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Private Acts of 1947 Chapter 38

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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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Private Acts of 1947 Chapter 38

SECTION 1. That in all counties in this State having a population of not less than 14,860 nor more than 14,873, according to the Federal Census of 1940 or any subsequent Federal Census, there is hereby created a County Board of Highway Commissioners, to be composed of five members; and a County Road Superintendent, the said County Board of Highway Commissioners and the said County Road Superintendent to have general supervision and control over all the county roads, bridges and culverts, except such roads, bridges and culverts, and highways as are kept up and maintained by the State or Federal Government, and over all roads, highways, bridges and culvert funds and revenues raised and on hand, or that may be hereafter raised or received from any source for use according to the provisions of this Act. The County Board of Highway Commissioners as herein provided for shall be known and styled the "Hickman County Board of Highway Commissioners."

SECTION 2. For the purposes of this act, Hickman County is divided into seven (7) highway zones which shall be coextensive with the county legislative body districts established by resolution of the Hickman County legislative body from time to time. Beginning with the regular August elections in 2002, one (1) member of the Hickman County Board of Highway Commissioners shall be elected by the qualified voters in each highway zone. Board members shall be elected to four (4) year terms. Terms shall begin on the first day of September following the election and shall continue until a successor has been elected and qualified.

Vacancies on the Board of Highway Commissioners or in the office of road superintendent shall be filled in accordance with general law. In the event of a vacancy in the office of road superintendent, the Board of Highway Commissioners may appoint a temporary successor to perform the duties of road superintendent until the vacancy has been filled in accordance with general law.

As amended by: Private Acts of 1969, Chapter 81
 Private Acts of 1985, Chapter 49
 Private Acts of 2002, Chapter 85

SECTION 3. That the county board of highway commissioners shall, within ten days after taking office, meet and organize by electing one of its members as chairman and one as secretary, and the compensation and mileage allowances of the commission members shall be the same as those provided for members of the Hickman County legislative body.

As amended by: Private Acts of 1949, Chapter 133
 Private Acts of 1969, Chapter 81
 Private Acts of 1977, Chapter 26
 Private Acts of 1985, Chapter 49

SECTION 4. That each of said Commissioners shall, before entering upon the discharge of his duties, take and subscribe to an oath that he will perform the duties of the office faithfully, impartially and without prejudice against or bias favor to any section of the county or individual, and shall execute to the State of Tennessee a good and solvent bond, in the amount of Twentyfive Hundred Dollars (\$2,500.00), which bond is to be approved by the Judge or Chairman of the County Court. The County Road Superintendent shall execute a similar bond in like amount.

As amended by: Private Acts of 1953, Chapter 259

SECTION 5. That Walter V. Atkinson is hereby appointed County Road Superintendent to serve as such until September 1, 1948. At the regular August election to be held in 1948 a County Road Superintendent shall be elected for two years, and biennially thereafter, by the qualified voters of said county. The salary of said County Road Superintendent shall be \$5,400.00 per annum, payable monthly in equal installments, and shall be paid by the County Trustee out of the General Road Funds of the county on warrants signed by the Chairman of the County Board of Highway Commissioners, and approved by the County Judge or Chairman of the County Court. Said County Road Superintendent shall be required to furnish, at his own expense, an automobile to be used in the conduct of his official duties and to pay all repairs and upkeep thereon, provided, however, that the necessary gasoline and oil used by him in said automobile in the conduct of his official duties shall be furnished him by the County Board of Highway Commissioners and paid for out of the General Road Funds of the County, and the County Board of Highway Commissioners shall further furnish such Superintendent with a pickup truck belonging to the county for his official duties.

Said County Road Superintendent during the tenure of his office shall have charge and supervision of all the public roads, bridges and culverts of the County, and shall have charge and supervision of all road machinery, tools and implements used and to be used on said roads, bridges and culverts, and shall have the right to employ labor and hands to work on said roads, bridges and culverts and in quarries, gravel and chert pits or banks, and such labor and hands, when so employed, shall be under his control and he shall fix their compensation. The Superintendent shall not stop work in county unless authorized by the

County Board of Highway Commissioners.

