



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter IX - Highways and Roads

Dear Reader:

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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

Bridges

Private Acts of 1949 Chapter 369

SECTION 1. That in all counties of this State with a population of not less than 23,500, nor more than 23,600, by the Federal Census of 1940, or any subsequent Federal Census, that the Quarterly County Courts thereof at their discretion are hereby authorized to levy a tax not to exceed 25¢ upon the one hundred dollars' worth of property for the purpose of constructing, repairing and maintaining bridges in said counties. Said tax when levied shall be collected by the county trustee as are other taxes and its proceeds disbursed as hereinbelow provided. That if the County Courts of such counties determine to and levy such tax, then such Quarterly County Court is hereby authorized to employ some capable person, at a salary of not to exceed \$2,400.00 per annum, as foreman of bridges. He shall have and possess full power and jurisdiction over the erection, maintenance and construction of all bridges of more than three feet in length in said county but all bridge lumber used by him in connection therewith shall be purchased through the Purchasing Agent of such counties. He shall have further power to employ such labor as may be necessary in the maintenance and construction of bridges under his jurisdiction and to purchase through the Purchasing Department such machinery and equipment as may be deemed necessary for the efficient operation of his Department. No contract with such bridge foreman shall be made for a period of longer than two years.

All disbursements from such bridge fund shall be made upon the warrant of the superintendent thereof but the same shall be countersigned by the County Judge before presentation to the County Trustee. Such bridge foreman shall annually make and file with the Quarterly County Court a report of receipts and disbursements, which report shall constitute a public record and be available for the inspection of any interested person within reasonable hours.

SECTION 2. That this Act shall take effect from and after the passage of this Act, the public welfare requiring it.

Passed: March 23, 1949.

Road Law

Private Acts of 1983 Chapter 34

SECTION 1. There is established for Hardeman County a highway department to be governed by a three (3) member board of highway supervisors for the purpose of providing a more efficient system of laying out, building, reconstructing, repairing and maintaining public roads and bridges, and constructing and maintaining necessary garages, offices, warehouses and other public works.

SECTION 2. There is hereby created a three (3) member board of highway supervisors which board shall determine the overall policy under which the county highway department shall operate. The board of highway supervisors shall consist of three (3) members each of whom is to be elected from districts established pursuant to this Act.

The county legislative body shall meet and the majority of the members being present and concurring, shall establish the boundaries of the highway districts. The county legislative body may thereafter change the boundaries of such districts in accordance with the procedure established in Tennessee Code Annotated, Section 5-1-111, if necessary to apportion such districts so that the supervisors represent substantially equal populations.

The three (3) supervisors shall be elected in an election to be held in August of 1983 to serve until September 1, 1986. Thereafter, all supervisors shall be elected for a four (4) year term. Whenever a vacancy occurs on the board of highway supervisors, the county legislative body shall appoint a person to serve until the next general election at which time a person shall be elected to fill the general election at which time a person shall be elected to fill the unexpired term. Each highway supervisor shall reside in the highway district from which he is elected. The board of highway supervisors shall elect one (1) of its members as chairman to serve a one (1) year term as chairman.

Each office in any multi-member district shall be separately designated on the ballot with candidates required to run and to be elected on the basis of such separately designated office within the district. No candidate shall qualify for more than one such separately designated office within such district.

SECTION 3. The members of the board of highway supervisors shall receive compensation to be determined by the county legislative body. The highway supervisors shall be entitled to be compensated for all expenses incurred in the performance of their duties as such supervisors on properly certified statements submitted to and approved by resolution of the county legislative body with these expenses to be paid out of the county highway funds.

SECTION 4. That board of highway supervisors shall have the power to acquire necessary rights-of-way for construction of new roads or improvements of the present county road system either by donation from the owner of such property or purchase. The board of highway supervisors shall have the power and authority to open, close and identify county roads. The board of highway supervisors shall have the power and authority to condemn in the name of Hardeman County, under the laws of eminent domain, all lands necessary for the location of highways, roads and bridges. The power of eminent domain shall exist over the lands of private individuals, public corporations, quasi corporations, educational, religious, and eleemosynary institutions, including franchises and easements of such individuals, corporations and institutions. The methods of procedure shall be as set out in the Tennessee Code Annotated, Sections 29-16-101 through 29-16-124. The cost of any such condemnation and the jury's award shall be paid out of the county highway funds and charged to the particular road or project involved. Provided, however, that any such condemnation proceedings in which judgment shall be awarded such judgment shall constitute a secondary liability against the general funds of Hardeman County.

