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Private Acts of 1947 Chapter 871

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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 871

COMPILER'S NOTE: The provisions of this act establishing the office of superintendent of roads and providing for the duties, salary, etc., of the office have apparently been superseded by Private Acts of 1951, Chapter 565, as amended which establishes the office of Highway Commissioner. Private Acts of 1947, Chapter 871, as amended is reproduced here in full, however, as the remainder of the act is presumably still in force. It has not been specifically repealed or superseded. Private Acts of 1951, Chapter 565, as amended is published herein following this act.

SECTION 1. That this act shall apply to all Counties in the State of Tennessee having a population of not less than 10,895, nor more than 10,925, according to the Federal Census of 1940, or any subsequent Federal Census.

SECTION 2. That there is hereby created a Superintendent of Roads for each County to which this Act applies, who shall be executive head of the County Highway Commission, who shall possess the qualifications, be elected in the manner and for the term, charged with the duties, subject to the restrictions, and entitles to the compensation hereinafter set out and provided for.

SECTION 3. That at the regular August election in 1948, and each two years thereafter, a Superintendent of Roads shall be elected by the qualified voters of the county or counties to which this Act applies. That said Superintendent of Roads shall be a person at least 25 years of age and shall be skilled in the art of road and bridge construction and shall have had at least five years experience in said work. He shall be a resident and citizen of the county and of good moral character. Said Superintendent shall take office on the first day of September following his election and shall hold office for a term of two years and until his successor is elected and qualified.

As amended by: Private Acts of 1949, Chapter 40

SECTION 4. That said Superintendent of Roads shall, before entering upon the duties of his office, take and subscribe to an oath that he will support the Constitution of the United States and of the State of Tennessee, and that he will faithfully, impartially, diligently, honestly, and to the best of his skill and ability, perform all duties required as such Superintendent, and shall count for all monies and property coming into his hands as such Superintendent. He shall also execute and file in the office of the County Court Clerk a good and sufficient bond, with approved personal security, or with some incorporated bonding company authorized to do business in this State, as surety thereon. Said bond shall be in the penal sum of Five Thousand (\$5000.00) Dollars, payable to the State of Tennessee, conditioned upon the faithful performance of his duties, and the faithful accounting of all monies and properties belonging to the County which may come into his hands as such official. In the event said bond is executed by some corporate bonding company, then and in that event the premium of said bond shall be paid out of the Road Fund of said County as other disbursements are made.

That the salary of said Superintendent of Roads shall be Three Thousand (\$3,000.00) Dollars per annum, payable at the rate of Two Hundred Fifty (\$250.00) Dollars per month. Said disbursement to be made by warrant issued and signed by the Superintendent of Roads, and shall be paid from the Road and/or Bridge Funds of said county.

As amended by: Private Acts of 1949, Chapter 40

SECTION 5. That said Superintendent of Roads shall be vested with the following power and authority, charged with the following duties and responsibilities, and shall be subject to the following penalties:

(1) He shall be Chairman and executive head of the County Highway Commission and vested with the sole and exclusive authority to convene said Commission at such times as he deems to be to the interest of the county: provided, however, that said Superintendent of Roads shall give to each member of said Commission a three days' notice of the time and place of said meeting. Said Superintendent shall not vote on any question coming before said Commission.

(2) It shall be the duty of the Superintendent of Roads to provide an efficient system of laying out, building, constructing, reconstructing, repairing and maintaining all county public roads and bridges and of constructing, operating and repairing and maintaining all public ferries in said county, and to accomplish this end said Superintendent shall have general, complete and exclusive control over the construction, repair and maintenance of public roads and bridges and ferries.

(3) The Superintendent of Roads shall have the sole, exclusive and complete authority of the disbursement and paying out of all road and bridge funds received from any source whatsoever. All disbursements made from said road and/or bridge funds shall be by warrant signed by said Superintendent of Roads.

Any and all funds received by the County Trustee of the County or Counties to which this Act applies from

the United States of America or any agency thereof, due by virtue of the taking appropriation or destruction of any public road, or as an allowance or allowances for the construction, repair or maintenance of any public road, bridge or ferry occasioned or brought about by the construction by said United States of America or any agency or department thereof in the County or Counties to which this Act applies of any dam or other internal improvement, shall be deposited to the Road or Bridge Funds of said County or Counties, and shall be exposed solely and only by the Superintendent of Roads, It being the intent and meaning of this section to prohibit the use of said sum, or any part thereof, for any purpose except the construction repair and maintenance of public roads, or the operation or maintenance of public ferries, and the costs, fees and expenses incident to the acquiring or securing of said fund from the United States of America or any agency or Court thereof.

