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# Road Law

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## Road Law

### Private Acts of 1929 Chapter 111

**COMPILER'S NOTE:** The following act applies to counties having a population of not less than 43,000 nor more than 43,400 according to the Federal Census of 1920 or any subsequent Federal Census (Gibson County). This introductory language was deleted from Section 1 of the original act by the 1961 amendment.

**SECTION 1.** That at the July Session of the Quarterly County Court, 1962, the said Court by and through its members, the Justices of the Peace composing said Court, shall elect a Road Commissioner from each of the Road Districts of their County to serve as Highway Commissioner from said Road Districts on said Highway Commission, said commissioners shall be citizens and residents of the respective Road District for which elected. For Road District Number One, said commissioner shall be elected to serve one year from September 1st, 1962; for Road District Number Two said commissioner shall be elected to serve two years from September 1st, 1962; for Road District Number Three, said commissioner shall be elected to serve Three Years from September 1st, 1962; for Road District Number Four, said commissioner shall be elected to serve Four Years from September 1st, 1962; and for Road District Number Five said commissioner shall be elected to serve for a period of Five Years beginning September 1st, 1962.

The succeeding Quarterly Courts in the July Sessions, shall elect a successor to the Commissioner whose term of office shall expire on the following September 1st, for a term of Five Years and the term of office of each and every Road Commissioner, elected the July Session of such Court, shall be for a period of Five Years, beginning September 1st following said election, and all successors of said Commissioners shall be elected by the said Quarterly County Court at its Third or July Session of said Court; and each Road Commissioner shall serve for the period for which he is elected or until his successor is elected and duly sworn into office, and should a vacancy occur by death, removal, or resignation of any Road Commissioner so chosen by said Court, said vacancy shall be filled by the election of a Road Commissioner at a subsequent regular term of said Court after such a vacancy occurs to serve until the next regular election in July of said court before said term made vacant should expire and the successor should be sworn into office. The County Judge of said County shall be ex-officio a member of said Gibson County Highway Commission and shall be ex-officio Chairman of said Commission.

As amended by:

Private Acts of 1935, Chapter 709

Private Acts of 1947, Chapter 708

Private Acts of 1953, Chapter 488

Private Acts of 1961, Chapter 109

**SECTION 2.** That each Commissioner so elected shall within ten days after his election qualify by subscribing to an oath to faithfully and impartially perform the duties of his office and giving a good and solvent bond, payable to the State of Tennessee, in the sum of Five Thousand Dollars (\$5,000.00), conditioned that he will faithfully perform the duties of said office and for the faithful accounting of any and all funds which may come into his custody, care, or control, or in the custody, care and control of said Commission, the cost and expenses of said bond, if any, to be paid out of the Highway funds of said County in the manner hereinafter provided for the payment of highway expenses. The County Judges shall not be required to subscribe to said oath, or execute said bond, for the reason that they are already under bond and have subscribed to their oaths of office and further bond and further oath shall not be necessary.

**SECTION 3.** That within ten days after the election of said five commissioners, the six members of said County Highway Commission shall organize, with the County Judge as chairman and they shall elect a vice-chairman and a secretary, each of whom shall serve for one year, or until their successors are elected and qualified, or there shall be a reorganization of said Commission.

It shall be the duty of the chairman to preside at all meetings of the Commission; to see that the minutes of all proceedings are properly kept and to sign the same; to carefully inspect all accounts presented for payment and all vouchers issued in order to determine their correctness and to sign all orders, or vouchers, on the County trustee for the payment of funds, each and all of such orders and vouchers shall be written or printed in ink and signed. The Chairman shall also act as executive officer of the Commission and shall attend to the disposition of all matters needing attention when said Commission is not actually in session.

In the absence of the chairman, or his inability to act, his duties shall be performed by the vice-chairman.

The Secretary shall keep minutes of all the proceedings of the Commission in a well bound book provided for that purpose, shall do and perform all other duties usually and customarily performed by a Secretary,

and any and all such other duties as may be imposed upon him by said Commission.

As amended by: Private Acts of 1935, Chapter 709

**SECTION 4.** That as compensation for their services as Commissioners, they shall each receive the sum of One Hundred Dollars (\$100) each month.

As amended by: Private Acts of 1937, Chapter 567

Private Acts of 1972, Chapter 294

**SECTION 5.** That no person shall be eligible to be elected as a Commissioner unless he be a resident and a free holder in said County in which he is elected and of the road district for which he is elected, and no member of the County Court shall be eligible to be elected as a member of said Commission.

