



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Private Acts of 1935 Chapter 633

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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,

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Private Acts of 1935 Chapter 633

SECTION 1. Deleted in its entirety by Private Acts of 1971, Chapter 12.

SECTION 2. There are created for Franklin County four (4) county highway districts to be composed of the county civil districts, as follows:

The first highway district composed of the first and fifth magisterial districts; the second highway district composed of the seventh and second magisterial districts; the third highway district composed of the third and fourth magisterial districts; and the fourth highway district composed of the sixth and eighth magisterial districts.

As amended by: Private Acts of 1941, Chapter 542
Private Acts of 1945, Chapter 393
Private Acts of 1971, Chapter 12

SECTION 3. That there is hereby created a "County Highway Commission" for each county or counties to which this Act applies, to be composed of three members possessing the qualifications, to be elected in the manner, charged with the duties and entitled to the compensation hereinafter set out and provided therefor.

As amended by: Private Acts of 1941, Chapter 542
Private Acts of 1945, Chapter 393
Private Acts of 1961, Chapter 78

SECTION 4. At the August general election for 1974 and every four (4) years thereafter, the county highway commissioners shall be elected by the majority vote of the qualified voters in each of the highway districts set forth above in this act. The qualified voters in each of the above named road districts shall vote for one candidate (sic) from the road district, and the candidate receiving the highest number of votes in said general election shall be declared by the Election Commissioners of said county or counties the duly elected Highway Commissioner from said County Highway District. Candidates for election will qualify as the law now provides for qualification of candidates for any other County office, but said Commissioner must be a freeholder and over the age of twenty-one years and a bona fide resident of the District from which he appears and is a candidate for a period of at least six months.

As amended by: Private Acts of 1945, Chapter 393
Private Acts of 1971, Chapter 12

COMPILER'S NOTE: Private Acts of 1937, Chapter 214, repealed and replaced Section 5 of this Act. Private Acts of 1939, Chapter 488, repealed the new Section 5 without replacing it.

SECTION 6. That the persons receiving a certificate of election, as provided in Section 4 of this Act, shall qualify on September 1st, as other County candidates qualify, and they shall meet in the courthouse in their respective county or counties on the first Monday in September, following their election and qualification, and shall elect one of their number as Chairman of the Commission, and another of their number as Secretary of the Commission. The Chairman shall preside over all meetings of the "County Highway Commission", or in his absence, a chairman pro tem may be elected from one of those present. A majority of the members shall constitute a quorum for the transaction of all business of said Commission. Each member of said Commission shall take and subscribe to an oath before some officer authorized to administer such oaths to the effect that he will honestly and faithfully, and impartially discharge the duties of his office, and faithfully and honestly account for and pay over all monies, and turn over all property belonging to the counties in his hands, and likewise, shall post with the County Court Clerk a good and solvent bond in the sum of One Thousand (\$1,000.00) Dollars for the faithful performance of his duties. Said Commission shall meet in regular session on the first Monday in September, December, March and June of each year, and at any other time in special meetings on the call of the Chairman of the Commission, upon five days notice whenever the Chairman may deem it necessary and proper to have a meeting for the performance of the duties of said Commission and the transaction of its business, but no member of said Commission shall receive compensation for more than fifteen days in any one year. The Chairman shall call a meeting of said Commission when requesting (requested*) in writing so to do by a majority of the other members of said Commission.

The Secretary shall attend all meetings of said Commission, keep a complete and correct record of all accounts of the Commission at each meeting, and such other records shall be kept by him as is now or may be hereafter provided by law. Said Secretary shall meet with the Chairman at such times as may be deemed necessary and proper by the said Chairman, or a majority of said Commissioners, for the performance of such duties as may be imposed upon him by this Act. All such services shall be performed by said Chairman and said Secretary without additional compensation other than that fixed in this Act for said board of County Highway Commissioners.

COMPILER'S NOTE: The original Act did not contain a Section 7.

SECTION 8. The members of the Franklin County Highway Commission shall be compensated in such a manner and at such a rate as prescribed from time to time by the Franklin County Board of Commissioners. Such compensation shall be paid by the chairman of the Franklin County Highway Commission out of the highway funds on warrant of the chairman of such highway commission, payments to be made on the first of each month, and the chairman shall not be entitled to receive any additional compensation for his services as chairman, but shall receive the same compensation as other members. In no case shall the amount of compensation be less than that being paid on March 3, 1980.

