



County Technical Assistance Service  
INSTITUTE *for* PUBLIC SERVICE

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# Chapter IX - Highways and Roads

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Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

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# Chapter IX - Highways and Roads

## Road Law

### Private Acts of 1943 Chapter 250

**SECTION 1.** That in counties of this State having a population of not less than 11,900, nor more than 12,000, by the Federal Census, for the nor more than 12,000, by the Federal Census [sic] of 1940 or any subsequent Federal Census, for the therein [sic] such County shall constitute one entire district to be in charge of a road supervisor, who shall be the principal executive official thereof; at the August Election, 1944, and biennially thereafter, there shall be elected by the qualified voters of counties to which this Act applies some capable experienced man as supervisor of roads, who shall hold office for a period of four (4) years from September 1 next following his election and until his successor shall be elected and qualified. Before assuming office, such road supervisor shall take an oath to fairly and faithfully discharge the duties of his office and shall execute a bond in a sum not to exceed \$10,000.00, the amount thereof to be fixed by the County Judge and such bond to be approved by the County Judge. Such road supervisor shall be paid a salary of six thousand dollars (\$6000.00) per annum, and in addition to said salary, such road supervisor shall receive by separate warrant the sum of \$50.00 per month to cover all his personal expense incident to his official duties, payable in equal monthly installments out of the county highway fund in the hands of the County Trustee. In addition thereto, he shall be allowed to expend not exceeding \$1800.00 per annum for a secretary and bookkeeper, such sum to be paid in equal monthly installments to the person so designated by him as secretary-bookkeeper and also to be paid out of the county highway funds. Until September 1, 1944, the Governor of the State is hereby authorized to appoint some capable qualified person to act as such supervisor of roads. The bond of the road supervisor shall be executed by a corporate surety, authorized to do business in the State of Tennessee, and the premiums for the said surety bond shall be paid by the county.

As amended by:

Private Acts of 1949, Chapter 259

Private Acts of 1959, Chapter 130

Private Acts of 1961, Chapter 245

Private Acts of 1963, Chapter 250

Private Acts of 1973, Chapter 8

**SECTION 2.** That it shall be the duty of the supervisor in counties to which this Act applies, to efficiently construct, maintain and operate the road system in such counties; and it shall be his duty as early as weather conditions permit and funds available will allow, to begin the work of maintenance and repair of the roads in his county and to continue the same as long as necessary and permitted by available funds. Such road supervisor shall have full and complete authority to employ such labor and skilled mechanics as he may need but the compensation payable by him for such shall not exceed the compensation paid by the State Highway Department in such county for similar services. Such supervisor shall keep a time book of the hours of labor worked by each person so employed by him and for the purpose of paying such person for labor, and other necessary expenditures, may issue warrants drawn upon the road funds of said county, which warrant shall be drawn on the County Trustee; but no such warrant shall be valid unless countersigned by the County Judge of counties to which this Act applies nor unless accompanied by certificate from such road supervisor that the payee named in the warrant, where the same be issued for labor, has actually performed the number of hours set forth at the appropriate rate per hour. Any road supervisor who issues a fraudulent warrant shall be guilty of a misdemeanor and upon conviction, shall be fined not less than \$10.00, nor more than \$50.00, and imprisoned for not less than sixty days nor more than six months in the county jail. The road supervisor, with the approval of the County Judge, shall have the power and authority to make emergency purchases of supplies, materials, repair parts for road machinery or equipment and the like, provided any such emergency purchase does not exceed the sum of \$500.00. The road supervisor shall, at least 10 days prior to each regular meeting of the Quarterly County Court, make and file with the County Court Clerk a list showing all supplies, gas, oil, tires, materials, repair parts, equipment, machinery and the like that he thinks it necessary or desirable to purchase within the next 3 months and the estimated cost thereof; and the County Judge, with the approval of the Quarterly County Court, shall appoint a committee consisting of 3 members of the County Court who, along with the road supervisor and the County Judge, shall have and are hereby given the power and authority to, after the taking of bids, enter into contracts in the name of the County for the purchase of said supplies, gas, oil, tires, materials, repair parts, equipment, machinery and the like as they deem it necessary or desirable to purchase. No contract for the purchase of supplies, gas, oil, tires, materials, repair parts, equipment, machinery and the like shall be binding upon the County unless the same is made in accordance with the provisions of this Act and signed by the road supervisor and the County Judge in

