



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter IX - Highways and Roads

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Chapter IX - Highways and Roads

Road Improvements

Private Acts of 1913 Chapter 32

SECTION 1. That in counties having a population of one hundred ninety thousand inhabitants, or more, according to the Federal census of 1910 or any subsequent Federal census, the supervision, control, and management of the public roads in said counties shall be vested in, and become a part of, the powers of the Board of County Commissioners.

SECTION 2. That the working of said public roads, the repairing of same, the opening of new roads, or the changing of old roads - in short, the entire care and control of the public roads in said counties - shall be under the jurisdiction of the Board of County Commissioners, who shall have full authority in said matters, except as hereinafter provided, together with the right to employ such person or persons to superintend the working of said roads or to work on said roads as, in their judgment and discretion, they deem right and proper.

SECTION 3. [Deleted by Private Acts of 1931, Chapter 220].

SECTION 4. [Deleted by Private Acts of 1931, Chapter 220].

As amended by: Private Acts of 1921, Chapter 242,
Private Acts of 1925, Chapter 422.

SECTION 5. [Deleted by Private Acts of 1931, Chapter 220].

SECTION 6. [Deleted by Private Acts of 1931, Chapter 220].

SECTION 7. That in the matter of opening or making new roads, or of changing old roads, the Board of County Commissioners shall appoint three disinterested freeholders of the district in which said road is located, or, if in more than one district, two from each of the districts in which the same is located, who shall have no interest, direct or remote, in the proposed road or change, and who shall have never been consulted in regard to the same, and who shall take oath of the above matters in regard to their qualification, and also that they will act impartially in the matter; and thereupon the Board of County Commissioners shall give written notice to all landowners and tenants whose land will be affected by the pening, making, or changing of the said road, that at a certain time, which will not be less than five days from the time said notice is given, a jury of view, consisting of said free holders, will determine the matter that they have been appointed to investigate. Said jury of view, at the time and place designated in said notices, shall view the roads to be affected by the proposed change, may hear the statement and testimony of any persons, and shall then make a written report to the Board of County Commissioners setting out their findings, describing the road to be changed, opened, or closed, and finding the amount to be paid any landowner or tenant as damages for taking his land or crops. This report shall be signed and sworn to by said jury of view, and shall be at once filed with the clerk of the Board of County Commissioners. Said Board of County Commissioners may take up said report as soon after it is filed as it is convenient, and, if they see fit, may hear proof or the statements of any parties interested, and determine what amount shall be paid as damages to said interested parties. From the findings of the Board of County Commissioners, any person may prosecute an appeal to the Circuit Court of said county by giving bond within five days after the findings of the Board of County Commissioners; but the prosecution of said appeal shall not prevent the Board of County Commissioners from taking possession of their property, or making the proposed changes on said road, or building or opening said road; provided, the county, through the Board of Commissioners [sic], shall give bond, with good security, in double the amount of damages found by the Board of County Commissioners, which bond shall be filed with the papers in the Circuit Court.

SECTION 8. That the Board of County Commissioners shall have full power and authority to regulate the crossings of county roads by steam railroads, electric railroads, or any other public-service corporation; and they shall have the right to grant a right of way to such railroads for the purpose of crossing the county roads, where it can be done safely to the traveling public. It shall be within their power to require said railroads to make every safeguard necessary and appropriate for the safety of the traveling public, and to provide the grade at which they shall work said roads, or whether they shall go over or under the same, and to provide the safeguards and regulations as to said crossings; all of which must be at the expense of said railroads and in cases where crossings are made by the railroads, it shall be the duty of said railroads to keep and maintain said crossings and fifty feet of the public road on either side of the said railroad at their (the railroad) expense. It is not intended by this Act, however, to give the County

Commissioners the right to grant franchises to railroads, electric light companies, telephone companies, etc., to run their tracks or lines along and upon the public highways of the county, but this right shall only be granted by the County Court.

SECTION 9. That all Acts and parts of Acts in conflict with this Act be, and the same hereby are, repealed.

SECTION 10. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 10, 1913.

