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## Chapter IX - Highways and Roads

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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](http://www.ctas.tennessee.edu)

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# Chapter IX - Highways and Roads

## Road Law

### Private Acts of 1945 Chapter 511

**SECTION 1.** That in Counties of this State having a population of not more than 14,600 and not less than 14,550, according to the Federal Census of 1940, or any subsequent Federal Census, 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, 1946, and biennially thereafter, there shall be elected by the qualified voters of the 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 1st next following his election and until his successor shall be elected and qualified. Upon assuming the office said Road Supervisor shall take oath to fairly and faithfully discharge the duties of his office and shall execute a bond in a sum not to exceed Five Thousand (\$5,000.00) Dollars, the amount thereof to be fixed by the County Judge or Chairman and also approved by the County Judge and Chairman. The Road Supervisor shall be paid a salary of nine thousand five hundred dollars (\$9,500) a year, payable in equal monthly installments out of the county road fund. The said Road Supervisor shall also be entitled to maintain and have for his use a pick-up truck belonging to the County and entitled to the necessary gasoline and oil for the use of his duties as Road Supervisor. The Road Supervisor is authorized to employ a Secretary and Bookkeeper and to fix the salary for such position, which shall be paid in equal monthly installments out of the county road fund. Until September 1, 1946, Wilson Hobsen, a citizen and resident of DeKalb County, one of the counties coming within the Supervision of this Act, who possesses the qualifications to be Supervisor of said roads, is hereby appointed as Road Supervisor, and he shall hold said office until his successor is duly elected and qualified.

The County Judge of said county is hereby designated as Chairman of Roads for said County, and as such, the Chairman of Roads is hereby authorized and directed to approve all work, repair, construction and maintenance of any of the roads in said County before any of said construction, maintenance or repair on said roads is performed. The Chairman of Roads shall receive the sum of Six Hundred (\$600.00) Dollars per annum, payable monthly out of the County Highway Funds, in addition to all other compensation which he now receives.

As amended by:

Private Acts of 1949, Chapter 808  
 Private Acts of 1951, Chapter 107  
 Private Acts of 1953, Chapter 503  
 Private Acts of 1957, Chapter 350  
 Private Acts of 1957, Chapter 390  
 Private Acts of 1973, Chapter 92

**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. Said Road Supervisor shall have full and complete authority to employ all necessary skilled mechanics, assistant supervisors, timekeepers, and labor as he may deem necessary, but the compensation payable to those employed shall not exceed the compensation paid by the State Highway Department in Counties coming within the provisions of this Act for similar services. Said Supervisor shall keep a record in his office of the hours of labor worked by each person so employed by him and for the purpose of paying such persons for labor and services performed. He shall keep a detailed account of all expenditures made and will issue warrants drawn upon the Road Fund of said County for all labor employed and for all expenditures made, and will issue warrants drawn upon the Road Fund of the County for same, which warrants shall be drawn on the County Trustee but no warrant will be valid or become a charge against the County unless the same is countersigned in advance of presentation for payment by the County Judge or Chairman of the Counties to which this Act applies. No warrant shall be issued for any labor or for the purchase of any materials unless there are funds to meet said warrant upon presentation for payment to the Trustee of the County. Any Road Supervisor who issues any warrant for the payment of any labor or makes any expenditure without said funds being available for the payment of said warrant, or any Supervisor who issues any fraudulent warrant, shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars and imprisoned for not less than sixty (60) days nor more than six (6) months in the County Jail and shall also be subject to removal from office.

That all items including supplies, materials or road machinery purchased under the provisions of this Act shall be purchased in accordance and in conformity with the provisions of Chapter 156 of the Private Acts of 1943.

The County Road Supervisor herein named and his successor shall make and file with the County Judge a full and complete report of all disbursements made during the preceding quarter. The Supervisor here named shall, on or before April 1, 1945, file with the County Judge a full and complete inventory showing all materials taken into his possession as Road Supervisor and the amount of all funds coming into his hands as Supervisor. The said Supervisor shall also show in said inventory and report the indebtedness against the Road Department or County at the time he assumed office. The inventory and report made by the Supervisor appointed and the reports hereinafter made quarterly will be preserved by the County Judge as a part of his official record and the same will be available for inspection by any interested citizen of the County under such rules and regulations as the County Judge may prescribe.

As amended by: Private Acts of 1951, Chapter 107

**SECTION 3.** That all applications to open, discontinue and change roads shall be made to the Road Supervisor and in addition thereto, such Supervisor, with the approval of the County Judge in writing, shall have power to do the same. 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 County Judge 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 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 (5) 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 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 (10) 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 provisions 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 5.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 27, 1945.

