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# Private Acts of 1933 Chapter 26

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Sincerely,

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## Private Acts of 1933 Chapter 26

**SECTION 1.** That in each County of this State, having a population of not less than (17,355) Seventeen Thousand, Three Hundred and Fifty-five, nor more than (17,365) Seventeen Thousand, Three Hundred and Sixty-five inhabitants, according to the Federal Census of the year 1930, or any subsequent Federal Census, there shall be and is hereby created a Department of County Roads, the control and management of which Department shall be as hereinafter provided for.

**SECTION 2.** That in each county of this state affected by and to which this act applies, there shall be and is hereby created a County Road Commission, referred to in this act as the "commission" and to be composed of three (3) members, hereinafter called "commissioners," who shall be elected by the qualified voters of the county.

As amended by: Private Acts of 1978, Chapter 319

**SECTION 3.** That the counties affected by this act shall be divided into road districts. Beginning with the August general election of 1978 magisterial districts 1, 4, 6, and 8 shall constitute road district number 1. Magisterial districts 2, 3, 5, and 7 shall constitute road district number 2. Magisterial districts 9, 10, 11, and 12 shall constitute road district number 3.

As amended by: Private Acts of 1937, Chapter 268

Private Acts of 1953, Chapter 238

Private Acts of 1978, Chapter 319

**SECTION 4.** That each road district shall be represented by a commissioner and the commissioner elected from the respective road districts shall be a member of the "County Road Commission," and the commissioners so elected shall constitute a "County Road Commission". The commissioners shall be elected by the qualified voters of the respective road districts at the general election every four (4) years and such commissioners need not be candidates for primary nominations, but shall be subject to the general election laws; and provided, that the present road commissioners shall continue to serve until the expiration of the terms for which they were elected, representing the respective road districts in which they reside. Road commissioners elected subsequent to July 31, 1978 shall take office on the first of September immediately following their election provided however that in the 1978 regular election, the qualifying date shall be June 15, 1978. In the event of any vacancy in the office of any commissioner, the Quarterly County Court shall elect a successor, who shall serve until the next regular election, at which time the people of the road district wherein the vacancy occurred shall elect a successor to serve for the remaining portion of the unexpired term of office in which the vacancy occurred. A commissioner must reside in the road district which he represents, and in the event a commissioner removes himself from the road district, he shall thereby vacate his office.

As amended by: Private Acts of 1937, Chapter 268,

Private Acts of 1953, Chapter 238,

Private Acts of 1978, Chapter 319.

**SECTION 5.** That in the election of Commissioners hereunder, only one Commissioner shall be elected from a Road District, that is to say, only one Commissioner shall reside within the boundaries of any one Road District as laid out and established herein. A Commissioner elected under this Act shall be held to have resigned his office and place as such if he moves his place of residence out of that Road District wherein he resided at the time of his appointment or election hereunder. It shall require the qualified voters of the whole County to elect each Commissioner hereunder to be elected, and the names of all candidates from each Road District shall be grouped together on the ballots in any election, with instructions thereon to the voters that only one candidate from each Road District shall be voted for. That candidate from each Road District receiving the highest number of votes in the whole County as Commissioner from that District shall be elected, so that one Commissioner from each Road District shall be elected hereunder.

No person shall be eligible to election as a Commissioner hereunder unless he be a qualified voter of the County and has been a resident of that Road District from which he qualifies for at least one year prior to the date of election.

No member of the Quarterly County Court nor County official shall be eligible to election as a Commissioner hereunder.

In the event a vacancy should occur on the Commission from any cause whatever, it shall be filled by appointment of a qualified person from that Road District wherein the vacancy occurred by the Quarterly County Court of the county to which this Act applies; provided however, no appointment to fill a vacancy shall be for a period of time beyond the next regular election, at which regular election the qualified voters of the County shall elect a member to fill out the remainder of the unexpired term. It shall require the qualified voters of the whole County to elect each Commissioner hereunder to be elected and the names

of all candidates from each Road District shall be grouped together on the ballots with instructions thereon to the voters that only one candidate from each Road District shall be voted for.