Highways and Roads - Historical Notes

The following is a listing of acts which once had some effect upon the county road system in Shelby 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 1832, Chapter 132, provided that the citizens of Shelby County were not subject to the payment of tolls on the Gallatin & White Creek Turnpike Road.
2. Acts of 1843-44, Chapter 62, gave the county court authority to order that first class roads in Shelby County be opened to a width of forty-five feet so that they might be used for stagecoaches.
3. Private Acts of 1866-67, Chapter 63, authorized the building of a dirt turnpike road, thirty feet wide and above the high water mark from the residence of W. E. Jones to Black Branch. The county court was to appoint an inspection committee, and also to set the rates of toll on the turnpike roads.
4. Public Acts of 1877, Chapter 13, provided for the benefit of the Shelby County Turnpike Company. This act authorized that a tollgate may be located nearer than one mile of the corporate limits of the City of Memphis and that those who lived on or resided on said road, within one mile of the corporate limits of Memphis, were not charged for their use of the turnpike.
5. Acts of 1903, Chapter 342, provided that all road hands living on the turnpikes in Shelby County were to keep the side ditches of the county roads open.
6. Acts of 1903, Chapter 359, authorized the county court to appoint road supervisors in and for each civil district.
7. Acts of 1903, Chapter 370, abolished the office of road commissioner. This act was repealed by Acts of 1905, Chapter 74.
8. Acts of 1905, Chapter 63, recreated the office of road commissioner for Shelby County.
9. Acts of 1905, Chapter 69, amended the general road law of the state found in Public Acts of 1883, Chapter 167, to provide that the salary of the supervisor of the turnpike commission in Shelby County would be \$1,500 per year.
10. Acts of 1905, Chapter 79, amended the general law found in Public Acts of 1891, Chapter 1, to require the turnpike commissioner in Shelby County to keep records of official transactions and make a quarterly report to the county court, and to give him the authority to hire overseers.
11. Acts of 1907, Chapter 219, required the board of workhouse commissioners to furnish the turnpike superintendent with a gang of not less than twenty nor more than thirty convicts, properly outfitted to keep the graveled roads of the county in repair. The caption of this act embraced only Shelby County (population of 150,000 or more by the federal census of 1900) but the act itself (population of 15,000 or more) applied to most Tennessee counties. This act was repealed by Acts of 1909, Chapter 195.
12. Acts of 1907, Chapter 370, was a general road law for Shelby County which authorized the county court to appoint a "Superintendent of Public Dirt Roads." This act was amended by Acts of 1909, Chapter 499, to provide that the chairman of the county court, the road superintendent and the county attorney could settle by agreement any matter with landowners whose property adjoined any road which was being straightened, widened, or otherwise improved. These officials were authorized to pay up to \$100 to settle any such dispute. This act was further amended by Private Acts of 1911, Chapter 276, to provide that the board of county commissioners could elect a superintendent of public district roads for Shelby County. Private Acts of 1911, Chapter 364, amended the original act by giving the superintendent of public roads the authority to widen any road in the county, provided that no damages were to be assessed by condemnation. All of these

acts were repealed by Private Acts of 1913, Chapter 9.

13. Acts of 1909, Chapter 174, amended the general law found in Public Acts of 1883, Chapter 167, to provide that in Shelby County the salary of the secretary and supervisor of the turnpike commission would be \$2,000 per year, payable monthly.
14. Acts of 1909, Chapter 194, amended the general law on turnpike construction, Public Acts of 1883, Chapter 167, by providing that in counties with a population over 150,000, according to the Federal Census of 1900, the salary of the secretary and supervisor of the turnpike commission shall be \$2,000 per annum.
15. Private Acts of 1911, Chapter 423, created the office of bridge superintendent, to be under the direction and control of the county court, and to have the duty of supervising the building and repair of all bridges in the county. This was repealed by Private Acts of 1913, Chapter 133.
16. Private Acts of 1913, Chapter 132, gave the board of county commissioners in Shelby County full and entire charge of the supervision, construction and management of the building and repairing of public roads in Shelby County.
17. Private Acts of 1925, Chapter 423, authorized the board of county commissioners to establish improvement districts for the opening and maintenance of boulevards, parkways and other specially designated roads.
18. Private Acts of 1929, Chapter 794, authorized Shelby County and cities within Shelby County to contract with reference to the distribution and application of funds for highways, bridges and turnpikes.
19. Private Acts of 1943, Chapter 258, authorized the board of county commissioners to contribute \$375,000 toward the construction of a bridge for vehicular traffic across the Mississippi River. This was amended by Private Acts of 1947, Chapter 515, which substituted \$875,000 for \$375,000.

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