The board of highway supervisors shall prepare at the end of each three (3) month period a report setting forth the details of the operation of the county highway department for the proceedings quarter and a proposed work program for the next quarter together with the highway superintendent's plans and specifications of any work to be done and the estimated cost of each project, which estimate shall not be in excess of the budget appropriations or any allotment thereof. Such reports shall be filed with the county executive and transmitted by him to each county commissioner.

The board of highway supervisors shall keep a permanent minute record of all of its transactions and no legally binding action shall be taken except at a meeting legally provided for such board, with at least two (2) members present and assenting thereto. Purchases by the county highway department shall be made in accordance with Chapter 90 of the Private Acts of 1989, as amended, known as the "Hardeman County Purchasing Law of 1989".

As amended by: Private Acts of 1991, Chapter 71

SECTION 5. The highway superintendent shall be elected in an election to be held in August of 1983 to serve until September 1, 1986. Thereafter the highway superintendent shall be elected for a term of four (4) years. Whenever a vacancy occurs in the office of highway superintendent, the county legislative body shall appoint a person to serve until the next general election at which time a person shall be elected to fill the unexpired term of highway superintendent.

The highway superintendent shall have the powers and duties specified in Tennessee Code Annotated, Section 54-7-109(b) and (c), as amended, regarding highway department personnel.

As amended by: Private Acts of 1991, Chapter 71

SECTION 6. No contract shall be made for or funds expended by the board of highway supervisors in any one (1) year exceeding the budgeted funds received for such year. All taxes assessed and funds received for highway purposes shall be collected by the county trustee as now provided by law and deposited in the county highway fund and shall be paid out on the county executive's warrant.

SECTION 7. The board of highway supervisors shall require the highway superintendent to execute a bond with a good and solvent surety in the sum of one hundred thousand dollars (\$100,000.00). Any individual who shall be placed in charge of the garage shall be required to execute a bond with good and solvent surety in the sum of five thousand dollars (\$5,000.00), all of such bonds to be for the use and benefit of Hardeman County, conditioned upon faithful performance and discharge of duties, the premiums of such bonds to be paid out of highway funds.

SECTION 8. The operation of the county highway department shall be under the direct supervision of, and in accordance with the policies established by the board of highway supervisors. The county highway superintendent shall be responsible for the preparation of plans and specifications for any road construction, reconstruction, repairs and maintenance and the obtaining of all necessary rights-of-way.

It shall be the duty of the board to see that a system of centralized accounts is kept in accordance with law, and the board shall maintain a system of project cost accounting records for all work, which records shall be consistent with and in conformity with the general records and methods of accounting of the county.

SECTION 9. No person, firm or corporation shall open, tear up or dig any ditch, trench or other opening in any public road of the county for any purpose without first obtaining a written permit from the highway

superintendent, or his designated agent, and paying therefor the amount estimated to be required to resurface that portion of such road after the excavation or ditch has been refilled, tamped and allowed to settle. The person or firm to whom the permit is issued shall refill the ditch or excavation to the approval of the highway department, and once the approval is obtained the responsibility of such person or firm ceases. The funds received for such permits shall be paid to the trustee of the county and placed by him to the credit of the highway fund.

Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). It shall be the duty of the highway superintendent to prosecute any person, firm or corporation violating the provisions of this Act.

SECTION 10. The county election commission of Hardeman County is hereby authorized and directed to call an election for the first Thursday in August, 1983, for the purpose of electing three (3) highway supervisors, as provided for in Section 2, and a highway superintendent, as provided for in Section 5. The votes cast on the question shall be canvassed and the results proclaimed by the county election commissioner and certified by it to the Secretary of State as provided by law in the case of general elections. The qualifications of voters voting in the election shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the election. The cost of the election shall be paid by Hardeman County.