As amended by: Private Acts of 1937, Chapter 268

**SECTION 6.** That within thirty (30) days after their election each Commissioner elected hereunder shall execute good and solvent bond in the penal sum of \$5,000 to be approved by the Chairman of the County Court or County Judge of said County, conditioned to guarantee the faithful performance of all duties imposed upon said Commissioner by this Act. These bonds shall be filed in the office of the County Court Clerk.

As amended by: Private Acts of 1937, Chapter 268

**SECTION 7.** That an office shall be provided in the County Highway Garage of the County for the use and occupation of the County Road Commission.

As amended by: Private Acts of 1937, Chapter 268  
Private Acts of 1953, Chapter 238

**SECTION 8.** That the County Road Commission shall hold a regular session in the room provided for them on the last Thursday in each and every month for the purpose of passing on claims and accounts or indebtedness incurred by them and the transaction of any and all other business pertaining to their duties as Road Commissioners which may properly come before the Commission. In its first regular meeting after the passage of this Act it is hereby empowered and directed to organize by electing one of their number as Chairman and another one of their number as Secretary of such Commission, and to adopt such rules and regulations for the transaction of the business of their office as may seem necessary to them, but not contrary to the general law or the provisions of this Act; and they will so organize again after each biennial election. The Chairman of said Commission is empowered to call special meetings of the Commission whenever he deems the same necessary, and at such special meetings the Commission may attend to any business which it might attend to at a regular meeting. They shall keep an accurate minute record of their actions and deliberations, and an accurate set of books and records showing all expenditures and on what accounts and in what parts of the county same were made or expended and on what works or roads their funds have been expended. They are empowered to employ a secretary and bookkeeper and fix and pay the salary for such services in an amount not to exceed ten thousand dollars (\$10,000) payable monthly in equal amounts out of their county road funds. And said Commission is required to make and present to each regular meeting of the Quarterly County Court of said county a general statement showing the funds received by them in the previous quarter and on what roads or works the same have been expended and in what particular part of the county such improvements and works have been carried on, which report when received and approved by the Quarterly County Court shall be spread upon the minutes of the said Quarterly County Court.

The secretary and bookkeeper and the supervisor each shall execute a bond for the faithful performance of their duties in the amount of \$10,000.00, with the cost of said bonds to be paid from the county road funds.

As amended by: Private Acts of 1937, Chapter 268  
Private Acts of 1943, Chapter 249  
Private Acts of 1945, Chapter 117  
Private Acts of 1953, Chapter 238  
Private Acts of 1961, Chapter 273  
Private Acts of 1967, Chapter 405  
Private Acts of 1969, Chapter 11  
Private Acts of 1973, Chapter 123  
Private Acts of 1980, Chapter 244

**SECTION 9.** That the County Road Commission aforesaid is hereby given general, complete, and exclusive control and authority over all county roads, bridges, culverts and levees in said county, and it is empowered to construct, maintain and repair any of said roads, bridges, culverts, levees, etc., which they may deem it proper to do; and are further empowered and authorized to expend any of the County Road Fund or road money, for the construction, maintenance and repair of the roads, bridges, culverts and levees in the county, and to purchase supplies for the construction, maintenance and repair of same; provided, that any and all purchases, regardless of the nature of such purchases, in excess of \$1,000.00, shall be made by competitive bidding after giving notice in a news-paper of general circulation within the County. The advertisement shall state and specifications of materials, items and/or type of work upon which the bids shall be received and/or accepted, as well as the time and place, when and where, the bids shall be made and accepted, provided the time for accepting bids shall not be less than ten days after the date of advertisement. A majority of the road commission and a majority of the purchasing commission shall be present when the bids are opened, and the lowest bid meeting the specifications, as advertised, shall be accepted. No bids shall be accepted unless the same is accompanied with a performance bond executed with two or more solvent personal sureties, or one or more solvent corporate surety, and the

said bond shall be for an amount equal to the consideration of the contract submitted by the bidder.

