



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter IX - Highways and Roads

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

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

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Chapter IX - Highways and Roads

Road Law

Private Acts of 1947 Chapter 354

SECTION 1. That in all Counties having a population of not less than twenty-eight thousand four hundred ninety-eight (28,498) and not more than twenty-eight thousand five hundred three (28,503), according to the Federal Census of 1940, or any subsequent Federal Census, there shall be, and is hereby created, the office of "Pike Road Superintendent." The Pike Road Superintendent shall be elected for a term of four years at the August 1958 election in said counties and biennially thereafter at the August General Election, and, in case of vacancy in said office, the Judge or Chairman of the County Court shall fill said vacancy by appointment until the next quarterly session of the County Court thereafter, at which time the County Court shall elect a Pike Road Superintendent to fill out the unexpired term. The said Pike Road Superintendent shall be a person competent and experienced in the building and maintenance of roads. The said Pike Road Superintendent shall be paid a salary of six thousand five hundred dollars (\$6,500.00) per annum, and in addition shall be allowed the sum of fifteen hundred dollars (\$1,500.00) per annum for necessary expenses, including travel expenses, such expense allowance to be in lieu of any and all other expenses now being paid such official. Provided, however, that from and after the election of such official on the first Monday in September, 1966, the compensation of such Pike Road Superintendent be and the same is hereby fixed at the sum of eight thousand two hundred fifty dollars (\$8,250.00) per annum to be paid out of the general fund of such counties on warrants issued by the County Judge or Chairman thereof, payable in equal monthly installments to such Superintendent and such salary, when it becomes effective shall be in lieu of any and all compensation for said official including the expense allowance heretofore provided therefor. Provided further that the Quarterly County Court of Bradley County by a vote of two-thirds (2/3) of the members to which the body is entitled, may increase the salary of the Pike Road Superintendent, as provided in this Act, to an amount not to exceed the compensation of the Trustee of Bradley County to be paid out of the general fund of Bradley County, as heretofore provided in this section. The said Pike Road Superintendent shall devote his entire time to the duties imposed upon him by this Act, and shall have personal charge and supervision of the construction, maintenance, improvement and repair of the pike roads of said County; and the County Court may, from time to time, designate any or all other roads of the County to be improved and to thereafter be under the control and supervision of said Pike Road Superintendent. It shall be the duty of said Pike Road Superintendent to personally visit and examine the aforesaid roads coming under his supervision at least once each month; and he shall direct and look after the proper maintenance of the same, and see that said roads are kept in proper repair. The said Pike Road Superintendent shall have charge and control of all the County road machinery, tools and equipment now owned or that may hereafter be owned by said County. The said Pike Road Superintendent shall have an office in the Courthouse of said County to be furnished by the County Court, in which he shall keep all the records of his office, and he shall be in his office on the second and fourth Saturdays of each month for the purpose of transacting any business relative to the affairs of his office. The Pike Road Superintendent shall keep in a well-bound book or books an itemized list of all County pike road machinery, tools and equipment coming into his hands and under his control; and shall keep in said book or books a correct and detailed account of all transactions; showing all receipts and disbursements in detail, and all amounts paid out and to whom and on what account paid out; and he shall make quarterly reports to the County Court of said County showing in detail all the road work done and all receipts and disbursements, and said reports shall be copied in full on the records of said County Court. Said Pike Superintendent shall make such additional reports from time to time as directed by said County Court. The Pike Road Superintendent shall, within ten days after his election and before qualifying for his office, file with the County Court Clerk a good and solvent bond in the sum of Fifteen Thousand (\$15,000.00) Dollars executed by some corporate surety company authorized to issue such bonds in this state, and said bond to be payable to the State of Tennessee for the use and benefit of the County and conditioned on the faithful and efficient performance of the duties of the office of Pike Road Superintendent, and the proper accounting for all monies and other County property coming into his hands, and the keeping of all records of his office. Such bonds shall be approved by the Judge or Chairman of the County Court. And he shall be approved by the Judge or Chairman of the County Court, and the premium thereon shall be paid from the Road Funds of said County. And he shall also take and subscribe to an oath to faithfully and impartially perform all the duties of his office to the best of his skill and ability, which bond and oath shall be filed in the office of the County Court Clerk.