the case of emergency purchases in amounts under \$500.00, and signed by the road supervisor, the County Judge and said 3 members of the County Court in the case of purchases other than emergency purchases. The road supervisor herein named shall at least ten days prior to the next meeting of the Quarterly County Court of counties to which this Act applies make and file with the County Court [sic] Clerk a full and complete report of all disbursements made by him since the date of the last report. Each report so made shall contain all disbursements up to the first of the calendar month in which such report be made; and such report when filed with the County Court Clerk shall be preserved by him as a part of the records of his office, shall be spread upon the minutes of the court if the Quarterly County Court so elect and shall be available for inspection by any interested citizen.

As amended by: Private Acts of 1959, Chapter 130

**SECTION 3.** That all applications to open, discontinue and change roads shall be made to the road supervisor and in addition thereto, such supervisor and the approval of the Quarterly County Court shall have power to do the same upon his own initiative and by the approval of the Quarterly County Court. For the purpose of more effectively making practicable such changes in the roads, the county, acting through the supervisor, shall have and possess the power of eminent domain which shall be exercised in the following manner:

Whenever the Road Supervisor and by the approval of the Quarterly County Court shall be of the opinion that a change or alteration in the present system of roads shall be necessary, he shall give notice to the landowner affected of the location of such proposed change and of the [sic] date upon which a jury of view will be summoned to view the proposed change and to award damages. He shall likewise file a copy of such notice in writing with the Sheriff of counties to which this Act applies and thereupon the Sheriff shall appoint a jury of view of five members to go upon and examine the premises and to assess the damages occasioned to the landowner by such change. The award of such jury of view shall be made in writing and filed with the County Court Clerk and all damages and costs awarded under this Act shall be and become a charge against [sic] the general funds of counties to which this Act applies. Any person aggrieved by the action of the jury of view herein provided may within ten days after the filing of said report by the jury of view with the County Court Clerk, appeal therefrom to the next term of the County Court of said County by giving security or executing the pauper's oath as required by law; and from the action of the Quarterly County Court an appeal lies to the next term of the Circuit Court of said county, either party being entitled to get a jury upon his or her application at the hearing in such Circuit Court. In addition to the right to condemn land for the purpose of changes in existing roads, such county is given the power of eminent domain with respect to borrow pits, gravel pits, sand banks and other material deemed necessary as essential in the construction of roads. The procedure in case of condemnation thereof shall be the same as that provided above; but nothing herein shall deny to such county the right to proceed to condemn such property under the procedure now provided by the general statutes of Tennessee for the exercise of eminent domain of public corporations, the procedure herein provided being merely alternative rather than exclusive. The road supervisor herein named shall have and exercise full and complete control over all bridges forming a part of the county highway system and such bridges shall be treated as a part of the road system for the purposes of this Act.

**SECTION 4.** That the Legislature hereby declares that the provision [sic] of this Act are severable and if any part thereof be unconstitutional, the Legislature expressly declares that it would have enacted this Act with such unconstitutional section elided therefrom; and that all laws and parts of laws in conflict herewith, be and the same are hereby repealed.

**SECTION 8.** [sic] That this Act shall take effect from and after its passage, the public welfare requiring it. Passed: February 2, 1943.

## Highways and Roads - Historical Notes

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

1. Acts of 1849-50, Chapter 210, authorized the Trustees of Benton, Henry, and Carroll Counties to draw out of the Branch of the Bank of Tennessee at Trenton, the unexpended balance of the funds appropriated to improve the navigation of the Big Sandy River, the same being divided into three equal shares and given to each county. The County Court was allowed to spend these funds on bridges and causeways, if desired. The money could also be lawfully invested in the stock of the Huntingdon and Tennessee Turnpike Company, if the County Courts so wished to do.
2. Public Acts of 1901, Chapter 136, was a statewide road law which applied to all counties under 70,000 in population, as established by the 1900 Federal Census. This act served as a pattern for many county road laws which followed. The act required the County Court of each County to elect