It shall be the duty of the Highway Commission to give attention to and equal work to all of the public roads in the County without favor or partiality to any section of the County and without neglect to any part of the County. And while the Commission is hereby given reasonable latitude and discretion in constructing, repairing, working and maintaining the bridges, levees and roads in the several sections of the County, they are specifically directed to apply this Act with its benefits to all parts of the County and particularly to each and all of the Civil Districts of the County, giving a just proportion of the funds available for road purposes to each section and Civil District, and the Courts are given jurisdiction and invested with the power and authority by appropriate legal proceedings upon the motion of any person or persons laterally (sic) affected, damaged, injured or deprived of the benefits of this Act and the application of a fair proportion of the available funds to the roads, bridges and levees of any section or Civil District, to compel and direct that said Commission shall apply the benefits of this Act fairly and in reasonable proportion to each, all, or any section or Civil District of the County.

As amended by: Private Acts of 1937, Chapter 268  
Private Acts of 1953, Chapter 238

**COMPILER'S NOTE:** The first paragraph of this section conflicts with the County Uniform Highway Law. See Tennessee Code Annotated 54-7-113.

**SECTION 10.** That in each county of the State affected by and to which this Act applies the said County Road Commission is hereby authorized to employ such tractor drivers, mechanics, laborers, help, or other employees as it may deem necessary to have and use in the construction and maintenance of the said roads, bridges, levees and culverts in the county. And they are authorized and directed further, to employ for said county road work a competent person as Supervisor of the county roads in the county, and to fix and pay him a salary not to exceed \$8,400 per year. Such Supervisor and each and all of the hands and employees engaged by the Commission shall hold their position and employment only at the wish and will of the Commission. And when they employ a Supervisor of Roads they shall instruct and direct him in the services and duties which he is from time to time to perform, and he shall at all times act under their direction and supervision and faithfully discharge the duties and obligations imposed on him by such Commission.

It is hereby made the duty of the County Road Commission to provide for, construct and maintain in said county the best possible system of roads with the road money available therefor; and to that end and in order that said County Road Commission may carry out and perform its duties under this Act, all power and authority necessary and incidental to the construction and maintenance of the county roads, bridges, culverts and levees in said county is hereby conferred on said County Road Commission. And said Commission is hereby authorized and empowered to make any and all contracts and agreements with the State Highway Department looking to the construction and maintenance of said roads, or with respect to finances or business connected with the county roads, as they may deem proper.

Said Commission is hereby empowered to widen old roads, build new roads, change the location of roads, or restore to use any road which may have been abandoned or fallen into disuse, and to contract for and purchase rights-of-way for said purposes. And if necessary to secure such rights-of-way, they are authorized and empowered to exercise the right of eminent domain in the construction of said roads and to institute condemnation suits in the name of the county for procuring the same, but no bond shall be required of the county in such suits.

All judgments rendered in such suits shall be against the county, and such judgments, costs, expenses and fees incurred in any such condemnation suits shall be paid out of the county road funds of the county in the same way and manner that other indebtedness incurred by the County Road Commission is to be paid, as hereinafter provided for. In all of the business to be attended to by the said Commission as provided for in this Act, they shall act as a Commission in meeting assembled, and a majority of the members of the Commission shall control and determine what is to be done.