As amended by:

Private Acts of 1949, Chapter 207

Private Acts of 1951, Chapter 474

Private Acts of 1965, Chapter 261
Private Acts of 1969, Chapter 76
Private Acts of 1971, Chapter 138

SECTION 2. That said Pike Road Superintendent shall have the control of the expenditure of all funds obtained or collected for the construction, maintenance, improvement or repair of said pike roads, including the proceeds of all bonds sold and taxes collected for this purpose; and he is hereby authorized and empowered to employ one or more foremen to work under his direction and orders, and all other employees and laborers needed in the prosecution of said work from time to time at the wages usually paid by private parties for similar work; and he shall have the power to purchase or hire the necessary tools, equipment, and machinery for working said pike roads, or contract for the repair of any such machinery or equipment. Under the direction of the County Court he may enter into contracts for the improvement, construction or repair of all or any part of the roads under his supervision. All pike road funds obtained from taxation, proceeds of bonds sold, or other sources, shall be collected and paid out by the Trustee of each county coming under the provisions of this Act on the warrant of the Pike Road Superintendent. The Pike Road Superintendent shall not contract for, or draw out, any of the road funds of the County for more than the assessment of the year and any surplus that may be left from previous years; and shall not create or contract any indebtedness, without the approval of the County Court, to be paid out of the road funds of subsequent years.

As amended by: Private Acts of 1949, Chapter 207
Private Acts of 1989, Chapter 118

SECTION 3. That said Pike Road Superintendent, provided for in this Act, shall have charge and supervision of the workhouse and all prisoners confined therein, in each County coming under the provisions of this Act, and he is authorized and vested with the power to employ necessary guards to formulate any and all rules for the regulation of the workhouse and working of prisoners therein, and it shall be his duty to work all prisoners confined in the workhouse of said County upon the pike roads under his direction and control.

SECTION 4. [Deleted by Chapter 207, Private Acts of 1949].

SECTION 5. That the County Court of each County coming under the provisions of this Act be, and is hereby authorized and empowered to levy and collect annually, in addition to the taxes already authorized by law, a special tax to not exceed Twenty-Five (\$0.25) Cents on each One Hundred (\$100.00) Dollars of taxable property in said County, to be known as the "Pike Road Tax" and to be applied exclusively to the maintenance, improvement and repair of the pike roads of said County, under the control and authority of said Pike Road Superintendent.

SECTION 6. That all Acts, or parts of Acts, in conflict with this Act be, and the same are, hereby repealed.

SECTION 7. That the provisions of this Act are hereby declared to be severable. If any of its sections, provisions, exceptions, sentences, clauses, phrases or parts, or any wording is held to be unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent now hereby declared, that this Act would have been adopted if such unconstitutional or void matter had not been included herein.

SECTION 8. That this Act take effect from and after September 1, 1948, the public welfare requiring it.

Passed: February 19, 1947.

Excavation Permits

Private Acts of 1971 Chapter 139

SECTION 1. It is unlawful for any person to perform any type of construction or excavation in the right-of-way of any county road of Bradley County or to make an entrance, remove, injure, damage, or destroy the pavement, curbs, gutters, sidewalks or any other improvements of any county road of Bradley County without a permit issued by the Road Superintendent of Bradley County. As used in this act, "county road" means any highway, street, road, alley or other public way under the authority of the Road Superintendent and highway department of Bradley County. "Person" means any person, firm, corporation, municipality or public utility.

SECTION 2. The County Road Superintendent of Bradley County shall make reasonable rules and regulations governing the issuance of permits and shall require a surety bond or cash deposit in an amount sufficient to insure the satisfactory repair of the road to its previous condition before the issuance of a permit to work in the right-of-way of such road. Such bond or cash deposit shall not be released by

the Road Superintendent until the county road or right-of-way has been repaired to its previous condition.

