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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 1971 Chapter 164

**SECTION 1.** This Act shall be known and may be cited as the Overton County Road Superintendent Act.

**SECTION 2.** In Overton County the management of the county road system, including bridges shall be the responsibility of a county road superintendent, to be elected by the qualified voters of the county at the August, 1972 general election and every four (4) years thereafter, who shall take office on September 1, following his election and serve for a term of four (4) years or until his successor is elected and qualified. An incumbent road superintendent shall be eligible to succeed himself in office without limitation as to the number of terms. The county road superintendent in Overton County shall receive an annual salary of ten thousand dollars (\$10,000.00) which shall be paid in the same manner as other county officials are paid. In addition to such salary a pick-up truck shall be furnished and maintained by the county for road work. If a vacancy occurs in the office of county road superintendent, the governing body of the county shall elect some qualified person to serve until the next general election, at which time a successor shall be chosen by the qualified voters of the county, to serve the remainder of the term.

Before entering into the discharge of his duties, the county road superintendent shall take and subscribe to an oath in writing before the county court clerk that he will perform with fidelity the duties of the office as county road superintendent and shall enter into a bond in the amount of fifty thousand dollars (\$50,000.00), payable to the county and conditioned upon the faithful discharge of his duties and for the accounting of all money and property coming into his hands in his official capacity. The premium for one-half (½) the bond shall be paid out of the county road fund in the same manner as other disbursements are made.

**SECTION 3.** The county road superintendent shall be the head of the county highway department and shall have general control over the location, relocation, construction, reconstruction, repair and maintenance of the county road system of the county, including bridges but not including such roads and bridges as are under the supervision of the state department of highways.

The county road superintendent is authorized to determine the total number of employees of the county highway department, to determine personnel policies, hours of work, to establish job classifications. The compensation established by the superintendent shall be in keeping with the compensation paid for similar services in the county and surrounding area.

The county road superintendent shall keep such books and records as necessary to carry out the operations of the county road department or as directed by the governing body of the county.

The superintendent shall have supervision and control over and shall be responsible for all machinery, equipment, tools, supplies and materials owned or used by the county in the construction, reconstruction, repair and maintenance of the county roads and bridges. He shall make or cause to be made a complete inventory of such machinery, equipment, tools, supplies and materials and file copies of the same with the county governing body and the comptroller of the treasury within thirty (30) days after assuming office. All machinery, equipment and tools shall be plainly marked as the property of the county road department and each item shall be numbered and the number entered on the inventory filed by the county road superintendent.

Thereafter, on or before September 15 of each year he shall again make and file a complete inventory with the county governing body and the comptroller of the treasury. It is the duty of the county judge or chairman or other chief executive officer and/or the governing body of the county to examine the inventories for compliance with this provision and upon his or the governing bodies determination that the inventory does not comply with the requirements of this provision, he shall notify the county director of accounts, who shall cause to be withheld from the superintendent any funds due him until the county and county court chairman or other chief executive officer of the county is able to certify compliance with this provision to the governing body.

**SECTION 4.** Budgeting for the county road department and the purchasing or contracting for all machinery, equipment, tools, supplies and materials and contractual services for the county road department and the fiscal procedures concerning same shall all be performed in accordance with provisions of chapters 12, 13 and 14 of Title 5 of the Tennessee Code Annotated.

Sales of obsolete, surplus or unusable machinery, equipment, tools, supplies and materials shall be made

in accordance with the provisions of chapter 14 of Title 5 of the Tennessee Code Annotated.

All funds received by or for the county for road or highway purposes shall be promptly deposited with the county trustee and shall be expended only upon disbursement warrant drawn upon the trustee, all in accordance with the provisions of chapter 13 of Title 5 of the Tennessee Code Annotated.

Expenditures of funds for the operation of the county road department shall be made within the limits of the approved budget and the appropriations made for the department, in accordance with the provisions of chapters 12, 13 and 14 of Title 5 of the Tennessee Code Annotated.