SECTION 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 12. Chapter 539 of the Private Acts of 1945, Chapter 378 of the Private Acts of 1949, Chapter 246 of the Private Acts of 1959, Chapter 229 of the Private Acts of 1967, Chapters 265 and 266 of the Private Acts of 1970, Chapter 20 of the Private Acts of 1975 and Chapter 10 of the Private Acts of 1979 are repealed.

SECTION 13. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Hardeman County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

SECTION 14. For the purpose of approving or rejecting the provisions of this Act it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective for purposes of the special election to be held in August of 1983 with the supervisors and highway superintendent to assume office September 1, 1983, and upon being approved as provided in Section 13.

Passed: March 10, 1983.

Highways and Roads - Historical Notes

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

1. Private Acts of 1831, Chapter 117, allowed William Simpson of Hardeman County to open and establish a toll bridge across the Hatchie River and to build a turnpike road at the place where he then operated a ferry. The bridge must be similar to the bridge then at Bolivar and was required to be kept in good repair or the right to collect tolls would be suspended. William L. Duncan, John Prassan, and Benjamin Ingram were named Commissioners to supervise and inspect the work. Simpson could collect tolls for the sixty years following completion of the road and bridge if they were kept in good condition and not allowed to fall into disrepair. Citizens of Hardeman County could pass over the bridge free of toll if they were traveling for such purposes as going to church, voting, or taking goods to market.
2. Acts of 1837-38, Chapter 251, allowed Richmond Baker, Austin Miller, William Ramsey, David Fentress, and R. P. Neely, all of Hardeman County; William S. Wisdom, W. B. Terry, Martin Cross, Thomas Bell, and J. P. Young, all of McNairy County; and Christopher H. McGinnis, James Irwin, David Robinson, Richard Davie, and Samuel Perkins, all of Hardin County, to open books to subscribe stock up to \$100,000 to build a turnpike from the bank of the Tennessee River opposite Savannah in Hardin County to Purdy in McNairy County, and on to Bolivar in Hardeman County under the same rules and restrictions applying to other turnpikes then under construction.
3. Acts of 1843-44, Chapter 62, allowed the County Courts of Fayette, Shelby, and Hardeman Counties, through which a stage road might run, to order that the first class roads in their

respective Counties be opened to a width of forty-five feet or less.

4. Acts of 1901, Chapter 136, was a statewide road law for all counties in Tennessee under 70,000 in population. The County Court in each county would select a Road Commissioner at its January meeting for each road district. The road districts would be coextensive with the County civil districts. The act detailed the duties of the Road Commissioners and the road section overseers to be appointed by the Commissioners. Male residents of the County were subject to road work but could commute the duty by paying a fee. Prisoners of the County were also subject to road work. A tax levy was authorized not to exceed twenty cents per \$100 valuation.
5. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, above, in several details but most importantly in the manner in which the Road Commissioner would receive and dispose of petitions to open, close, or change the roads.
6. Private Acts of 1915, Chapter 345, was the first special road law for Hardeman County. The Quarterly Court would select a Road Commissioner from each of the Civil Districts to serve two-year terms but those Commissioners then in office would continue until their terms expired. The Commissioners would be sworn and bonded, would supervise the public roads and the bridges in their Districts and supervise bridge repairs on bridges which were ten feet or less in length unless the repairs cost in excess of \$25. They would classify the roads into three groups ranging in width from twelve feet to fifty feet. They were to handle and dispose of all petitions to open, close, and change roads. The act set forth the method of assessing damages in cases of eminent domain. All males between twenty-one and fifty years of age would work ten days per year on the roads or pay \$40 as a commutation fee. Work would be accomplished between February 1 and October 1 each year, when possible. The work day would be from 8 to 10 hours. A road tax was authorized from sixteen to fifty cents per \$100 valuation to be collected by the Trustee. Contracts for road work would be let using uniform contracts, but if no bids were received for work, the jobs would be performed by road hands and overseers.
7. Private Acts of 1917, Chapter 403, amended Private Acts of 1915, Chapter 345, above, by increasing the commutation fee from \$4 to \$6; by inserting a new Section which required the Road Commissioners to refrain from paying any account due unless it was itemized and verified by the payee and contained specific information as outlined in the act and any failure to observe this rule would subject the Commissioner to a \$25 fine. Each District Road Commissioner would buy at the County's expense a book in which he would keep the names of all the road hands subject to road work. The book would be revised annually to include those coming of age and exclude those exceeding the age limit. An extra credit would be given to those road hands who furnished teams of horses, wagons, or tools. All contractors were required to submit detailed reports.
8. Private Acts of 1921, Chapter 207, amended Private Acts of 1915, Chapter 345, above, by increasing the number of days to be worked on the roads from ten to twelve and the fines for failure to work from \$25 to \$50. The commutation fee was raised from \$6 to \$10 and the fine for noncompliance from \$50 and \$100. This act authorized the Road Commissioners to prosecute the overseers who were delinquent in their duties. The overseers would pay over to the Commissioners all money received by them and provide a record of all work hands who worked or failed to work their quota. The money paid for commutation would be spent, if possible, in the District where it was collected.
9. Private Acts of 1921, Chapter 555, amended Private Acts of 1921, Chapter 207, above, by reducing the number of days to be worked on the roads from 10 to 8 and repeating the increase in fines from \$25 to \$50.
10. Private Acts of 1923, Chapter 126, appointed J. H. Shearin as Supervisor of Roads in Hardeman County to serve until January, 1925, when his successor would be appointed by the County Court. He would be sworn and bonded, would classify roads into three groups ranging in width from thirty to fifty feet and generally would supervise all roads, levees, bridges and culverts in the County. He was required to inspect the roads and report their condition to the County Court quarterly. He could open, close, and change roads as he deemed best for the County and was granted the power of eminent domain to obtain dirt, sand, gravel, or other road building materials. Males from twenty-one to fifty years of age, residing outside corporate town limits, were required to work eight, eight hour days, or pay \$4 for commutation. The Supervisor could appoint foremen who would be paid provided the roads for which they were responsible were kept in good condition. A special road tax of ten to fifty cents per \$100 valuation, plus a privilege tax were permitted. The Supervisor would purchase tools and equipment with the assistance and approval of the County Judge and he could work prisoners on the roads under certain conditions. He would be paid a salary of \$150 per month.