**SECTION 6.** That if a Commissioner shall cease to be a resident of said County in which he is elected, or for any other reason becomes disqualified to serve as such Commissioner, or whose term has expired, his office shall become vacated and such vacancy shall be filled at the next regular term of the Quarterly County Court, of said County, when a successor, qualified as herein-above set out, shall be elected to fill out the unexpired term of the Commissioner whose retirement from said Commission created said vacancy.

**SECTION 7.** That in each County coming within the provisions of this Act there is hereby created the office of County Road Supervisor. To be eligible to be elected as Road Supervisor one shall have had at least one year study in road engineering in a reputable school where such is taught and three years of practical experience in road building.

Said County Road Supervisor shall be elected by not less than a majority of the said Commissioners and immediately after the organization of said Commission, and he shall serve for such length of time as by the Commission shall be deemed proper and necessary and as long as his services are satisfactory to them. He shall serve in said capacity until his successor is elected and qualified and it shall be the duty of said County Road Supervisor to have the direct supervision and control of any and all work and labor done upon any of the roads, highways, bridges, or levees of the County, not under State supervision, and the same shall be done according to surveys, plans, specifications and blue prints prepared by him and under his supervision and control, under the orders and directions of said Commissioners and it shall be his duty to make repeated and continual inspections of all roads, highways, bridges and levees of the County, and to keep the same in a good state of repair and safe for the use and travel of the public over and upon the same and he shall be directly responsible to said Commissioners for the conditions of all roads, highways, bridges and levees in said County.

The compensation or salary of the said County Road Supervisor shall be fixed by the said Commissioners, the same to be paid him monthly by the County Trustee out of the road funds of the County, upon a warrant for the same drawn and signed by the Chairman of said Commission, countersigned by the Secretary, and upon the written order of the said County Road Supervisor.

The Commissioners shall furnish the said County Road Supervisor a conveyance and shall maintain and bear all expenses of the upkeep of the same in order that he may perform his duties, in going over the County in the inspection of said roads, highways, bridges and levees as herein provided, but the same shall not be used by him on private business or for pleasure.

The said County Road Supervisor shall at all times be subject to the orders and directions of the Commission and shall promptly and faithfully do and perform any and all duties that may be imposed upon him by said Commission.

As amended by: Private Acts of 1939, Chapter 227

**COMPILER'S NOTE:** The Tennessee County Uniform Highway Law, codified in Title 54, Chapter 7 of Tennessee Code Annotated, has superseded or expanded portions of this section and other sections. The qualifications of a "Chief Administrative Officer" (which includes among its definitions county road supervisor) elected after 1974 are set out at T.C.A. § 54-7-104. The salary of the Chief Administrative Officer, under T.C.A. § 54-7-106, must be at least 10% higher than the salary of the county trustee. Under T.C.A. § 54-7-108, the Chief Administrative Officer must post a \$100,000 bond. The duties of the Chief Administrative Officer under the County Uniform Highway Law are greater than those of the road supervisor under this act. Tennessee Attorney General Opinion U89-60 details the manner in which the provisions of this private act conflict with the County Uniform Highway Law. Although T.C.A. § 54-7-105 sets a four-year term for Chief Administrative Officers, that section (as amended by Public Acts of 1980, Chapter 669) exempts Gibson County from its provisions. Public Acts of 1980, Chapter 669, requires approval of 2/3 of the county legislative body, however, and the Secretary of State has no record that the act was ever approved.

**SECTION 8.** That no one of the Highway Commissioners, or the County Road Supervisor, or either of them, shall at any time be interested, either of them, shall at any time be interested, either directly or indirectly, financially, or otherwise, in the acceptance of any contract, or the doing and performing of any

work or labor, in the sale of any material, or in the purchase of tools, machinery or appliances of any kind or character, or in the construction, maintenance, or repairing of any of the roads, highways, bridges, or levees of said County and should any of those named become so interested, a vacancy shall be declared to exist in their said office and a successor elected.

**SECTION 9.** That the County Road Supervisor shall have the right, with the approval of the Commissioners, to employ one or more superintendents, or foremen, and shall have direct supervision and control of all of the roads, highways, bridges and levee work of said County and shall have the right to employ all labor and it shall be his duty to make proper and timely requisition on the County Commission to buy material for road, highway, bridge and levee work and he shall supervise all of the work to be done on any and all such roads, highways, bridges and levees, and shall have supervision of any work that may be done by prisoners and by persons subject to road labor in said County, but said County Road Supervisor shall do and perform said duties subject to the authority, orders, directions, and instructions of the said County Commissioners, and shall be responsible to them for the full performance of his duties.