**SECTION 5.** The superintendent shall not authorize or permit the trucks or road equipment, the rock, crushed stone or any other road materials to be used for any private use or for the use of any individual for private purposes and his failure to see that this provision is enforced is a misdemeanor, punishable by a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), in the discretion of the court. Any employee of the county road department who shall use any truck or any other road equipment of any rock, crushed stone or other road material for his personal use, or sell or give away the same shall be immediately discharged. No truck or other road equipment or any rock, crushed stone or any road material shall be used to work private roads or for private purposes of owners thereof. The use of any trucks or any other road material of the county highway department for other than official county road purposes, as herein provided, is a misdemeanor, punishable by a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), in the discretion of the court. Each separate use of the same for other than official county road purposes shall constitute a separate offense and be subject to a separate fine. Any person whose property is improved by having road material placed thereon in violation of this provision shall be liable to suit for the value of such improvement and a penalty equal to one hundred per cent (100%) of the value of such improvement, to any person who shall sue therefor for the benefit of the county and himself, the value of the improvements to go to the county and the penalty to go to the person suing.

**SECTION 6.** Neither the county road superintendent nor any employee of the county road department shall be financially interested in or have any personal interest, either directly or indirectly, in the purchase of any supplies, machinery, materials, or equipment for the department or system of roads for the county, nor in any firm, corporation, partnership, association or individual selling or furnishing such machinery, equipment, supplies and materials; nor shall the county road superintendent or any employee thereof accept or receive, either directly or indirectly, from any person, firm, partnership or association to whom any contract may be awarded, any rebate, gift or other thing in money or thing of value or any promise, obligation or contract for future reward or compensation.

Violation of any of the provisions of this section constitutes official misconduct and a misdemeanor in office, punishable by a fine of not less than ten dollars (\$10.00) nor more than two hundred fifty dollars (\$250.00) and removal from office as provided by Section 8-2701 et seq., Tennessee Code Annotated.

**SECTION 7.** The county roads superintendent shall submit quarterly to the governing body of the county a full and complete report of its activities, showing in such reports the amount of road funds on hand at the beginning of the quarter, together with an itemized statement of all amounts expended for labor, machinery, supplies, materials, equipment and other expenditures during such quarter, together with the complete list of all articles purchased, the number of laborers employed and the amount paid each, the number of miles of road constructed, repaired or maintained, or fraction thereof, and where located. If the report is rejected by the governing body by resolution setting forth the grounds of rejection, the power of the county road superintendent to obligate appropriated funds shall be suspended until the county judge or chairman or other chief executive officer of the county shall certify to the governing body that the grounds of rejection in the resolution have been met and complied with.

**SECTION 8.** No person shall be eligible for employment in any capacity on the roads of said county or by the county road superintendent or draw any compensation in any manner whatsoever from the road funds of said county, who is related, within the second degree, either by blood or marriage, to the county road superintendent.

**SECTION 9.** Chapter 439 of the Private Acts of 1935 is amended by deleting Section 5 in its entirety.

**SECTION 10.** 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 Acts which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 11.** This Act shall have no effect unless it is approved by a majority of the voters voting in an election to be held for the purpose of approving or rejecting it. Within sixty (60) days after this Act becomes a law, the county election commissioners of Overton County shall call an election for Overton County to be held not less than thirty (30) days nor more than ninety (90) days from the date of the call.

The ballots used in the election shall have printed on them the title of this Act and voters shall vote for or against its approval. The votes cast in the election shall be canvassed and the results proclaimed by the county election commissioners and certified by them to the secretary of state as provided by law in the cases of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of approval or rejection of this Act. The cost of the election shall be paid by Overton County.

**SECTION 12.** For the purpose of approving or rejecting the provisions of this Act, as provided in Section 11, it shall be effective upon becoming a law, the public welfare requiring it. For the purpose of electing the Road Superintendent it shall be effective upon being approved as provided in Section 11. For all other purposes it shall be effective on September 1, 1972.

