolf and Obeds Rivers as far as the commissioners think proper towards Jackson County. When the way was decided upon, the work could be let to some fit person to build a turnpike on which he would be permitted to set up gates and charge the amounts of tolls specified in the act when the road was completed.
2. Acts of 1821, Chapter 6, required the Courts of Pleas and Quarter Sessions of all the counties to classify and index the roads in their respective domains. Three classes of roads were prescribed being distinguished primarily by width and type of use and requiring progressively higher degrees of maintenance. Third class roads would be wide enough to pass a horse and rider. The Court would assign hands to keep the roads in repair.
3. Acts of 1831, Chapter 54, granted permission to James McKinley and Lewis Fletcher to build a turnpike road between White Plains and Allen's Ferry on the Cumberland River. Simon Carlisle and Matthew Cowen of Jackson County, and Elijah Toney of Smith County were appointed as commissioners to lay off the road during and after its construction. Specifications required the road to be 25 feet wide where the ground was level and 20 feet wide where it wasn't. The commissioners would draw \$1 per day from McKinley and Fletcher for each day spent on their assignment. When the road was completed and accepted, the builders could charge the tolls specified in the act for the use of the road but no charge would be made to the citizens of White, Overton, Jackson, and Smith counties. This charter would be in effect for 20 years if the road were kept in good repair.
4. Acts of 1855-56, Chapter 186, named Thomas D. Cassetty and Peter G. Cox of Gainesboro, among several others who were appointed as commissioners to open books at Gainesboro, at Flynn's Lick, and at Fort Blount for the purpose of receiving subscriptions up to \$30,000 to complete a turnpike road from Defeated Creek, near William Young's in Smith County by way of Flynn's Lick to Gainesboro, in Jackson County. The builders were allowed to set up toll gates only when completed and to charge only authorized toll rates. The company would be styled the "Gainesboro and Defeated Creek Turnpike Company."
5. Acts of 1859-60, Chapter 145, incorporated Hugh B. Smith, T. M. Goolsby, Elijah Holleman, Gideon B. Mahan, John Hughes, D. G. Shepherd, James McClarin, and John J. Keely to build a turnpike road to intersect with the one heretofore chartered from Chestnut Mound to Gainesboro which is to start at Granville and intersect with the Gainesboro and Defeated Creek Turnpike at the most practical point on Salt Lick Creek in Jackson County.
6. Acts of 1901, Chapter 136, was a road law for every county in the State under 70,000 in population, according to the 1900 Census. The County Court would elect one Road Commissioner for each road district, which were co-extensive with the civil districts, for two year terms who

would be in charge of the roads, bridges, and overseers in the District. His duties and authority were specified in the act. The duties of the county court, the county judge, or chairman, and trustee were also catalogued in the act. A special road tax of two cents per \$100 property valuation could be levied. The commissioners would appoint the overseers for each section of road who would be in immediate charge. All male residents outside cities were required to work on the roads if between the ages of 21 and 45 or pay seventy-five cents per day as a commutation fee. Some road specifications were expressly mentioned, provisions for the working of prisoners on the roads were made and the authority to contract for roads was made available to the commissioner. An engineer could be employed and paid at the specified compensation rate. The act was involved in the case of Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1906).