The said Supervisor shall warn in all persons subject to road duty, according to the provisions hereinafter set out in this Act, and he shall have control, management and custody of all road tools, machinery and material and shall do and perform any and all such other duties as said County Commissioners may prescribe.

**COMPILER'S NOTE:** The first paragraph of this section conflicts with the County Uniform Highway Law. See Op. Tenn. Atty. Gen. U89-60 and 88-01.

**SECTION 10.** That the County Commissioners, in the buying of materials, or in the construction, repairing, or doing of any work on said roads, highways, bridges and levees, ordered purchased or done by said Commission, shall advertise for bids and purchase such material, or let such contracts as said Commission may at any time deem proper or necessary, in order to secure the most economical and advantageous results; Provided, however, that purchases up to the amount of One Hundred (\$100.00) Dollars may be made without prior approval of the Commission, purchases over One Hundred (\$100.00) Dollars but under Five Hundred (\$500.00) Dollars may be made through open bids, but shall have prior approval of a majority of the Commission at a regular meeting; all purchases over Five Hundred (\$500.00) Dollars shall be made by receiving sealed bids and the Commission shall have the authority to reject any or all bids, but shall accept the lowest and best bid if any are accepted.

As amended by: Private Acts of 1947, Chapter 708

**SECTION 11.** That the said County Commissioners shall keep and maintain a public office, which shall be located in the County seat of the County in which said Commission has jurisdiction, which said office may be kept open on each business day within reasonable hours, and where the records, papers and documents connected with the administration of the roads, highways, bridges, and levees of said County shall be kept open for the free inspection of the public for any one desiring to examine same, but nothing in this Section shall be construed so as to make it mandatory upon said Commission to keep anyone constantly at said office, or to employ anyone to remain constantly in said office.

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**SECTION 12.** That in addition to the above, the County Commission is hereby given and clothed with the following duties and charged with the proper execution and administration of said duties, to wit:

1. Said Commission shall hold regular meetings at least once each month, and oftener if necessary, the Chairman and any two members of said Commission shall constitute a quorum for the dispatch of business coming before them. Said Commission may be called by the Chairman, or in his absence by the vice-chairman, and in the event the Chairman fails to call said Commission the same may be called together upon the written call of a majority number thereof.
2. Said Commission, at its organization meeting and at the time when its vice-chairman and secretary are elected, shall enter an order designating the chairman, who is the County Judge as hereinbefore provided, as the County's representative and agent and in dealing with the State Highway Department and in all relations between the County and the State the said Chairman, with the concurrence and approval of a majority of said County Highway Commission, shall be recognized as the County's representative and his designation as such shall be properly certified to the Highway Department of Tennessee by proper certificate of the County Court Clerk.
3. Said Commission shall have the general charge and control of all roads, highways, bridges and levees in the County and shall have the exclusive charge and control of all expenditures of road, highway, bridge, and levee funds of said County, and they shall have the right and power and authority to make any necessary and proper orders for, or to do and perform any and all construction, reconstruction, grading, ditching, repairing and otherwise maintaining any and all roads, highways, bridges and levees in said County, except as herein provided.

**COMPILER'S NOTE:** This subsection may conflict with the County Uniform Highway Law.

4. The said County Commission shall lay out and classify all public roads of the County, divide the same into sections, or divisions as may be necessary for their proper and efficient construction and maintenance, to make or have made a map or maps of all of said roads, highways, bridges and levees of the County, which shall be kept in well bound books, suitable for the purpose.
5. The County Commissioners shall have full charge and control of the Workhouses of said Counties and the prisoners sentenced to the same end [and\*] shall have the supervision of the work of County and State prisoners on the roads, and make any and all proper regulations concerning same.

**COMPILER'S NOTE:** The Private Acts of 1939, Chapter 227, added the language giving the commissioners charge of the workhouses and its prisoners. The word "end" probably was intended to be "and." The provisions of Subsection 5 have been superseded in part by Title 41, Chapter 2 of Tennessee Code Annotated which deals with County Workhouses. T.C.A. § 41-2123 governs road work done by prisoners.