SECTION 3. The Road Superintendent of Bradley County may enter into an agreement with such permit holder for the Bradley County Highway Department to repair the road or its right-of-way but such permit holder shall pay all costs for such repairs. The County Road Superintendent shall require a cash deposit in an amount sufficient to pay for the costs of repairs at the time such agreement is made.

SECTION 4. Upon conviction of a violation of this Act, a person shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1000.00).

SECTION 5. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the quarterly county court of Bradley County before September 30, 1971. Its approval or non-approval shall be proclaimed by the presiding officer of the quarterly county court and certified by him to the secretary of state.

SECTION 6. For the purpose of approving or rejecting the provisions of this Act, as provided in Section 5, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 5.

Passed: May 12, 1971.

Highways and Roads - Historical Notes

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

1. Acts of 1853-54, Chapter 263, appointed M. A. Woods, Caswell Hutcherson, James Grigsby, Stephen Bird, A. A. Clingland, G. W. Parks, C. L. Hardwick, E., F. Johnson, and C. B. Luttrell, as Commissioners to open books and to sell stock subscriptions in a sum sufficient to the construct and to macadamize a plank turnpike road from Georgetown in Hamilton County along the old federal road where possible to Cleveland in Bradley County. The details of supervision, the standards for construction, and the regulations for operation and maintenance once the road was completed were all included in the Act.
2. Acts of 1865-66, Chapter 88, incorporated Caswell Hutchison, George Mumsey, and James S. Bradford, and their successors, as the "Cleveland and Smith's Cross Roads Turnpike Company" with all the incidental corporate rights and privileges being conferred upon them, to construct and grade, and to macadamize a turnpike road from Cleveland in Bradley County to Smith's Cross Roads in Rhea County.
3. Acts of 1869-70, Chapter 71, was the enabling legislation for a company to be formed to construct a railroad from Cleveland in Bradley County to intersect the line of the projected railroad known as the Cincinnati Southern extending from Cincinnati to Chattanooga which railroad, when built, would be called the "Cleveland and Tennessee River Railroad". \$150,000 was the amount of authorized capital stock to be subscribed and sold by J. H. Gaut, Joseph Tucker, John B. Hoge, John McPherson, P. B. Mayfield, J. M. Crow, Stephen Beard, S. P. Gaut, Oke Henry, R. M. Edwards, D. R. O'Neil, William J. Campbell, A. J. White, Joseph R. Taylor, and J. Caleb Morgan.
4. Acts of 1901, Chapter 136, was a general road law applicable to every county in Tennessee under 70,000 in population according to the 1900 Federal Census. The County Court would select one Road Commissioner, who would serve two years, from each Road District in the County, the Road Districts being declared co-extensive the Civil Districts. The Road Commissioner thus selected must be sworn and bonded and would be in charge of all roads, bridges, hands, tools, and materials used in that area. He would be paid at the rate of \$1.00 per day but not to exceed \$10.00 in any one year. The County Court would determine the number of days the road hands were to work each year which could not be less than five nor more than eight, and would also set the price for one day's labor. The Road Commissioners would name and supervise the needed road overseers in their district who would be placed in immediate charge of a section of road, who were required to work the same number of compulsory work days on the road as anyone else but