As amended by: Private Acts of 1937, Chapter 268  
Private Acts of 1945, Chapter 116  
Private Acts of 1947, Chapter 455  
Private Acts of 1953, Chapter 238  
Private Acts of 1965, Chapter 101  
Private Acts of 1969, Chapter 9  
Private Acts of 1973, Chapter 126

**SECTION 11.** That the said County Road Commission shall have and it is hereby given exclusive control and custody of all road machinery, apparatus and supplies, including tractors, graders, trucks, automobiles and all other equipment and tools owned by said county and used in connection with the construction, working and maintenance of the roads, bridges, culverts and levees of said county. And it shall also have exclusive control of any and all gasoline or oil storage tanks or filling stations owned by the

county and the parcels of land on which located if so owned or leased by the county and used in connection with the operation of the county road machinery. And said Commission is authorized to institute suit before any court of competent jurisdiction in said county to secure possession, custody or control of any such road machinery, equipment, or other property owned by the county and used in connection with its county road construction and maintenance, which suit shall be begun and maintained in the name of the County Road Commission of the county. It is further authorized to purchase any and all necessary machinery and equipment, automobiles, tools, materials, construction lumber, gasoline, oil or any other equipment or material necessary for the work of constructing and maintaining said roads, together with all part-replacements and repairs for said machinery and equipment; provided, that no purchase shall be made in any one contract for such machinery or equipment which exceeds \$1,000 in amount without the approval of the (sic) and all bills, indebtedness and accounts created by the Road Commission for such equipment or material shall be paid out of the county road fund, and none of the same shall be or constitute an indebtedness against the county unless it is approved by and ordered paid by the Quarterly County Court of the county in session assembled.

As amended by: Private Acts of 1937, Chapter 268  
Private Acts of 1953, Chapter 238

**SECTION 12.** That nothing in this Act shall be construed as intended to prevent the Quarterly County Court from levying a tax for the construction and maintenance of County roads as now provided for by law.

As amended by: Private Acts of 1937, Chapter 268

**SECTION 13.** That any and all monies, taxes, privileges, fines, forfeitures, fees, and other revenue of every kind belonging to the County Road Fund of said counties, including any and all monies, and revenue received from the State, from a gasoline tax or other tax, and commutation money shall be paid into the hands of the County Trustee of said counties and by him placed to the credit of the County Road Account. These funds shall be apportioned among the road districts according to the percentage of the total number of miles of county roads which lie within each road district.

As amended by: Private Acts of 1937, Chapter 268  
Private Acts of 1978, Chapter 319

And all such funds above enumerated and all funds and money belonging to the County regardless of the sources from which received and properly a part of the County Road Funds shall be kept in said separate account and shall be used only for the purpose of defraying expenditures incurred and authorized by this Act and the maintenance of said County roads.

Any and all indebtedness incurred by the said County Road Commission in the construction and maintenance of said roads, bridges, culverts, and levees in the county, as provided for in this Act, including the compensation for the Commissioners and those employed by them, whose salaries the Commissioners have the power to fix, shall be paid by a road warrant drawn by the Secretary of said Commission on the Trustee of said county and against the funds in his hands belonging to the said County Road Funds, which includes the pro rata of the two cents gasoline tax collected by the State and allocated and paid to the Trustees of the respective counties of the State for road purposes; and such warrants shall be countersigned by the Chairman of said Road Commission. It shall not be necessary for such warrants to be signed by the Chairman of the County Court or the County Judge. But before any account shall be paid or a warrant drawn in payment thereof, it shall be presented to the Road Commission in session, considered by it and approved and ordered paid by at least a majority of said Commission and entered upon their minutes, and the minutes must also show that the Commission has ordered the Chairman and Secretary to draw said warrant in payment of the same, so as to preserve a permanent record of the accounts so approved and paid by the Commission. Each of said warrants so drawn shall bear a number and be numbered consecutively in numerical order, a stub of the same shall be kept which shall bear a corresponding number, and said warrants shall show upon their face specifically what they are drawn for and the indebtedness they cover. And said Road Commission shall file and keep as a part of the permanent records of their office all bills, accounts and indebtedness presented to them for payment. Said warrants so drawn against the County Road funds shall be paid by the County Trustee and entered by him on a book to be kept and known as the County Road Warrant Book, which shall be so ruled as to show and shall show the number, the date, the amount, the payee or person to whom paid and the debt paid by it as well as the purposes for which said warrant was drawn.