11. Private Acts of 1927, Chapter 662, created a County Road Commission and named C. C. Hillman, G. H. Mitchell, L. M. Yopp, Ras Black and the County Judge as members to serve until January 1928, when their successors would be named by the County Court. All the Commissioners would be sworn and bonded. The County Judge would be the Chairman of the Commission but would not be compensated as such. The Commission was vested with all the powers and duties of the Workhouse Commission and would take charge of the Workhouse and the prisoners. The Commissioners would meet at least one day a month at the Courthouse, would be paid \$5 per day and the Commission Secretary would get \$4 per day for extra days of required work. A limit of sixty days pay was imposed per year. The Commission would be the purchasing agency for the road department, would classify the roads, and collect data as specified concerning total miles of roads, road repairs, and other information. Each Civil District was a Road District in which all males between twenty-one and fifty years of age would work five days or pay \$1 for each day not worked. A special road tax could be levied of between ten and twenty cents per \$100 valuation. The tax proceeds were to be spent in the district where they were collected, if possible.
12. Private Acts of 1931, Chapter 759, provided that funds available from the State on account of reimbursement acts would be paid to the Hardeman County Trustee who would make them available to be spent anywhere in the County necessary to complete the system of hard surfaced roads which was under construction at the time of the act funded by bond issues. Because of bank failures the bond issue proceeds had been frozen and were unavailable.
13. Private Acts of 1931, Chapter 761, provided that the State Highway Department would have full control, direction, and supervision over the expenditure of all funds received by Hardeman County for road purposes from the State collected from any source including auto registration and gasoline tax. The Department could receive funds directly from the state and expend them on the roads in the County, giving the County Judge a report of the activity, or it could allow the County road authorities to spend the funds under supervision.
14. Private Acts of 1931 (2nd Ex. Sess.), Chapter 13, amended Private Acts of 1931, Chapter 759, above, by authorizing the County Trustee to receive state road funds and pay the funds over to the County Road Commission for disbursement. The Trustee would receive a fee for handling the funds.
15. Private Acts of 1931 (2nd Ex. Sess.), Chapter 14, specifically repealed Private Acts of 1931, Chapter 761, above, which permitted the State Highway Department to supervise the expenditure of road funds in Hardeman County.
16. Private Acts of 1931 (2nd Ex. Sess.), Chapter 36, amended Private Acts of 1927, Chapter 662, above, by changing the census figures and making the act applicable to Hardeman County. The act also named J. M. Nuckolls as ex officio chairman of the Road Commission and granted him full control of all expenditures of the Commission including disbursement of funds received by the County from the state gasoline tax. He was to be compensated by a salary of \$100 per month.
17. Private Acts of 1933, Chapter 220, required all male residents of Hardeman County, outside incorporated towns, between the ages of twenty-one and fifty years to do five days labor upon the County roads. Any person could commute the requirement by paying a fee. The County Highway Commissioners were empowered to enforce the measure.
18. Private Acts of 1933, Chapter 253, authorized the Hardeman County Trustee to expend one-half the funds received from the Department of Highways and Public Works to pay the general obligations of the County related to issued and outstanding road bonds.
19. Private Acts of 1937, Chapter 833, amended Private Acts of 1927, Chapter 662, by authorizing the popular election of the Road Commissioners. The County Judge would remain the ex officio Chairman of the Commission.
20. Private Acts of 1939, Chapter 544, organized Hardeman County into six Road Districts and arranged for the shifting of funds, budgeting changes, and election of Road Commissioners to provide for the reduced number of Districts.
21. Private Acts of 1941, Chapter 313, provided for the election of the Road Commissioner of Hardeman County by the qualified voters of the various road districts. The act arranged for the redistribution of funds and debts to allow for the change in road districts and detailed the rights and duties of the Road Commissioners. By the census figures provided in the act, it did not apply to Hardeman County but a subsequent amendment corrected the deficiency.
22. Private Acts of 1943, Chapter 79, amended Private Acts of 1941, Chapter 313, above, by correcting the population figures cited to make the law applicable to Hardeman County.
23. Private Acts of 1945, Chapter 539, was the road law for Hardeman County until 1983. The act

