



County Technical Assistance Service  
INSTITUTE *for* PUBLIC SERVICE

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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 1923 Chapter 585

**SECTION 1.** That in all counties of this State having a population of not less than 17,130 nor more than 17,140 according to the Federal Census of 1920, or any subsequent Federal Census, there is hereby created the office of County Road Commissioner and said Commissioner shall have charge and supervision of working, improving, and maintaining all public roads in said counties, including bridges and culverts.

**SECTION 2.** That said County Road Commissioner shall be elected by the qualified voters of said County at the regular August election, 1936, and every four years thereafter. His term of office shall be for four years from the first day of September, 1936, and until his successor shall be elected and qualified. That said County Road Commissioner shall appoint some suitable person in every civil district of said County to supervise the district roads in their respective districts. That they shall receive reasonable compensation for their said services, but in no event shall they receive more than Fifty (\$50.00) Dollars per annum and shall serve at the pleasure of said County Road Commissioner. That said County Road Commissioner be empowered to fix the salaries herein authorized at any amount not exceeding the limit herein imposed and shall pay same out of the district road funds. That the supervisors thus appointed shall serve under the direction of the said County Road Commissioner.

As amended by: Private Acts of 1925, Chapter 569,  
Private Acts of 1931, Chapter 326  
Private Acts of 1935, Chapter 289,  
Private Acts of 1939, Chapter 126.

**SECTION 3.** That the County Court shall have the power to remove said Road Commissioner at any time for inefficiency or failure to faithfully perform his duties under this Act.

As amended by: Private Acts of 1925, Chapter 569.

**SECTION 4.** The County Road Commissioner shall be paid an annual salary of seven thousand two hundred dollars (\$7,200), to be paid out of the county road funds in monthly installments on warrants drawn by the Commissioner and countersigned by the County Judge. The Road Commissioner shall receive, in addition to his salary, an automobile with expenses paid on said vehicle. The Road Commissioner shall receive no additional pay or compensation for any purpose and shall pay his own expenses of every kind, except as herein stated. The Commissioner shall be a person not less than twenty-five (25) years of age and shall be capable and experienced in the repair and maintenance of roads. He shall devote full-time to the duties of the office of County Road Commissioner.

As amended by: Private Acts of 1929, Chapter 101,  
Private Acts of 1951, Chapter 200  
Private Acts of 1965, Chapter 30,  
Private Acts of 1969, Chapter 5  
Private Acts of 1972, Chapter 246.

**SECTION 5.** That said Road Commissioner, before the entering upon the discharge of his duties, shall take and subscribe to an oath to faithfully perform the duties of his office, and shall enter into a bond, with good and solvent sureties, to be approved by the Chairman of the County Court, in the sum of Five Thousand Dollars, conditioned that he honestly and faithfully perform his duties as such Road Commissioner and under the terms of this Act.

**SECTION 6.** That said Road Commissioner shall personally inspect all the main thoroughfares of the county at least once each month in the year, and shall make monthly reports in writing to the Chairman of the County Court showing in detail the character and extent of his work and operations for the current month.

**SECTION 7.** That the office of District Road Commissioner in said counties is hereby abolished and all the powers and duties of said District Road Commissioners, as now provided by law, are hereby conferred upon the County Road Commissioner herein provided for. It shall be the duty of said Road Commissioner to appoint the overseers of roads in the various civil districts of said counties and to see that they faithfully perform their duties as now provided by law.

**SECTION 8.** That said Road Commissioner is charged with upkeep, maintenance and improvement of all the public roads in said counties, and he is hereby vested with full power and supervision over same, and he shall have control over the expenditure of all available road funds of whatever kind and from whatever source derived, and shall expend same as he may deem best for the repair and maintenance of the roads,

acting at all times with the advice and consent of the Chairman of the County Court. Provided, however, that nothing herein shall be construed as affecting the powers and duties of the Chairman of the County Court in connection with the public roads of said counties as now provided by law.

**SECTION 9.** That said Road Commissioner shall have the power and it shall be his duty to assign road hands for labor to any road within the civil district where the road hand resides, and at any time during the year except from March 15th to July 1st.