As amended by: Private Acts of 1949, Chapter 133
Private Acts of 1953, Chapter 259
Private Acts of 1957, Chapter 15
Private Acts of 1957, Chapter 329
Private Acts of 1963, Chapter 219
Private Acts of 1971, Chapter 59

SECTION 6. That said County Board of Highway Commissioners shall maintain an office in the county seat of the county from which they are elected. The Board shall meet regularly on the first Monday of every month, and the Chairman may call one special meeting per month in addition to the regular meeting. A majority of the Commissioners shall constitute a quorum for the transaction of business. They shall keep a well bound book or books, which book or books shall be open at all reasonable times and hours to the inspection of any citizen or taxpayer of the County, in which shall be recorded in detail their transactions showing the amount of work done on each of said roads, bridges and culverts, the character thereof, and all disbursements therefor. They shall make a written report to each Quarterly County Court of the County, covering the preceding quarter, showing the amount of work done on each of said roads, bridges and culverts, the character thereof, and the amount of money expended therefor.

Said report to be signed and sworn to by all of said Commissioners, and by the County Road Superintendent, and to be published in some newspaper published at the county seat, the expense of the publication to be paid out of the road funds as other expenditures are paid.

As amended by: Private Acts of 1949, Chapter 133/td>
Private Acts of 1953, Chapter 259

SECTION 7. That said County Board of Highway Commissioners shall have the following powers and authority, among others set out in this Act, and under the limitations and conditions thereof, to-wit:

1. To lay out and classify all public roads of the County, to divide them into sections or divisions as may be necessary or convenient for the proper and convenient construction, repair, maintenance and upkeep to the same except State and Federal aid roads.
2. To open, close, change, restore and widen any of the public roads of the County, and to procure rights-of-way for such either by purchase, gift or by the exercise of eminent domain.
3. To employ the services of an attorney or attorneys whenever deemed advisable by them.
4. To work inmates of the county work house on the public roads, bridges and culverts of the County, and to enter into all proper arrangements with the Workhouse Commissioners, or other authorized party or parties to so work said inmates.
5. The Board shall have control of all rural road funds and shall spend the same as equally as possible among the five zones.
6. The Board shall have authority to employ and fix the compensation of a Clerk to check all invoices coming to the County Highway Garage and keep an accurate record of the same.

As amended by: Private Acts of 1949, Chapter 133/td>
Private Acts of 1953, Chapter 259

SECTION 8. That it shall be the duty of the County Road Superintendent:

1. To make regular inspections of all the public roads, bridges, and culverts of the County, except such as are maintained and kept up by the State and Federal Government; and to make a report to the County Board of Highway Commissioners at their regular meetings, showing the condition of all such roads, bridges, and culverts in the County.
2. To purchase all tractors, graders, plows, slips and any and all other road equipment and tools, and repair for same, as may be necessary for the proper construction, repairs, maintenance and upkeep of said roads, bridges and culverts, subject, however, to the approval of the County Board of Highway Commissioners.
3. He shall have the right and authority to appoint or employ as many overseers or foremen to aid and assist him in carrying out the purposes of this Act, as deemed advisable by him, who shall, at all times, be subject to his orders and be under his control.
4. To designate the location of all telephone or other poles so that said poles may not be placed where they will obstruct the flow of water or interfere with the working of said roads, or the travel thereon.
5. To have the exclusive right and power to expend all funds and revenue now on hand or that may be hereafter raised under this Act and any and all other funds and revenues available for such purposes for the proper maintenance, repair, construction and upkeep of said public roads,

bridges, culverts, quarries, gravel and chert pits or beds, subject, however, to the limitation that any purchase by the Superintendent in excess of Three Hundred (\$300.00) Dollars shall be first approved by the Commission.

6. He shall have the right and authority when deemed best by him, to cooperate with the State Highway Department of Tennessee in all matters of interest to the county. Said Superintendent is given the exclusive authority to lay out and designate all farm to market roads in said county, recommend to and cooperate with the Highway Department of the State of Tennessee on all matters in connection with said Highway Program as the same as now set up and designated and on all matters and projects to be hereafter set up and designated.
7. To employ road hands not to exceed forty in number unless more are authorized by the County Board of Highway Commissioners. All road hands employed shall be bona fide residents of the county.