6. The said County Commissioners shall purchase all necessary implements, machinery, tools and material and provide for the proper storing and safe keeping of the same.
7. The said Commissioners shall make a detailed written report to the Quarterly County Court of the County in which it is elected, on the first Monday in January of each year and said report shall be a complete statement of all work done and ordered done, and all of the funds received and expended and shall also include a complete inventory showing all of the implements, machinery, tools and material then on hand and the approximate value of the same.
8. Between the date of the passage of this Act and the election of said Highway Commissioners by the Quarterly Courts at their regular January 1930 meeting, the Commissioners acting until said date shall lay off into four [five\*] road districts each of the counties to which this Act applies and shall fully set out on the minutes kept by them a complete description of said road districts in said respective Counties and the Civil Districts included in each of said four [five\*] road districts and shall file with the Clerk of the County Court of said County a complete description of said four [five\*] road districts in each of said Counties.

**COMPILER'S NOTE:** Private Acts of 1935, Chapter 709, amended the "several section" of the 1927 act to increase the number of road districts to five and directed the Highway Commissioners to meet as soon as practicable after the passage of the 1935 act to redistrict Gibson County into five road districts instead of four, but no specific amendments to particular sections of the act were made.

9. The said Commissioners shall employ and pay out of funds in their hands an independent firm of certified public accountants to audit the records of said Commission annually and such audit shall be made at the end of the fiscal year under which said Commission shall operate. The report of said audit to be published in at least one County newspaper. Provided, further, that an audit shall be made of said records within not less than 30 nor more than 90 days after the passage of this Act.

As amended by: Private Acts of 1935, Chapter 709  
Private Acts of 1939, Chapter 227  
Private Acts of 1947, Chapter 708

**SECTION 13.** That nothing be done under the provisions of this Act which will interfere in any way with the performance of their duties by any special highway Commission or Committee which has been appointed for any special purpose by any Legislative Enactment, or County Court Resolution, or both, or which may be hereafter passed by the General Assembly of the State of Tennessee to locate, contract, build and maintain any special highways, roads, bridges or levees in any of said Counties, and nothing in this Act shall be construed to in any way include Federal and State, or State-aid roads, or any roads and highways over which the Federal or State government shall assume the construction or maintenance of in conformity with existing or future legislation that may be had touching on such matters. Said Commissioners shall co-operate with the Federal Government of the United States and the State Highway Department of Tennessee, in the securance and maintenance of a uniform, co-ordinate and efficient system of highways in the County, but the duties of this Commission expressly applies only to what are known as County roads and not to Federal, or State-aid roads, over which said Commission shall have no jurisdiction.

**SECTION 14.** That said Commission shall have the right to open, close, change, restore, or widen any of the public roads of the County and to procure rights of way for such roads, either by purchase, gift or condemnation. In case any rights of way be procured by purchase or gift, deed shall be taken on the same in the name of the County, which said deed shall be duly recorded in the County where the land

lies. If such rights of way be not secured by purchase or gift, then if the Commission votes to condemn same the County shall proceed by condemnation in the form and manner as now prescribed by the general law of the State of Tennessee to acquire such rights of way.

**SECTION 15.** That it shall be the duty of the Quarterly County Court of each County coming within the provisions of this Act, at the next July meeting following the passage of the Act, to levy a tax on all taxable property in the County of not less than Twenty (20c) and not more than One (\$1.00) Dollar on each One Hundred Cents of taxable property for road, highway, bridge and levee purposes, and thereafter the County Courts of said Counties at the same time each year that other County taxes are levied, shall continue to annually levy said taxes, and all funds thus derived from said levy shall be used in the construction and maintenance of roads, highways, bridges and levees of the County, and the other proper and necessary expenditures as provided for herein, but nothing in this Act shall prevent any County from issuing bonds, and levying additional taxes to pay the principal and interest on same, for roads, highways, bridges and levee purposes, either under authority already given by law, or under authority that may be hereinafter granted by law.

**COMPILER'S NOTE:** The reference in the paragraph above to a tax of not less than 200 nor more than \$1 on each "One Hundred Cents" is an obvious error, and probably was intended to read "One Hundred Dollars".

The taxes above provided for shall be collected by the County Trustee as other taxes are now collected provided, however, that the above taxes, when so levied, shall be lieu of all taxes on such property for highway, road, bridge and levee purposes.