**SECTION 10.** That it shall be the duty of said Road Commissioner to take into his care, custody and control all tools, machinery, materials, etc., belonging to said counties including that purchased under road bond issues, and to use it for the repair, construction and maintenance of all roads of the county as his best judgment may dictate. He shall make a detailed inventory of all such road tools, machinery, etc., to the chairman of the County Court, the said Road Commissioner is especially charged with the proper care and preservation of same and to see that same is not lost, stolen, or allowed, to needlessly deteriorate. Said Road Commissioner shall require of the various overseers inventories of all tools, machinery, materials, etc., placed in their hands, and he shall hold them strictly responsible for same. Said tools, machinery, etc. shall not be used for any purpose except on the public roads.

**SECTION 11.** That while it is made the duty of said Road Commissioner to care for and maintain all the roads of said counties he is especially charged with the duty of repairing and maintaining the main thoroughfares of said counties; and, in the expenditure of the funds and in assigning road labor, he will have due regard to the importance of the roads, treating all sections of the county impartially.

**SECTION 12.** That it shall be the duty of said Road Commissioner, acting in conjunction with the Chairman of the County Court, to favor any section or community where the citizens may offer voluntary aid to supplement the public funds and labor.

**SECTION 13.** That all applications to open, close or change public roads in said counties shall be made to the Road Commissioner, and proceedings thereunder shall be as now provided by law.

**SECTION 14.** That the reports of the Road Commissioner, showing his acts and doings and how the funds are being expended, shall at all times be open to the inspection of the public.

**SECTION 15.** That nothing in this Act shall be construed as conferring jurisdiction or power of authority upon the Road Commissioner herein provided for over the roads or streets within the limits of incorporated towns in said counties, such municipalities to continue to maintain their roads and streets as now provided by law.

**SECTION 16.** That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

**SECTION 17.** That this Act take effect from and after its passage, the public welfare requiring it.  
Passed: March 29, 1923.

## Highways and Roads - Historical Notes

The following is a listing of acts which once had some effect upon the county road system in Smith County, but which are no longer operative.

1. Public Acts of 1821, Chapter 6, required several County Courts to index and classify roads in their counties. The three classes of roads were (1) stage roads, (2) roads for loaded wagons, and (3) single horse and rider. Penalties were provided for obstructing roads and for failing to observe the terms and conditions of the act were provided.
2. Private Acts of 1826, Chapter 108, authorized Jesse Lincoln of White County to keep in repair a turnpike road between Sparta in White County and Liberty in Smith County. Adam Dale of Smith County was named as a Commissioner to inspect the work done on this turnpike.
3. Private Acts of 1832, Chapter 38, authorized Jesse Lincoln and William Ussery of White County to build a turnpike road from Sparta in White County to Liberty in Smith County, which would cross the Caney Fork River near Lockharts. William Bruster and Henry Lydy, both of White County, and Leonard Lamberton and William C. Garrison, both of Smith County, were appointed as Commissioners to inspect, supervise, and report on the work as it progressed.
4. Acts of 1853-54, Chapter 104, authorized the Governor to issue six bonds of the State in the amount of \$1,000 each to the president and directors of the Carthage and Hartsville Turnpike Company, sixteen bonds of \$1,000 each to the president and directors of the Carthage, Alexandra, and Red Sulphur Springs Turnpike Company, and eight bonds of \$1,000 each to the president and directors of the Carthage and Rome Turnpike Company, provided in all cases,

suitable liens, or mortgages, were given. One-half of the bonds would be issued when ten miles of the road was completed, and the other one-half when twenty miles was completed. The bonds were to be repaid semi-annually over a period not to exceed fifteen years. If default occurred in the payment of the bonds, the Governor was empowered to take over and sell the turnpike roads under conditions specified in the act.