- one Road Commissioner from each Road District, which were co-extensive with the civil districts of the county for two year terms, who would be in charge of the roads, bridges, causeways, and overseers in that district, and whose duties were generally specified in the act. The County Courts shall assign road hands, specify the number of days they should work on the roads each year, and the amount to be paid by them if they didn't work, which would run between 5 and 8 days. The Courts could levy a special road tax of two cents per \$100 property valuation, two-thirds of which could be worked out on the roads and two-thirds of the same must be spent in the district from whence it came. Certain records were directed to be kept and reports were to be made. The duties of the Commissioners were outlined generally. Male residents between 21 and 45 years of age were subject to compulsory road labor after being properly notified. Roads must be classified into four classes according to width and some basic specifications were pronounced for laying out and building roads. Petitions to open, close, or change roads would be filed with, considered by, and disposed of by the Commission. Workhouse prisoners could be worked on the roads if certain conditions were met and arrangements were made with the Sheriff. This act was tested in the courts by the case of Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1905).
3. Acts of 1905, Chapter 478, amended Public Acts of 1901, Chapter 136, in several minor particulars but principally in the procedures established for considering and disposing of petitions filed with the Road Commission to open, close, or change roads.
  4. Private Acts of 1919, Chapter 435, created a 3 member Board of County Highway Commissioners, elected to staggered two year terms by the County Court. The County Judge or Chairman, would be an ex-officio member of the Commission whose members must be sworn and bonded. A Chairman and a Secretary would be chosen from the members. A list of 19 duties of the Commission, and their power and authority, is compiled in Section 5 of the act, ranging over the whole spectrum of highway operations and maintenance. The County Court was empowered to designate the public roads of the county, which were to be classified within a minimum width of 14 feet and a maximum of 24 feet. The Commission will set aside out of the highway funds a sum sufficient to prosecute all the above work, and they could contract with farmers along the road for work payable out of these same funds. The Commission may enter upon private lands to obtain rights of way and materials either by contract or by condemnation. Commissioners would be paid \$3.00 per day for their services, including their inspections but were limited to \$90 per plus, their necessary travel expenses. Supervisors could be appointed by the commissioners for roads of three to eight miles in length who would be directly responsible for those roads. Obstruction of roads was prohibited under penalty of fine and imprisonment. The County Court was allowed to levy a special highway tax of from 50 cents to \$1.00 per \$100 property valuation which would not interfere with or supersede any other road tax then in force. Blanket authority to issue bonds was also vested in the commission the proceeds of all of which would be used to accomplish road objectives.
  5. Private Acts of 1919, Chapter 451, is contained in some works on private acts as relating to Benton County but this act applies only to Wayne County. The population figures quoted were "no less than 12,050 and no more than 12,070". The 1910 Federal Census gave Benton County a population of 12,452.
  6. Private Acts of 1921, Chapter 690, is also shown as applying to Benton County, but it amends the act above, and consequently does not apply to Benton County.
  7. Private Acts of 1923, Chapter 532, was the next road law for Benton County but contained only a general repealing clause. After defining several terms as used in the act, it creates a County Highway Commission, naming C. N. Matlock, S. L. Bawcum, N. P. Lashlee, Bob Smith, and J. F. Dowdy to the commission, who shall hold office until the August, 1924, general elections produce their successors. The duties of their offices were specified and their term of office set at two years. The Supervisor of Roads would be the Chairman of the Commission, who could employ a Secretary, and the duties of both were spelled out in the act. The Road Districts would be the same as the civil districts, for each of which an overseer or foreman would be appointed to discharge certain specified duties. All males, not residents of cities, between the ages of 21 and 50 shall work five, 8 hour days or pay commutation fees. Fines were provided for those who failed to comply. Purchasing procedures were established which required bids to be solicited and records to be kept. Prisoners, and convicts, could be worked if certain conditions were met. The Chairman of the commission would be paid \$1,000 a year, and the members would be paid \$3.50 per meeting. This act was repealed by Private Acts of 1929, Chapter 868.
  8. Private Acts of 1927, Chapter 746, amended Private Acts of 1923, Chapter 532, above, in Section 3 by reducing the membership of the County Highway Commission from five to three members and specifying certain qualifications to be met. Section 4, was amended by adding a provision that