- would be paid for all days worked over and above that number. All males living outside of cities between the ages of 21 and 45 were subject to work on the roads. The Commissioners would also hear and dispose of petitions to open, close, or change roads in their areas, and were further obligated to see to it that the roads in their sections met the specifications set up in the Act. This Act was involved in Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1906).
5. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, above, in several minor particulars but made some strong changes in the procedures to be followed in the acquisition of rights of way to open, close, or change roads, especially when it became necessary to condemn property to do so.
 6. Private Acts of 1913, Chapter 226, stated that in Bradley County (identified by the 1910 Census figures) the County Court would designate the pike roads in the county and elect three Pike Road Commissioners who would have full authority over the improvement and repair of roads in the County. The Commissioners, serving two year terms, must be sworn and bonded, must choose a Chairman and a Secretary from their number, and would be paid \$2.00 per day for each day actually served in this capacity. Adequate records must be kept of all receipts and expenditures, and of the use of tools and equipment. The offices of road overseers and of other road officials were abolished. The authority was given to the Quarterly County Court to levy a general road tax not to exceed 25 cents per \$100 property valuation. This Act was repealed in Item 9, below.
 7. Private Acts of 1913, Chapter 227, made it mandatory in Bradley County for all male citizens living outside of cities to work eight days on the roads of the county, a day being one of eight hours duration, or, a road hand could commute by paying a \$4.00 fee for the eight days. Persons who failed to do either could be fined and then forced to either work or commute. The Pike Road Commission was given control over the County Workhouse and the convicted prisoners therein who were also subject to compulsory road work. This Act was repealed by the one below.
 8. Private Acts of 1919, Chapter 109, declared that in Bradley County all male residents between the ages of 21 and 45, except those living in incorporated cities, or disabled, were required to work 6 eight-hour days on the county roads. Any resident furnishing a wagon, team, and driver would be credited with two days work for each day they were used. Each District Road Commissioner must prepare a list of all those in his district who were subject to road work and give them each at least five days' notice of when and where they were expected to work. One could pay a commutation fee of \$1.25 per day, if such were desired instead of working, which money would be used in the District in which it was collected. Failure to do either could result in penalties being imposed in addition to all the other requisites. This Act expressly repealed Private Acts of 1913, Chapter 227, Item 7, above, in its entirety. This Act was in turn repealed by Private Acts of 1933, Chapter 357, below.
 9. Private Acts of 1919, Chapter 110, repealed Private Acts of 1913, Chapter 226. The position of Pike Road Superintendent was created, who would be elected by the Bradley County Quarterly Court at its first regular session after the passage of this Act to serve until the January term, 1921, and then every two years thereafter. Vacancies would be filled by the County Judge and follow the above timetable as nearly as possible. The Superintendent must be experienced and competent in road building, over 25 years of age, and would be paid no less than \$1,200, nor more than \$1,800, annually, as determined by the Quarterly Court, which amount would be payable monthly and could not be changed during the term. Many of the Superintendent's duties were specified in the Act which further required that full time be given to their discharge. The Superintendent must examine every road periodically and report on their status. He would also be in overall charge of all equipment, machinery, and materials in the road department. Good records must be kept and reports made each quarter to the Court. The Superintendent must approve the expenditure of all funds and could make purchases up to \$300 on his own authority.

The Superintendent would be in charge of the workhouse and the prisoners and could appoint foremen and laborers in the road department as they were needed. The authority for the Quarterly Court to levy a general road tax not to exceed 25 cents per \$100 property valuation was continued. This Act was repealed in Item 11, below.

10. Private Acts of 1933, Chapter 357, repealed Private Acts of 1919, Chapter 109.
11. Private Acts of 1943, Chapter 15, repealed Private acts of 1919, Chapter 110 as it was written and mentioned Private Acts of 1913, Chapter 226, as being superseded, repealed, and for nothing held.
12. Private Acts of 1943, Chapter 16, repealed Private Acts of 1913, Chapter 226, a former road law for Bradley County which was also repealed prior to this act.
13. Private Acts of 1943, Chapter 368, had a general repealing clause only. The act provided for a three member Board of Highway Commissioners who were given general supervision over all county roads, bridges, and culverts in the county. The Act named Arthur Massengill, Robert Wilson, and Jess Rymer, as the first members of the Board, with Rymer slated to be Chairman. After serving staggered initial terms, the Board members' terms would be three years. The Board was authorized to employ a Clerk, or a bookkeeper and must keep an office open in the Court House. All members of the Board must be sworn and bonded, and the Chairman would serve as Road Supervisor at \$2,400 a year, and the other members would be paid as the Quarterly Court decided. The Board would meet on the first Monday in every month to transact all the business of the road department. Specific grants of power to the Board were enumerated in the Act, and there were five specific authorizations stipulated for the Road Supervisor. The power of eminent domain could be exercised but all the procedures specified must be strictly followed in doing so. The authority to the Quarterly Court to levy a general road tax not to exceed 25 cents per \$100 was repeated in this Act which tax would be in addition to all other taxes.

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