5. Acts of 1855-56, Chapter 196, amended Acts of 1853-54, Chapter 104, by requiring the Carthage and Hartsville Turnpike Company to liquidate their debt to the State by paying one-half of the amount of the principal and interest each year. The act also provided that any person filling in a drainage ditch on the road would forfeit \$5.00 and costs before any Justice of the Peace in Smith or Sumner Counties. If the Company failed to complete the road within the time allowed, they would nevertheless continue as a body corporate and politic insofar as the enforcement of any contractual provisions were concerned.
6. Private Acts of 1868-69, Chapter 61, provided that the gates of the Alexandria, Carthage, and Red Springs Turnpike be thrown open and no pikeage be collected on the road until it was placed in the condition required in the charter of the road before tolls could be collected.
7. Public Acts of 1871, Chapter 109, recited that the State of Tennessee had loaned the sum of \$6,000 to the Carthage and Hartsville Turnpike Company and that a lawsuit was pending in the Chancery Court of Smith County which had been filed by creditors of the company contesting the priority of the State's lien on \$4,650, the proceeds from the sale of the company. The act permitted the State to compromise and settle the lien and debt against the company in such manner and on the terms deemed in the best interests of the State, but the settlement would not be in any amount less than \$3,000
8. Public Acts of 1895, Chapter 129, appointed J. F. Roy, R. B. Floyd, James Jones, J. W. Overall and A. P. Smith, of DeKalb County, and R. A. Lawrence, Jonathan Smartt, and E. N. Allen, of Smith County, as Commissioners to open books and subscribe stock for the purpose of constructing a macadamized road from Alexandria to Brush Creek. The amount of stock could not exceed \$4,000 at \$25 per share. The company would have the power to contract, but had to meet specifications contained in the act. When the road was completed, a toll gate was to be established where the road crossed the Nashville and Knoxville Railroad. The company would charge the same rate of tolls allowed on the Sparta and Lebanon turnpike road.
9. Acts of 1901, Chapter 136, was a general road law for every county in the State with a population of under 70,000. The County Court of each county would select one Road Commissioner for each Road District. The Road Districts would be co-extensive with Civil Districts. The Commissioner would be in charge of the roads, bridges, culverts, and road hands in his District for a term of two years and he had to be sworn and bonded. The County Court would assign road hands to each District, each to work from five to eight days, as determined by the County Court, and would fix the price to be allowed for a day's work. The County Court could levy a special road tax of two cents per \$100 property valuation for each day required to be worked, two-thirds of which could be worked out on the roads. The District Commissioners would appoint the road overseers in their Districts who would be in immediate charge of sections of roads. Some specifications for roads were set forth in the act and the County Court could contract for work on roads designated by them. The County Court was further required to index and classify the roads into four classes. Petitions to open, close, or change roads would be handled by the Commissioner who would follow guidelines contained in the act. Commissioners would be paid the same as Justices of the Peace.
10. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, above, in several minor particulars but was primarily concerned with revising the procedures for receiving and disposing of petitions to open, close, or change county roads.
11. Acts of 1907, Chapter 271, provided that in Smith County, all persons between the ages of eighteen and fifty would be subject to road duty and would perform labor on the public roads as required by law. Eight hours would constitute a normal work day. The County Court would fix the number of days to be worked each year, which would be no less than eight nor more than ten. Two days of this amount was to be worked in April or May and the remainder in August or September.
12. Private Acts of 1917, Chapter 740, amended Public Acts of 1915, Chapter 100, by requiring that the State Highway Commission immediately refund to the Chairman of the County Court of Smith County all funds and monies which had been collected from the county arising from the licensing and registration of automobiles. When refunded, the money would be used exclusively for road purposes under the direction of the County Court.

13. Private Acts of 1919, Chapter 780, amended the Road Law for Smith County by empowering the County Court to increase its road tax levy and the commutation fee for road labor from 75 cents to \$1.50 and from \$2.25 to \$3.
14. Private Acts of 1921, Chapter 963, provided that the County Judge or Chairman in Smith County would turn over to the County Trustee all fees received from the State highway department resulting from the sale of auto licenses. The Trustee was to credit each road district with the proportionate share due it, based upon the number of auto owners and license fee payers in that district. The Trustee would also distribute to the incorporated cities and towns their share based upon the same standards.
15. Private Acts of 1929, Chapter 676, stated that, in Smith County, all funds contributed by the County in cooperation with the State Highway Department and expended on the construction of State Highways or in acquiring toll bridges would be refunded. The County was to submit its claim, together with proof of payment, to the State Commissioner of Highways and Public Works who would submit it to the Highway Reimbursement Board, which would consider the claim and reimburse the County. The amount refunded was not to exceed \$30,000.
16. Private Acts of 1935 (Ex. Sess.), Chapter 2, named the bridge constructed by the State across the Cumberland River at Carthage for the Honorable Cordell Hull.

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