As amended by: Private Acts of 1939, Chapter 489,
Private Acts of 1943, Chapter 224,
Private Acts of 1949, Chapter 43,
Private Acts of 1975, Chapter 132,
Private Acts of 1980, Chapter 267

SECTION 9. That it shall be the duty of the said Highway Commissioner(s*), after they shall have qualified as provided in Section 4 of this Act to meet at noon on the first Monday in September following their election and qualification and elect a Superintendent of Highways for the ensuing two years and fix his salary, provided further that said salary shall not exceed Seven Thousand Five Hundred (\$7,500.00) Dollars per annum.

The Superintendent of Highways so elected shall be a man over twenty-five years of age, qualified in the art of road building and maintenance, with a satisfactory written record and evidence of his ability so to do; and provided further that he shall not be related to any member of the Board of County Highway Commissioners, either by blood or marriage within the third degree.

As amended by: Private Acts of 1945, Chapter 244
Private Acts of 1955, Chapter 292
Private Acts of 1961, Chapter 77
Private Acts of 1965, Chapter 273

SECTION 10. That the Superintendent of Highways so elected as provided in Section 9 of this Act shall within five days after his election qualify before the County Court Clerk by taking an oath to support the Constitution of the State of Tennessee and of the United States, and to faithfully discharge the duties of his office, and he shall execute a bond for the use and benefit of the county or counties effected by this Act in the sum of Ten Thousand (\$10,000.00) Dollars for the faithful discharge of his duties. Said bond shall be secured by some bonding company authorized to do business in the State of Tennessee, and having a resident agent in said State, upon whom service may be had, and the premiums on said bond shall be paid from the highway funds of said county or counties.

Provided further that the Superintendent of Highways shall be subject to removal from office at any time after 30 days written notice charging inefficiency, mismanagement, misfeasance, or malfeasance in office whenever in the judgment of the said Commission it is deemed to be to the best interests of said county or counties, or in the best interest of said work, the employment of said Superintendent of Highways being subject to the will and pleasure of the said Commission.

As amended by: Private Acts of 1939, Chapter 489

SECTION 11. That it shall be the duty of the said Highway Commissioners; first, to determine the roads to be built, worked or maintained as a part of the County Highway system of said county or counties, and rural roads thereof; second, to employ such laborers, supervisors, mechanics, etc., as in their judgment may be necessary and to fix their compensation; to purchase machinery, material, equipment and supplies which may be required in road construction. Provided further that all purchases made by said County Highway Commission for any purpose whatsoever where the purchase price would amount to or exceed the sum of Two Thousand (\$2,000.00) Dollars, said purchase shall be made upon competitive bidding and a record of advertisements for bids and the awarding to the successful bidder and the reasons therefor shall be kept by said Commission, and shall be open for inspection by any interested party or citizen on said county or counties.

As amended by: Private Acts of 1937, Chapter 267
Private Acts of 1979, Chapter 24

SECTION 12. That it shall be the duty of said Highway Commissioners to negotiate with the Highway Department of the State of Tennessee for the rental or lease of machinery or equipment from the State Department if deemed necessary in the carrying forward of road work in said county or counties; to have general supervision of the rural road construction and maintenance in said county or counties and the expenditure of gasoline money received from the State or any other revenue that may be available for said work; to have general supervision and direction of all road work, maintenance, repairing, construction, grading and drainage and any and all detail work as provided in this Act; to disburse all funds of the Highway Department. The Chairman of said Highway Commission shall issue warrants upon the trustee of said county or counties, which warrants are to be paid by the Trustee of said county or counties. The said Chairman of said Highway Commission shall keep a record of each and every warrant, the purpose for

which it is given and all other records in such manner and method as may be adopted and approved by the Highway Department of the State of Tennessee.

No funds of the Highway Department shall be paid out or disbursed by the Trustee of the County except on warrant of the Chairman, and should any amount or amounts be paid from this fund or diverted such act is hereby declared to be a misdemeanor on the part of the Trustee.