The proceeds of any taxes levied under this section in excess of Forty (40c) Cents shall be distributed seventy-five per cent to the County and twenty-five per cent to the incorporated towns located in the County. Seventy-five per cent of the proceeds of said tax in excess of Forty (40c) Cents shall be used for County purposes as provided in this Act. The twenty-five per cent distributed to incorporated towns shall be used by said incorporated towns for the purpose of building and maintaining streets. That portion of said taxes distributed to the incorporated towns shall be prorated on the basis of the population of said incorporated towns according to the Federal Census of 1940, or any subsequent Federal Census; distribution of said funds to the incorporated towns shall be made by the County Trustee.

As amended by: Private Acts of 1949, Chapter 757

**SECTION 16.** That any and all moneys taxes, fees, fines and forfeitures, from whatever source derived except as otherwise provided heretofore by Legislative enactment, or by County Court resolutions belonging to either the road, highway, bridge, or levee funds of the County, shall be paid into the hands of the Trustee, and shall be accounted for by him, and shall be kept separate and apart from all other funds, but the County trustee is hereby specifically relieved of the necessity of keeping any such funds, collected from any civil District of any such County, separate and apart of itself, and on the contrary said County Trustee shall throw such funds into one general fund, and keep and maintain it as a general fund to be known as "The road fund of the County."

The County trustee shall under no circumstances, at any time, expend any of such funds except upon the order of warrant drawn upon him in ink, ordered by the County Commissioners, said warrant setting out the amount thereof, both in words, and figures, and duly signed by the Chairman of said Commission and the secretary thereof, and said County trustee shall be permitted the same compensation on such moneys so received and expended as he is allowed now by law on road, bridge, levee and other funds by him handled, and no more.

**SECTION 17.** That all male inhabitants of the County to which this Act applies, between ages of twenty-one and forty-five years, except those living within the limits of any incorporated town, or such as have been, or may be released by the County Court from road duty, as the law provides, shall work on the public roads of the County and Civil District in which he resides, not less than six days, each day of ten hours, each year, after receiving three days notice, either verbal or written, from the County Highway Commissioners, or its representative, which notice shall state the time and place that the said labor shall be performed, provided, however, that every person subject to road duty shall be exempt from same for such year by paying to the County trustee, on or before the first day of October of each year, the sum of Three Dollars (\$3.00), which sum shall be placed by the County trustee to the credit of the road fund of the County.

Any person subject to road duty as aforesaid, who shall refuse or neglect to perform such labor, after having received warning thereof, as above provided, and shall fail to commute as above provided, shall be guilty of a misdemeanor and on conviction shall be fined not less than Two Dollars (\$2.00) and costs and in addition One Dollar (\$1.00) each day that he is notified to work and fails to work as aforesaid, but the total fine not to exceed Twenty-five Dollars (\$25.00), and the said fine, when collected, shall be paid into the hands of the County trustee and credited to the road fund of the County, and such defendants not

paying, or securing said fine and costs, shall be committed to the County workhouse until same shall have been paid, secured or worked out.

**SECTION 18.** That it shall be the duty of the County Road Supervisor to prepare each year and file with the Commissioners, not later than February 1, a list of all persons in the County subject to road duty, which list may be supplemented at any time so as to include any and all persons thereafter subject to road duty and the County Highway Commissioners shall give to each and every such person an opportunity to commute and pay as aforesaid and after October 1st of each year the trustee shall furnish the County Highway Commissioners a list of all persons who have not paid or commuted as herein provided.

**SECTION 19.** That it shall hereby be made the duty of said Commissioners to see that the County Road Supervisor warns in each person subject to road duty, and it is the duty of the Supervisor to either have the labor required of each person so subject to such duty fully and completely performed by him, or to collect his commutation money, or else cause his arrest and cite him for trial under the provisions of this Act. Every Justice of the Peace of said Counties shall have jurisdiction in any and all such cases for the violation of this provision of this Act and shall have all of the powers vested in him as is now provided by law in misdemeanor cases.

**SECTION 20.** That in each and all of the Counties coming with the provisions of this Act, the office, or position of County Road Commissioners and that of District Road Commissioners, are hereby abolished.

**SECTION 21.** That all laws, or parts of laws in conflict with any of the terms and provisions of this Act, be and the same are hereby in all things repealed.

**SECTION 22.** That in the event of any section, or sections, or parts of any section, or sections, of this Act being declared by any of the Courts of the State having proper jurisdiction thereof, to be void, such holding of the Court shall not in any way render ineffective or invalid any of the remaining portions or sections of the Act.

**SECTION 23.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 1, 1929.

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