the commission would pay their office expenses and then use any money coming into their hands, or appropriated for their use, to run and operate a tractor and grader on roads under their supervision from February 1 to September 1, of each year, said tractor and grader not to be used at any other time. Section 6 was changed to increase the annual salary of the Secretary to the Commission to \$600 payable monthly. Section 8 was revised so that people with teams and wagons, between ages of 21 and 50, must furnish them for road work and use them as the commission, or overseer directed. The salary of the Chairman was increased from \$1,000 to \$1,500 annually, and his bond from \$5,000 to \$7,000. This act was also specifically repealed by Private Acts of 1929, Chapter 868, below.

9. Private Acts of 1929, Chapter 868, specifically repealed Private Acts of 1923, Chapter 532, and Private Acts of 1927, Chapter 746, and then wrote a new road law for Benton County. A board of Road Commissioners was created consisting of one member from each Road District which were the same as the 16 Civil Districts, plus the County Judge, who would be the ex-officio Chairman of the Board and in charge of the spending of all money at a compensation of at least \$25 per month for his services. R. G. Farmer, W. B. Warrick, and R. H. Crockett the present Road Commission would be members also of the new one until their terms of office expired. Farmer was appointed as County Supervisor, and the other Supervisors for the Districts were to be appointed by the County Court for two year terms, if the established qualifications were met. The County Supervisor would be paid from \$100 to \$150 a month as the County Court determined, and must execute a \$5,000 bond. The District Commissioners were in charge of their Districts, and would appoint overseers who would be fined, if they did not serve. Overseers would work six days labor, as other males would, and then could work not more than ten additional days at \$2.50 a day and five cents per mile travel allowance. Purchasing regulations were adopted to which all must adhere, but work could be contracted, if desired, which must take place between April and October. The special road tax levy could range between fifteen and thirty cents per \$100 property valuation. All males between the ages of 21 and 50 must work six, eight hour days, or pay 50 cents a day commutation. Wagons and teams must be furnished by those who had them but drivers could be found elsewhere, if necessary. A privilege tax of \$3.00 for a car, and \$5.00 for a truck, was levied. The County Court Clerk would collect the privilege tax and give each purchaser a metal tag when the tax was paid. See *Frazier v. Lindsey*, 162 Tenn. 230, 36 S.W.2d 437 (1931).
10. Private Acts of 1931, Chapter 200, evidently superseded the 1929 act, Item 10, above, as the new Road Law for Benton County although it contained only a general repealer. This act created a 3 member County Highway Commission naming R. L. Farmer, B. C. Bell, and J. Carley Martin as such until the general election in August, 1932, when their successors would be elected for two year terms. Farmer was to be the chairman of the Commission and the County Road Supervisor. Twelve roads were named in this the act as the ones to be worked first, the intention being to get at least one road through each Civil District. The Commission would select the roads to be worked, appropriate the money for the same, and the Supervisor was not to exceed that amount. The Chairman would be the Road Supervisor and be in charge of all county road programs keeping accurate records of all details as required. The Commission would appoint an overseer who would be responsible for road work in his district, the same being coextensive with the Civil Districts. All males between ages of 21 and 45, outside of cities, must work five, eight hour days, or pay 75 cents per day for each day not worked, or a \$3.00 lump sum. The Chairman would be paid \$1,500 per year at the rate of \$125 a month and the members would get \$3.50 a day. All the other provisions of this act were similar to those preceding it. This act was repealed by the following one.
11. Private Acts of 1931, Chapter 315, repealed Private Acts of 1931, Chapter 200, almost by the time it became effective which would probably restore Private Acts of 1929, Chapter 868, as the Benton County Road Law.
12. Private Acts of 1933, Chapter 314, repealed Private Acts of 1929, Chapter 868, which presumably was the road law for Benton County, in its entirety.
13. Private Acts of 1935, Chapter 710, provided that the Tennessee Department of Highways and Public Works shall have and exercise full control, direction, and supervision of all funds received by Benton County for road purposes from the State of Tennessee whether the funds come from auto registration fees, gasoline taxes, or any other source. The Department shall receive these funds directly from the State and expend them upon the roads of the County, rendering a monthly statement to the County Judge, or Chairman, for all receipts and disbursements. This Act was held unconstitutional by the Supreme Court in *Benton County v. Plunk*, 170 Tenn. 253, 94 S.W.2d 389 (1936), because it was considered to be class legislation.
14. Private Acts of 1949, Chapter 259, amended Chapter 250, Private Acts of 1943, Section One, by