created the County Highway Commission and the office of County Road Supervisor. The Commission appointed the Supervisor whose duties were to implement the policies and decisions of the Commission. The Commission had charge of all roads and bridges, all new construction, repair, and designation of County roads and control of road funds.

24. Private Acts of 1949, Chapter 378, amended Private Acts of 1945, Chapter 539, above, the County road law, by abolishing the office of Supervisor and making the County Road Commission solely responsible for County roads and road funds. The Commissioners were required to be age twenty-one or older and at least a five-year resident of the County. No Commissioner could be paid for more than twenty days per month.
25. Private Acts of 1959, Chapter 246, amended Private Acts of 1945, Chapter 539, Section 10, by increasing the per diem pay of the Highway Commissioners from \$7.50 to \$10.
26. Private Acts of 1961, Chapter 229, amended Private Acts of 1945, Chapter 539, above, by increasing the term of the Highway Commissioners from two years to four years, subject to the approval of the voters in a referendum to be held in August, 1962.
27. Private Acts of 1963, Chapter 33, amended Private Acts of 1945, Chapter 539, above, by raising the per diem compensation of the Highway Commissioners from \$10 to \$12.50 and the maximum salary of the Secretary of the Commission from \$50 to \$150.
28. Private Acts of 1967-68, Chapter 41, amended Private Acts of 1949, Chapter 378, above, by increasing the maximum dollar amount of supplies which could be purchased or contracted for by the Highway Commission from \$50 to \$500.
29. Private Acts of 1970, Chapter 265, increased the per diem rate to be paid to the Highway Commissioners from \$12.50 to \$17.50 per day.
30. Private Acts of 1970, Chapter 266, raised the maximum salary of the Secretary of the Highway Commission from \$150 to \$200 per month.
31. Private Acts of 1975, Chapter 20, amended Section 10 of the Road Law by increasing the monthly salary of the Secretary of the Commission from \$200 to \$400 per month and the per diem compensation of the Commissioners from \$17.50 to \$25.
32. Private Acts of 1979, Chapter 10, raised the per diem of the Highway Commissioners to \$40 and the salary of the Secretary to \$700 per month.
33. Private Acts of 1981, Chapter 179, was a major road law for Hardeman County that was not approved by local authorities and did not become effective. The act provided for a County Highway Department under the control of a highway superintendent and a board of highway commissioners.

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