As amended by: Private Acts of 1949, Chapter 133/td>

Private Acts of 1953, Chapter 259

Private Acts of 1953, Chapter 490

SECTION 9. That it shall be the duty of the County Road Superintendent to dismiss from service upon the roads any hand who shall fail to do good and efficient work, or who shall hinder other hands, or who shall fail to obey any reasonable orders of said County Road Superintendent, overseer or foreman in charge.

SECTION 10. That it shall be the duty of said County Board of Highway Commissioners to require any abutting property owner who, by ditch, embankment, fence or otherwise, obstructs or changes the natural flow of water so as to obstruct the drainage of any road in said County, to remove said obstruction, and in case said property owner fails or refuses to remove same within ten days after having been notified to do so, said County Board of Highway Commissions is hereby authorized and empowered to enter upon the lands of such person, firm or corporation, and remove such obstruction, construct such ditches and embankments as may be necessary to restore the natural flow of water and protect the drainage of the road, charge the expense thereof to the land owner, and such charges shall be a lien upon the lands, and the Chancery Court of the County where the land is situated is hereby vested with full power and jurisdiction to enforce such lien or liens upon petition filed in Court by said County Board of Highway Commissioners for that purpose, and said County Board of Highway Commissioners are hereby authorized to institute such proceedings.

SECTION 11. [Deleted by Private Acts of 1997, Chapter 46]

SECTION 12. That it shall be a misdemeanor for any person or persons, firm or corporation to tie or swing water gaps or gates or in any way tie or fasten the same to any part of any bridge or bridges or culverts of the County, or abutments or posts thereof, and on conviction therefor shall be fined not less than Ten nor more than Twenty-five Dollars for each and every offense. Each day said water gaps or gates remains so tied or swung or fastened to any bridge, culvert, or any abutment or posts thereof, of the County, shall be and constitute a separate and distinct offense.

SECTION 13. That said County Board of Highway Commissioners shall have the right, power and authority to condemn, in their own names for the use of the Counties from which they are elected, under the laws of eminent domain any and all lands necessary for the locating of public roads, bridges and culverts, rock quarries, gravel or chert beds and other material necessary for the building, repairing, maintenance and upkeep of same, in the manner provided for the taking of private property by public corporations, and shall have the right to condemn private property for roads of ingress and egress to rock quarries, rock crushers, chert and gravel beds, setting machinery, road camps, etc., and in case of suit or other proceedings to delay or prevent the exercise of these powers, the County Board of Highway Commissioners may, on behalf of the County, give a satisfactory indemnity bond in a sum not more than double the amount of the estimated damages, and proceed with the work.

All expenses arising on account of the procuring of rights-of-way, land, rock quarries, gravel and chert beds, setting machinery, road camps, etc., whether by purchase, gift, exercise of eminent domain, or otherwise, including damages, shall be paid by the Trustee of the County, out of the general road funds of the County, upon orders signed by the Chairman of the County Board of Highway Commissioners, countersigned by the County Road Superintendent, and approved by the County Judge or Chairman.

SECTION 14. That all applications to open, change, close, and restore to the public use any and all public roads in Counties in this State coming under the provisions of this Act shall be made by written petition to the County Board of Highway Commissioners for said Counties. The said County Board of Highway Commissioners within ten days after the application has been filed with them, shall notify the person first named on the petition of the date at which they will be present at the beginning point mentioned in the petition to act on the application. The petitioners shall give five days written notice of the time and

beginning point to all land owners to be affected by the proposed change. If an [sic] land owner affected by the proposed change is a non-resident, then ten days written notice to his agent or attorney residing in the County shall be a legal notice.

The said County Board of Highway Commissioners shall attend at the appointed time and place, and if the proper notices have been given, shall act upon the application, assess the damages against the County, if any, and report their action to the County Judge or Chairman, and with their report file the original petition, notices to the land owners, and the names of the material witnesses. In assessing damages, said County Board of Highway Commissioners shall take into consideration the incidental benefits to the landowners which may arise from the construction of the said road, and offset the same against incidental damages. They may adjourn the hearing from day to day, summon witnesses, and administer oaths to witnesses. The Judge or Chairman of the County Court shall consider the whole matter and make such orders opening, changing and closing and restoring to the public the proposed road as he may deem best for the interest of the public, and shall set aside a sufficient amount of any County funds available therefor to pay all damages to the landowners affected by said change. Any interested party may appeal to the next term of the Circuit Court; as to the amount of damages only; provided he shall perfect his appeal within ten days from the decision of the County Judge or Chairman. Said County Board of Highway Commissioners may of their own motion and by their own initiative, open, change, abandon, close or restore to the public use any road or roads in said Counties, without petition, by observing all the essential requirements as set out above in cases in petitions.