7. Acts of 1905, Chapter 478, amended Public Acts of 1901, Chapter 136, in several minor particulars, but primarily in the procedures to hear and dispose of the petitions to open, close, or change a road.
8. Private Acts of 1917, Chapter 312, declared the Roaring River in Jackson County to be unnavigable for a distance of one mile from the mouth of the same, where the river empties into the Cumberland River.
9. Private Acts of 1939, Chapter 138, declared that in Jackson County no person shall be required to perform manual labor on the public roads nor to pay commutation fees in the place thereof. The county court was stripped of the authority to levy taxes for road purposes, and no person shall be appointed to serve as foreman, or district overseer, after the passage of this act.
10. Private Acts of 1939, Chapter 139, stated that in Jackson County the chairman of the county court and the county highway commissioner are hereby authorized to operate ferries over any and all navigable rivers and, for this purpose to contract for the building and operation of ferry boats, but compensation of such ferries shall not exceed \$600 per year. The cost of all this shall be first paid out of the gasoline tax funds in the county or out of the rental fund if the county possesses one. This act was repealed by Private Acts of 1941, Chapter 367.
11. Private Acts of 1941, Chapter 366, amended Private Acts of 1939, Chapter 138, Section 2, by adding a provision at the end of the section which stated that the quarterly county court was hereby authorized to expend such district road funds as may now be on hand or which may hereafter be collected as delinquent taxes to retire any outstanding warrants properly drawn against the said funds, and to use the remainder of such funds for general highway purposes.
12. Private Acts of 1941, Chapter 368, provided that in Jackson County the county highway commissioner is authorized, subject to the approval of the county court, to contract with and employ operators of public ferries, such contracts to be taken by bid, and, provided further, that the sum of the aggregate amount of funds to be spent does not exceed \$2,500 annually which would all be paid out of the gasoline tax monies coming to the county.
13. Private Acts of 1945, Chapter 96, amended Private Acts of 1941, Chapter 368, by increasing the maximum amount to be paid to the operators of public ferries in Jackson County as an aggregate sum from \$2,500 to \$3,000 per year.
14. Private Acts of 1947, Chapter 703, amended Private Acts of 1941, Chapter 368, by increasing the top aggregate amount which could be lawfully paid to the operators of public ferries from \$2,500 to \$3,000 per year.
15. Private Acts of 1949, Chapter 60, created the position of commissioner of highways who would supervise the working and maintenance of county roads, be of lawful age and competent to control and manage the county road department. The commissioner could be elected by popular vote to two year terms. Garry W. Lynch was named by the act to serve as commissioner until the general election in August, 1950. The commissioner must be sworn and bonded for \$10,000. Among his duties was the employment of a road supervisor, and a bookkeeper-clerk, at annual salaries of \$2,400 and \$1,200 respectively. Roads would be classified into three classes according to the standards expressed in this law. Purchasing procedures were established and the procedures set up which were to be observed in the hearing and disposition of petitions to open, close, or change roads. Allocation of money to improve or repair a road depended upon the classification of the road \$300 being the amount per mile of first class road and scaled down to comparable amounts for second and third class. The county trustee would handle funds and keep records as this law required him to do. This act was repealed by Private Acts of 1951, Chapter 111.
16. Private Acts of 1949, Chapter 325, amended Private Acts of 1949, Chapter 60, to the effect that the road supervisor and the clerk would be paid out of the general funds of the county instead of the road funds.

17. Private Acts of 1955, Chapter 45, amended Private Acts of 1949, Chapter 60, (although this act had been repealed in 1951) by increasing the salary of the clerk from \$1,200 to \$2,400 per year. This act was properly ratified by the quarterly county court of the county.
18. Private Acts of 1961, Chapter 80, would have created a purchasing committee for the county highway department in Jackson County which would be composed of the county highway commissioner, the chairman of the county court and a member of the county court who would be elected by the entire court for one year term. The committee was authorized to make all purchases for the county highway department, requiring that bidding procedures be observed on all purchases over \$100. The members would draw no compensation but could be reimbursed for their actual expenses and be paid seven cents per mile as travel allowance for their personal cars, or for public transportation outside the county. This act was rejected by the quarterly county court and, consequently, never became operative.
19. Private Acts of 1961, Chapter 81, purported to amend Private Acts of 1951, Chapter 111, by raising the salary of the highway commissioner from \$2,400 to \$3,000 per year, the salary of the road supervisor from \$1,800 to \$2,400 per year, and the salary of the bookkeeper from \$1,200 to \$2,100 per year, but this act was rejected by the quarterly county court and never became effective under the Home Rules provisions of the Tennessee Constitution.
20. Private Acts of 1961, Chapter 342, amended Private Acts of 1949, Chapter 60, by removing the authority of the commissioner of highways to make purchases for the road department. This act was rejected by the quarterly county court and, consequently, never became operative.

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