(4) In the event any lawful indebtedness or obligation shall have been incurred by former highway officials of said county, said Superintendent of Roads shall have authority, and it shall be his duty, to pay and satisfy said indebtedness.

(5) The Superintendent of Roads shall have the sole and exclusive power and authority to employ all persons including members of the County Highway Commission to do work in the laying out, constructing and repairing of all public roads, bridges and ferries in said county and to fix the wages to be paid each employee. He shall likewise have the sole and exclusive power and authority to employ such clerical and legal assistance as he deems meet and proper and to fix the salary or fee to be paid such persons. Provided, however, that no wage, salary or fee shall be paid in excess of the average wage, salary or fee prevailing in said county for similar services.

(6) He shall have the sole and exclusive power and authority to discharge, lay off and fire any employee or person, now working or that may hereafter be employed. It being the intent of this Act to vest in said Superintendent the sole and exclusive right to employ and discharge any employee at any time he desires.

(7) The superintendent of Roads shall have the sole and exclusive right to contract and enter into agreements with any State or Federal Agency by which the road and/or bridge funds of the county may be supplemented or augmented, or by which additional employees may be secured for the construction or repair of roads and bridges, or by which additional employees may be secured for the construction or repair of roads and bridges, or by which additional roads may be constructed, reconstructed, repaired and maintained in said county.

(8) The Superintendent of Roads shall have the care and custody of all road tools, machinery and equipment, and all office supplies, books, records and office equipment. It shall be his duty to see that all tools, machinery and equipment are kept in good repair and preservation. He is expressly forbidden to use any of said tools, machinery or equipment for private, social or personal use, or to permit any employee or other person to use the same. Said tools, machinery and equipment are to be used solely and exclusively for the building and maintaining of a public road system for said county. The violation of this provision is declared to be a misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars, nor more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office.

(9) When the estimated cost of supplies, materials, equipment or repairs to equipment, required for essential functions of the county road system is less than One Thousand Five Hundred (\$1,500.00) Dollars, the Superintendent of Roads is authorized and directed to purchase said supplies, materials and equipment, and to have any equipment repaired, without the necessity of advertising for bids, but in making such purchases said Superintendent shall be diligent in securing the lowest possible price, and in no event shall any purchase be made in excess of the prevailing market price for such supplies, materials or equipment.

When the estimated cost of supplies, materials and equipment shall exceed the sum of One Thousand Five Hundred (\$1,500.00) Dollars, but shall be less than Three Thousand (\$3,000.00) Dollars, the Superintendent of Roads shall only purchase the same after making the advertisement, by posters posted for 7 days in the county, or one publication in some newspaper published in the county, which advertisement shall set forth a description of the article or articles sought to be purchased, and the time within which written and sealed bids for the same shall be received. Contracts for the purchase of such supplies and equipment shall in all cases be awarded to the lowest bidder, except where the Superintendent shall reject all bids, in which event said proposed purchase shall be readvertised as above provided. The violation of this section is hereby declared to be official misconduct and misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office.

(10) That when it becomes necessary in order to carry out efficiently the construction of a highway system for said county, the Superintendent of Roads shall have the authority and is hereby directed and made his duty to institute condemnation proceedings for the purpose of condemning land for road

purposes, chert beds, rock quarries, gravel beds or other road building materials, or rights of way. Provided, however, that no such condemnation proceedings shall be instituted involving expenditures in excess of revenues for the current year. Said condemnation proceedings shall be instituted in the manner provided by law for condemnation of land for public purposes under the laws of eminent domain. The damages assessed in favor of the property owner shall, in all such cases, be paid out of the road and/or bridge funds of the county, and as all other expenditures, shall be by warrant signed by the Superintendent of Roads.

As amended by: Private Acts of 1949, Chapter 40

As amended by: Private Acts of 1949, Chapter 872

SECTION 6. That in order to provide a more efficient road system in the County to which this Act applies, there is hereby created, in addition to the Superintendent of Roads, a County Highway Commission, to consist of five members, who shall be residents of the Civil District from which they are elected, and who shall be persons of known integrity and of good moral character.