When any lands shall be condemned for road purposes the same may be taken at once, as in case of railroads and other common carriers, and the owners shall have recourse on the County for the damages only, and the said County Board of Highway Commissioners may issue a writ of possession directed to the Sheriff of the County, commanding him to put the said road right-of-way into the possession of the County Board of Highway Commissioners.

SECTION 15. That said County Board of Highway Commissioners shall have the power and authority to, whenever they deem it to the advantage and interest of the County in matters pertaining to public roads, etc., of the County, employ the services of an attorney or attorneys, and pay a reasonable fee therefor, which fee shall be paid by the County Trustee, out of the general road funds of the County, or the gas maintenance fund as a road expense on an order signed by the Chairman of the said County Board of Highway Commissioners, countersigned by the County Road Superintendent and approved by the County Judge or Chairman.

SECTION 16. That it shall be the duty of the County Road Superintendent to work all able-bodied workhouse prisoners on the public roads, or in the quarries, and at the crushers, on the bridges and on the culverts in said Counties, until such prisoners have worked out their sentences, fines and costs.

The Highway Commission shall have the exclusive power to appoint any guard or guards necessary for the working of prisoners upon the public roads of the County. Provided, however [sic], that no guard or guards shall be appointed by the Highway Commission unless and until their appointment is approved by the Sheriff of the County.

Any guard or guards appointed and employed by the Highway Commission to supervise the working of prisoners upon the public roads of the County shall be capable of performing the duties of foreman and overseer on behalf of the Highway Department and shall be men of sound judgment, approved by the Sheriff as capable of just and humane treatment of prisoners and the efficient working of such prisoners.

The compensation of any guard or guards so employed by the Highway Commission and approved by the Sheriff shall be fixed by the Highway Commission and paid by them in like manner as other employees of the Highway Commission.

The purpose of this Act in regard to the County convicts is only to provide a method for working them on the County roads, bridges, culverts and in the quarries, and in all other respects the general law in regard to County convicts is not to be affected, and nothing in this Act is to be construed as altering it other than hereinabove stated.

SECTION 17. That all road taxes levied by the Quarterly County Court in said Counties, other than the Highway Maintenance Tax, upon real estate and personal property in said Counties shall be collected by the Trustee like other taxes and credited by him to the road funds of the various districts so that each district may have its own road funds which shall be expended on its roads by the County Board of Highway Commissioners. The Trustee shall pay out the said district funds only on orders drawn on the particular district funds, signed by the Chairman of the County Board of Highway Commissioners, countersigned by the County Road Superintendent and approved by the County Judge or Chairman.

SECTION 18. That all of said funds and taxes, including fines, provided for in this Act, and including all funds due the County from the State as highway funds, shall be paid into the hands of the Trustee of the

County in which collected, except where otherwise provided, and shall be by him credited to the general road funds of the County, except where otherwise provided, and shall be paid out by said Trustee only on orders signed by the Chairman of the County Board of Highway Commissioners, countersigned by the County Road Superintendent and approved by the County Judge or Chairman.

SECTION 19. That the County Road Superintendent shall not contract with himself or any other County official in any manner, either directly or indirectly, for any material or labor or in any manner pertaining to the construction, maintenance and repair or bridges and roads, nor with anyone related to him by affinity or consanguinity within the third degree according to the civil law.

SECTION 20. That it shall be unlawful for any of the officials, designated herein, having charge of and the right to expend and disburse funds as provided in this Act, to issue a warrant or warrants against said fund, when there is no sufficient amount of such funds on hand to pay off and redeem the amount of such warrants thus issued.

SECTION 21. That any official, connected with said department as designated herein that they shall violate any provision of this Act, shall be deemed guilty of a misdemeanor in office, and upon conviction of same shall be subject to removal from office.

SECTION 22. That each section hereof shall be and constitute a separate act, and that if any part hereof shall be declared unconstitutional the remainder which is constitutional shall remain in full force and effect.

SECTION 23. That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

SECTION 24. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: January 21, 1947.

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