As amended by: Private Acts of 1937, Chapter 214
Private Acts of 1939, Chapter 488.

SECTION 13. That the District Road Commissioner elected by the Quarterly Court of said counties for the various Civil Districts shall be under the general supervision of the Superintendent of Highways and shall take their reports to and settlements with him, and said settlements shall be made at all times on or before the following the road year. The salaries of the District Commissioners shall be fixed by the Quarterly Court at the time they are elected and no Commissioner shall be paid his salary until he has made a satisfactory report and settlement as above provided; and he will then be paid his compensation by warrant issued by himself on his particular district and countersigned by the Superintendent of Highways. And said warrant shall then be paid by the County Trustee out of such funds as may be to the credit of the particular District.

As amended by: Private Acts of 1937, Chapter 214
Private Acts of 1939, Chapter 488

SECTION 14. That it shall be the duty of the Quarterly Court of said Counties to levy a tax upon all taxable property in said County at its July term, or any other tax levying term, along with other taxes in an amount not to exceed more than ten cents on the \$100.00 for road purposes.

And said Quarterly Court may or may not, as it deems best, at its January term of each year, assess all male citizens between the ages of twenty-one years and fifty years for road duty, that is free labor. But in no event shall the assessment of free labor exceed one day for each one cent levied for road purposes; in other words, they may assess five days free labor if they assess five cents levy, etc., but the assessment of free labor is left to the discretion of the Court. In the event assessment for free labor shall be made any person so assessed shall be allowed to commute by the payment of \$1.00 per day for the number of days assessed.

The Quarterly Court may also, in its discretion, assess teams and wagons or teams or wagons for free labor on the road, but neither team nor wagon shall be assessed for more than five days. And in the event such assessment shall be made commutation may be had for teams at \$2.00 per day or for wagons and teams at \$3.00 per day. In the event teams or wagons are assessed the owner may furnish a driver, subject to road duty who may put in his time as driver of said team.

Should any person, or the owner of any wagon or team so assessed, fail to work, said fact shall be reported to the Commissioner by the overseer and it shall become the duty of the Commissioners to prosecute such person; and such failure is hereby made a misdemeanor and such delinquent when found guilty may be assessed a fine of not less than \$10.00 nor more than \$50.00, and committed to the workhouse in case he fails to pay said fine.

SECTION 15. That from the Road District funds shall be paid the compensation of Commissioners and overseers, the construction and repair of culverts and drainage, rights-of-way for district roads and such other incidental expenses and work as may be necessary for said district roads; provided further that such amount or amounts as may at the end of the calendar year remain to the credit of a district. The apportionment of district funds shall be made as now provided by law.

As amended by: Private Acts of 1937, Chapter 214

SECTION 16. That where such counties have declared a workhouse, all workhouse prisoners capable of road labor, or other labor incident to the construction or maintenance of roads shall be subject to orders of the Superintendent of Highways, and shall at all times be worked where feasible.

The county jail may be declared the workhouse in which event the Sheriff or other person keeping the jail, will feed the workhouse prisoners which bills will be paid from the county funds as now provided by law. But clothing where necessary for work hands and transportation to and from work will be furnished by the Highway Commissioners and paid for by the Superintendent from highway funds as other bills against the highway funds.

SECTION 17. That all applications to open, change, close and restore to public use any and all public roads in such counties shall be by written petition to the County Highway Commission, setting out the District or Districts in which the roads are located. The Superintendent of Highways within ten days after the application has been filed with the County Highway Commission shall notify the person first named on the petition of the date at which he and the District Road Commissioner will be present at the beginning point mentioned in the petition to act on the application. The time and beginning point to all land owners to be effected by the proposed change. (sic) If the land owner effected (sic) by the proposed change is a non-resident then ten days written notice to his agent or attorney residing in the county shall be a legal

notice. The Superintendent of Highways and District Road Commissioner shall attend at the appointed time and place, and if proper notices have been given, shall act upon the application, assess the damages against the County, and report their action to the County Court and with their report file the original petition, notice to land owners, and the names of the material witnesses.