SECTION 7. That at the Regular August election in 1948, in the county to which this Act applies, said County Highway Commission shall be elected by the qualified voters as follows:

One member shall be elected by the qualified voters of the First Civil District.

One member shall be elected by the qualified voters of the Second Civil District.

Two members shall be elected by the qualified voters of the Fourth Civil District.

The members thus elected shall qualify on the first day of September following their election by taking an oath of office and by filing a bond, with approved security, conditioned for the faithful performance of their duty in the sum of Two Hundred Fifty (\$250.00) Dollars. Which bond shall be approved by the County Judge and filed in the office of the County Court Clerk.

Provided further that every two years thereafter at the regular election One (sic) member of said Highway Commission shall be elected by the qualified voters of the First Civil District; One member shall be elected by the qualified voters of the Second Civil District; Two members shall be elected by the qualified voters of the Third Civil District, and, One member shall be elected by the qualified voters of the Fourth Civil District. Said Commissioners thus elected shall qualify on the first day of September following their election, as above provided, and shall hold office for a term of two years and until their successors are elected and qualified.

SECTION 8. That each member of the County Highway Commission shall receive Six (\$6.00) Dollars per day for attending each meeting of said commission, when called in meeting or session by the Superintendent of Roads as above provided. Provided, however, that no member shall receive pay for more than twelve days in any twelve (12) months period.

As amended by: Private Acts of 1949, Chapter 40.

SECTION 9. That said County Highway Commission shall be vested with the following power and authority, charged with the following duties, and shall be subject to the following penalties:

(1) To purchase all road machinery and equipment when the estimated purchase price for such machinery or equipment exceed the sum of Three Thousand (\$3,000.00) Dollars. Provided, however, that all such purchases in excess of Three Thousand (\$3,000.00) Dollars shall only be made after the Superintendent of Roads has certified in writing to said commission the need for such equipment, and only after due advertisement of same shall have been made by written or printed poster posted at the Courthouse door for seven days or published in some newspaper of general circulation for one week. Said advertisement shall set forth a description of the machinery or equipment sought to be purchased and the time within which written and sealed bids for same shall be received. Said machinery or equipment shall in all cases be purchased from the person or firm submitting the lowest bid, except where the commission shall reject all bids, in which event said proposed purchase shall be re-advertised as above provided. It shall be unlawful for any member of said commission to evade the intent and purpose of this section by any scheme or subterfuge, and any violation shall be a misdemeanor, punishable by a fine of not less than Ten (\$10.00) Dollars and not more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office.

Said County Highway Commission shall have no further or other authority or powers, except as set forth in this section, all other powers and authority being vested in the Superintendent of Roads.

(2) To contract with any State or Federal Agency by which the Road Funds of the county may be supplemented or augmented, or by which additional employees may be employed on road construction or repairs or whereby additional repairs and maintenance may become available. Provided, that such contract shall not incur any liability to the county above the current revenues for the current year.

(3) To employ a suitable person as Clerk of said Highway Commission, whose duties shall be as hereinafter set forth.

(4) To purchase all supplies, materials and equipment and repairs to equipment and machinery, needed for the construction and repair and maintenance of the public roads where the purchase price for such supplies, materials, equipment and repairs exceeds the sum of Two Hundred (\$200.00) Dollars. Provided that all purchases aggregating Two Hundred (\$200.00) Dollars or more shall only be made after due advertisement of same shall have been made at least one time in some newspaper of general circulation, published in the county and, setting forth the amount, quality, and description of such materials, supplies and equipment desired, and the time within which written and sealed bids for same shall be received. Such contracts shall in all cases be awarded the lowest bidder, except where the Commission shall reject all bids, in which said proposed purchase shall be readvertised as above provided. It shall be unlawful for said Commission to break down anticipated purchases of Two Hundred (\$200.00) Dollars or more for the purpose of evading this provision, or to evade the intent and purpose of this provision by any scheme or subterfuge whatsoever. The violation of this Section is hereby declared to be official misconduct and a misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars, nor more than Two Hundred Fifty (\$250.00) Dollars, and by removal from office as provided by Section 1877 et seq. Code of Tennessee.