## Highways and Roads - Historical Notes

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

1. Acts of 1909, Chapter 271, was a general road law for DeKalb County. It provided that the Quarterly County Court would elect for a two year term a Road Commissioner from each Civil District (road district) of the county, to have supervision over the roads in his District. Road Overseers were to be appointed by each Road Commissioner to supervise road duty to which all male residents of the county between the ages of twenty-one and fifty-five were subject. A

County Road Commissioner, appointed by the County Court, was to have general supervision of the District Commissioners and Overseers. Procedures for opening and closing roads were enumerated.

2. Acts of 1911, Chapter 116, was also a general road law for DeKalb County, with provisions similar to those in the 1909 Act.
3. Private Acts of 1919, Chapter 492, placed control of the roads in a Road Commission of three members, who were to be appointed by the Quarterly County Court biennially. Public bridges remained under the control of the County Court. The Commission would appoint District Commissioners who would appoint Road Overseers. This Act was repealed by Private Acts of 1921, Chapter 364, Page 1111.
4. Private Acts of 1921, Chapter 364, provided for the election by the Quarterly County Court of a three member Central Road Commission. They would have general supervision over the changing, opening and closing of public roads, and control the expenditures of the central fund. The Central Road Commission would elect a Road Commissioner for each Civil District who would in turn select a Road Overseer. This Act was amended by Private Acts of 1923, Chapter 550, to provide provisions for persons failing to report for road duty and to authorize the Central Road Commission to expend central road funds for making bridge repairs.
5. Private Acts of 1921, Chapter 711, required every person over 21 years old owning a wagon and team to work on the district roads, as they were designated to do so by their District's Justice of the Peace.
6. Private Acts of 1921, Chapter 883, set the toll rates which could be charged automobiles, motorcycles, trucks and trailers by persons or corporations operating a turnpike in DeKalb County.
7. Private Acts of 1927, Chapter 458, created a Central Road Commission for DeKalb County of five members, to have supervision of the construction and maintenance of all county roads and of the funds to be expended for these roads. The County Court Clerk would be an ex-officio member and serve as Secretary.
8. Private Acts of 1927, Chapter 613, created a Bridge Committee of seven members to have control over the location and construction of all county bridges in DeKalb County.
9. Private Acts of 1931, Chapter 207, created a Department of County Roads for DeKalb County. The control and management of the Department would be vested in a five member County Road Commission and a County Road Supervisor. Commission members would be elected by the County Court and the Road Supervisor would be elected by the Commission.
10. Private Acts of 1931, Chapter 558, created a Department of County Roads, headed by a County Road Commission of five members, who would appoint a County Road Supervisor. The County was divided into five zones and the voters would elect one member from each zone for a two year term. A constitutional challenge to this Act was rejected by the Tennessee Supreme Court in Loring v. McGinness, 44 SW<sup>2d</sup> 314 (1931), and the Act was repealed by Private Acts of 1933, Chapter 11.
11. Private Acts of 1933, Chapter 45, established a County Highway Department and created a Central Highway Commission of three members elected by the voters, one member from each of the three zones into which the county was divided. The office of District Supervisor was established in each civil district who would be elected for a two year term by the voters of the district. This Act was repealed by Private Acts of 1937, Chapter 179.
12. Private Acts of 1937, Chapter 222, created a three member County Road Commission who would serve a two year term. It divided the county into three road districts, provided for the election of Road Commissioners from each District, gave the Commission power to employ a County Road Supervisor and Assistant Supervisor, as well as foremen and employers. It had the power of condemnation and could appoint as many road foremen as may be necessary. This Act was repealed by Private Acts of 1939, Chapter 174.
13. Private Acts of 1939, Chapter 194, divided the county into five road districts, with a member of the County Road Commission elected from each District, such Commission to have complete control over the road system of the county. They were empowered to employ a County Road Supervisor to supervise the construction of roads and the other employees of the county highway department. This Act was amended by Private Acts of 1939, Chapter 484; Private Acts of 1943, Chapter 353; Private Acts of 1943, Chapter 316; and repealed by Private Acts of 1945, Chapter 516.
14. There were three attempted amendments to the current road law, Private Acts of 1945, Chapter 511, which were rejected or not acted upon by the Quarterly County Court. All of these dealt with

the salary of the County Road Supervisor. These acts are Private Acts of 1955, Chapter 246, Private Acts of 1965, Chapter 136, and Private Acts of 1970, Chapter 200.

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