And after said report shall have been filed with the Clerk of the Court it shall be entered as the decree of the Court unless within ten days after the filing of same some one or more interested parties signify their disapproval in writing either with the Superintendent of Highways or the County Court Clerk; and if such disapproval or protest is filed within fifteen days thereafter the whole controversy shall be tried and heard before the County Judge, and his finding shall become final and entered on the minutes, unless one or more interested parties appeal to the Circuit Court. The interested party or parties shall have the right to appeal as in other cases by the execution of good and solvent cost bond and the case shall be transferred to the Circuit Court; all papers shall be filed with the Circuit Court Clerk; the case shall be placed on the docket and heard in the Circuit Court, as other controverted propositions are heard.

After the controversy shall have been settled in any of the above mentioned methods, the damage, if any assessed, shall be paid by the parties by warrant drawn by the Superintendent of Highways and paid by the County Trustee from any unappropriated funds.

The County Highway Commission may of their own motion or violation, open, change, abandon or restore any road or roads without petition, provided that the foregoing provisions as to hurt and damage will apply.

SECTION 18. That the County shall have the power to receive by gifts or to acquire in the usual way and manner, or by condemnation, rock quarries, chert beds, gravel pits, land, routes for drainage purposes or any other thing of value necessary, in the judgment of the Commission, for the construction, maintenance, drainage, or upkeep of roads. In case condemnation becomes necessary the Superintendent of Highways may institute condemnation proceedings in the way and manner now provided by law for condemnation.

In case of condemnation the same procedure and appeals will prevail as now provided by law, except that in case it is decided the property is necessary its use will be condemned and used and the final decision on appeal will determine the damages, etc.

SECTION 19. That the Superintendent of Highways or any person acting under his direction and authority may enter upon any land adjoining or near any section of road to construct any drain or ditch necessary to the preservation of the improvements of such roads, and it shall be the duty of the Superintendent of Highways at all times, and those working under his orders and directions to keep open all ditches and drain(s*) on all roads in the county so as to prolong the life of the road. Any person or persons who shall place or cause to be placed in any manner whatsoever any obstruction in the roads, ditches, or drains of said counties which would obstruct or damage in the least the public roads included in this act shall be guilty of a misdemeanor and upon conviction before any Justice of the Peace shall be fined not less than Ten Dollars nor more than Twenty-five Dollars for each offense, and the Superintendent of Highways is authorized and empowered and it is made his duty to prosecute all offenders.

As amended by:

Private Acts of 1937, Chapter 214

Private Acts of 1939, Chapter 488

SECTION 20. That the County jails of such counties as are affected by this Act are hereby declared to be a County Workhouse, and the Sheriff or Jailer, as Superintendent thereof, shall have the care and custody of all county convicts committed to such institution, except when they are at work on the roads or are being taken to and from such road work, during which time the guard, designated by the Commission, shall have the care and custody of them and shall be responsible for their safety. All the powers and duties now vested in and imposed upon the Board of Workhouse Commissioners, sometimes called "Workhouse Board", in counties of which this Act applies, are hereby vested in and imposed upon the said County Highway Commission herein created, and the said Board of Workhouse Commissioners is abolished. That said Highway Commission shall have charge to any and all prisoners confined in the County Jail or workhouse under a workhouse sentence as provided by law, and shall work or cause to be worked on the public roads of the county, for such credit on the sentence in time or money as is now or may hereafter be provided by law for such work; provided, that nothing herein shall be construed to relieve the Sheriff or Jailer of any responsibility for such prisoners now, or hereafter imposed by law, except when such prisoners are actually at work under the orders of the said Commission.

SECTION 21. That the Highway Commission, may if they deem best, have copies of this Act printed in pamphlet form, same to be paid for from the said highway fund on warrant of the Superintendent of Highways; but this provision is not compulsory, and should publication be made, they shall in no wise exceed two hundred fifty copies per annum.

SECTION 22. That each section, sub-division, and paragraph of this Act is hereby declared to be a separate and independent clause from any other section, sub-division, or paragraph hereof, and the illegality or invalidity of any section of (or*) sub-division or paragraph hereof shall not affect any other

section or paragraph.

SECTION 23. That all laws and parts of laws in conflict herewith, or with any part hereof, be and the same are hereby expressly repealed.

SECTION 24. That this Act take effect from and after the first day of September 1936, the public welfare requiring it.

Passed: April 20, 1935.

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