As amended by: Private Acts of 1937, Chapter 268

**SECTION 14.** That nothing in this Act will authorize the issuance of road warrants unless funds are available with which to meet and pay the same; provided that the County Road Commission is hereby empowered to make necessary credit arrangements for the purchase of needed machinery, equipment and supplies, when the purchase and term thereof are approved by the majority of the Road Commission.

As amended by: Private Acts of 1937, Chapter 268  
Private Acts of 1953, Chapter 238

**SECTION 15.** That no Commissioner hereunder may be employed or contracted with either as a workman, laborer, foreman, mechanic, or Supervisor on any road work, bridge or culvert in said County; Provided that any member of the Quarterly County Court may be employed by the County Road Commission as a workman, laborer, foreman, or mechanic on any road work, bridge construction work or culvert in said county.

It shall be the duty of each and all of the three members of the Commission to make a personal inspection and examination of every mile of the public roads in their respective road districts three times each year, that is to say, each of said Road Commissioners shall examine and inspect each mile of county roads located in their respective road district every three months and shall immediately report to the whole Road Commission and Supervisor any defects found in any part of said roads; and for such services they shall be entitled to a salary of twelve hundred dollars (\$1,200.00) per annum, payable at the rate of not more than \$100.00 per month, and the duly elected Chairman and Secretary of the said Road Commission shall be entitled to an additional \$200.00 per annum. Their compensation shall be paid by a warrant drawn, upon their order in session assembled and spread on their minutes, by the Secretary of the Commission and countersigned by the Chairman, on the Trustee of the County and against said road funds, in the same way and manner in which any other indebtedness of the Commissioner is paid.

As amended by: Private Acts of 1935, Chapter 781  
Private Acts of 1937, Chapter 268  
Private Acts of 1949, Chapter 483  
Private Acts of 1969, Chapter 10  
Private Acts of 1973, Chapter 124  
Private Acts of 1973, Chapter 125  
Private Acts of 1978, Chapter 319

**SECTION 16.** That the Quarterly County Court shall annually cause an audit to be made of the affairs of the County Highway Commission. It shall be the duty of the Quarterly County Court to employ qualified auditors and accountants to make such audit, the expense thereof to be paid out of the general County fund. The first audit shall be made for such period of time as the County Court may determine and subsequent audits shall be made from the date of the last previous audit to the present time. Likewise, it shall be the duty of the secretary of the Highway Commission to quarterly make and file with the County Court an itemized detailed report of all receipts and disbursements made by the Commission during such preceding quarter. Failure of the secretary of the Commission to make this report shall be a misdemeanor and punishable accordingly. Likewise, the secretary of the Commission shall annually file with the Quarterly County Court an inventory setting forth all equipment and material on hand in possession of the Highway Commission.

The County Highway Supervisor shall be a civil engineer of not less than three years experience in road building and maintenance, provided, however, that the Quarterly County Court of Crockett County may in case of an emergency, where trained skilled help is impracticable to procure, waive this provision with reference to the qualifications of the supervisor. The bookkeeper employed by said Commission shall be paid a salary of \$1500 per annum, payable in equal monthly installments out of the county highway funds and the compensation of the secretary is also increased by \$100 per annum, payable in the same manner as it is now payable.

The County Highway Supervisor is empowered to employ all construction maintenance and personnel necessary to carry out the county highway program and to dismiss such employees for inefficiency, insubordination or when their services are not required.

As amended by: Private Acts of 1951, Chapter 501

**SECTION 17.** That this Act shall take effect from and after its passage, the public welfare requiring the same.

Passed: January 20, 1933.

**COMPILER'S NOTE:** The constitutionality of this Act was attacked, among other things, in the case of Crockett County v. Walters, 170 Tenn. 337, 95 S.W.2d 305 (1936).

**COMPILER'S NOTE:** The original Sections 12, 13, 14, and 15 of the 1933 Act were stricken from the Act and the Act renumbered by Private Acts of 1937, Chapter 268.

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