(5) That when it becomes necessary to do so, in order to carry out efficiently the work on the public roads as provided by this Act, the Highway Commission may institute condemnation proceedings for the purpose of condemning land for road purposes, chert beds, rock quarries, gravel beds or other road building material or rights-of-way necessary for the construction and maintenance of the public roads of said county. Provided, however, that no such condemnation proceedings shall be instituted involving expenditures in excess of revenues for the current year. Said condemnation proceedings shall be instituted in the manner provided by law for condemnation of land for public purposes under the laws of eminent domain. The damages assessed in favor of the property owner shall, in all such cases, be paid out of the Road Funds of the County upon warrant of the Clerk of the Commission, countersigned by the Superintendent of Roads, as hereinabove provided.

(6) That the County Highway Commissioners, by and through its Clerk, shall make a report to the Quarterly County Court of the County at each regular term of such Quarterly County Court, showing the expenditures for the preceding year, the number, kind and condition of the road machinery. The report herein provided for is mandatory, and the failure to file said report shall be a misdemeanor in office, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars, for each member of said Commission, and removal from office.

As amended by: Private Acts of 1949, Chapter 40
Private Acts of 1951, Chapter 564

SECTION 10. That the Superintendent of Roads is expressly prohibited and enjoined from expending and from drawing warrants against said road fund in a greater amount than the amount of the road and bridge funds available for the year in which said warrants were drawn. Said Superintendent is likewise expressly forbidden from incurring any obligation in excess of the road funds for the current year, and any such obligation shall be illegal, non-enforceable and shall not be paid. Any violation of this section is declared to be a misdemeanor, punishable by a fine of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, and by removal from office.

As amended by: Private Acts of 1949, Chapter 40

SECTION 11. That the Superintendent of Roads shall, on the first day of September of each year, make a report to the County Judge of the county to which this Act applies. Said report shall show the source and amount of all road and/or bridge funds received, a summary of funds on hand as of that date. Said report shall also set forth all machinery, tools and equipment and its condition. A copy of said report shall be published in some newspaper of general circulation in said county.

Said Superintendent shall also keep in a well bound book a list of all warrants issued by him, together with the amount of road and bridge funds received. He shall also file and keep all invoices, payroll accounts and bids submitted by persons or firm for supplies and equipment purchased; same to be preserved for a period of two years. All of said records shall constitute and be public records open to the inspection of any citizen of the county at all reasonable times.

As amended by: Private Acts of 1949, Chapter 40

SECTION 12. That neither the Superintendent of Roads, Highway Commission, or Clerk nor any assistant or employee working under the directions of said officials shall be financially interested in, or have any personal beneficial interest, either directly or indirectly, in the purchase of any supplies, material or equipment for said department of roads nor in any firm, corporation, partnership, association or individual furnishing such supplies, materials or equipment. Nor shall the Superintendent of Roads, Highway Commission or Clerk accept or receive, directly or indirectly, from any person, firm, corporation, partnership, or association to whom any contract may be awarded, by rebate, gift or otherwise, in money or other things of value whatsoever, or any promise, obligation or contract for future reward or compensation. The violation of this Act is hereby declared to be official misconduct and a misdemeanor in

office, punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars and removal from office, as provided by Code Section 1877 et seq.

SECTION 13. That the method of opening, closing or changing the location of any public road in said County as provided in Sections 2731-2741 of the Code of Tennessee shall not be changed or abridged by this Act, but shall remain in full force and effect in said county.

SECTION 14. That at any time a vacancy occurs in the office of said Superintendent of Roads and/or County Highway Commission the Quarterly County Court at its next regular meeting shall fill said vacancy by electing a person or persons who shall possess all the qualifications set forth in this Act. The person and/or persons elected as member or members of the County Highway Commission shall serve until the next regular election and until their successors in office are elected and qualified.

SECTION 15. That the provisions of this Act are hereby declared to be severable. If any of its sections, provisions, sub-sections, sentences, clauses, phrases, or words be held 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 even if such unconstitutional or void matter had not been included herein.

SECTION 16. That this Act shall take effect from and after the first day of September, 1948, and not until then, except that at the regular August election of 1948, there shall be elected the Superintendent of Roads and County Highway Commissioners, as herein set out; to take office on the first day of September, 1948; the Public Welfare requiring it.

Passed: March 14, 1947.

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