- increasing the annual salary of the Road Supervisor from \$1,800 to \$2,400 and, further, by raising the annual salary of the Secretary-Bookkeeper, authorized in the same Section, from \$900 to \$1,200.
15. Private Acts of 1959, Chapter 129, would have amended Private Acts of 1943, Chapter 250, Section 3, by adding a paragraph which directed the Road Supervisor to use State Aid Funds for the acquisition of rights-of-way for county roads and bridges for the purposes of maintaining county roads and bridges as referred to the Section 54-401, Tennessee Code Annotated. This Act was rejected and disapproved by the Quarterly County Court of Benton County and, consequently, never became an effective law under the Home Rule Amendment to the State Constitution.
  16. Private Acts of 1959, Chapter 130, amended Private Acts of 1943, Chapter 250, Section One, by raising the salary of the Road Supervisor from \$2,400 to \$3,600 per year, and by increasing the amount of his bond from \$5,000 to \$10,000 with the proviso that the bond be made by some corporate surety authorized to do business in the State of Tennessee, and provided further, that the county pay the premium. Section 2 was amended by striking one sentence which prohibited the Road Supervisor from purchasing machinery, or materials, over \$500 unless such purchases were first approved by the County Court and inserting the provisions on purchasing which appear in the published act.
  17. Private Acts of 1961, Chapter 245, amended Private Acts of 1943, Chapter 250, Section One, by adding a provision which would pay the Road Supervisor, in addition to his annual salary of \$3,600, \$50 per month to cover all his personal expenses incident to his official duties. This amendment is incorporated into the published act.
  18. Private Acts of 1963, Chapter 250, amended Private Acts of 1943, Chapter 250, Section One, by increasing the salary of the Secretary- Bookkeeper as provided for in that Section, from \$1,200 to \$1,800, as shown in the act, this law being properly ratified by the Benton County Quarterly County Court.
  19. Private Acts of 1967-68, Chapter 312, would have amended Private Acts of 1943, Chapter 250, Section One, by increasing the term for which the Road Supervisor would be elected from two years to four years but this act was rejected and disapproved at the local level which nullified its effectiveness.
  20. Private Acts of 1967-68, Chapter 313, also amended Private Acts of 1943, Chapter 250, Section One, by increasing the salary of the Road Supervisor from \$3,600 to \$7,200 annually. This act was also rejected by the Benton County Quarterly Court and never did become a law.
  21. Private Acts of 1973, Chapter 8, amended Private Acts of 1943, Chapter 250, Section One, by raising the annual salary of the Road Supervisor from \$3,600 to \$6,000.
  22. Private Acts of 1973, Chapter 26, would have amended Private Acts of 1943, Chapter 250, Section One, by deleting the last sentence and inserting in its place a provision which would permit the Road Supervisor to employ a Secretary-Bookkeeper and to set a suitable salary for such person himself which salary would be paid to the employed person out of the county highway funds, and by amending Section Two by increasing the limitation placed on purchases without approval from the County Court from \$500 to \$1,000. This act was rejected and disapproved by the Benton County Quarterly Court, thus being nullified and made void.
  23. Private Acts of 1974, Chapter 177, would have amended Private Acts of 1943, Chapter 250, Section One, by increasing the term of the Road Supervisor from two years to four years, by increasing the Road Supervisor's annual salary from \$6,000 to \$11,000, and his bond from \$10,000 to \$100,000. The provision for the employment of a Secretary-Bookkeeper was changed by removing the \$1,800 limitation on the yearly salary and by requiring that the Secretary-Bookkeeper be paid an amount at least equal to minimum hourly wage being paid to truck drivers and the salary of this position would be increased when the truck drivers salary was elevated in the same amount and at the same time. This act was rejected and rendered null and void by the Quarterly County Court of Benton County.

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