PASSED: May 18, 1971.

## Highways and Roads - Historical Notes

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

1. Acts of 1812, Second Session, Chapter 74, enabled Moses Fisk to open a road from Hilham to the highlands south of Roaring River crossing below its junction with Spring Creek. This road must be twenty feet wide and fourteen feet kept clear at all times. The county court of Overton County, when notified by the said Fisk that the road is open, shall appoint three householders to inspect the road. If the road is approved and accepted, Fisk and his heirs have the right to manage the same for twenty years and to charge the tolls scheduled in the act. The road shall further be subject to all the rules and regulations concerning turnpikes.
2. Acts of 1817, Chapter 191, was the legal authority for Moses Fisk to open a road from the town of Hilham to the north bank of Obed's River, crossing anywhere above William Dales place. When notified by Fisk that the road is open the county court shall appoint three householders to inspect it. Fisk was then further obliged to keep the road in good maintenance and repair and as long as it was in that condition, Fisk could charge users the tolls specified in the act.
3. Private Acts of 1820, Second Session, Chapter 25, permitted Madison M'Laurine, of Overton County to open and keep up a turnpike road from Pilot Knob, near Joseph Batis, in Overton County to the Kentucky line for a period of ten years. The road must be at least eighteen feet wide and clear of obstructions at all times. Valentine Matlock and Lewis Huddleston were appointed commissioners to inspect the road and approve, or disapprove it. The road would be inspected now, and quarterly hereafter. As long as the road met the construction and maintenance criteria, the proprietors could charge tolls at the approved rate, but no higher.
4. Public Acts of 1821, Chapter 6, directed the county courts of all the Tennessee counties to classify and index the roads in their respective counties. They were to be classified according to width and surfacing materials. The classes ranged from stage roads to one wide enough to permit passage of two horses and riders on the way to mill or market. This is probably the first overall road law in Tennessee and was a step towards the coordinated transportation network every county and state must have to thrive and be competitive.
5. Private Acts of 1822, Second Session, Chapter 164, legally allowed George Helms, and Adam Helms to open and maintain a turnpike road from the head of Wolf's River in Piles Turnpike Road, thence the most direct route on Cumberland Mountain towards Jacksonborough, so as to intersect the road leading from Jacksonborough to Somerset in Kentucky. The road must meet all the specifications outlined in the act, and the tolls charged must be in line with the schedule mentioned. Henry Frances and John Royall are named commissioners to examine the road and report its condition quarterly to the Overton County Quarterly Court. The commissioners would be paid \$1.00 per day for each day spent in discharging their responsibilities under this act.
6. Private Acts of 1827, Chapter 18, recited that it appeared to the general assembly that Madison M'Laurine had transferred his rights to the turnpike road leading from the foot of Pilot's Knob near Joseph Bates, in Overton County, to the Kentucky line, near Captain Elliotts, to James A. Whiteside, and, it further appears to the general assembly, that Whiteside desires to relinquish his rights in the said road to the State of Tennessee, therefore, it is hereby declared that this road is placed upon the same footing and under the same rules and regulations as are all the other state public roads.
7. Private Acts of 1831, Chapter 226, gave Moses Fisk the right to change the course of the road he

is to build so that, instead of running from Hillham to the north bank of the Obed's River, striking the same at or above the mouth of Mill Creek. He shall have one year to complete this road and two years to finish the road previously authorized, but the citizens of Overton and Jackson counties living where the said road runs or within five miles of the toll gate shall pass along free of charge.

8. Private Acts of 1832, Chapter 13, appointed Patrick Potts as commissioner for the turnpike leading through Overton and White counties, of which Robert Officer is proprietor, in the place of Enoch Murphy, the former commissioner of the road. Potts would have the same authority and compensation as his predecessors.
9. Private Acts of 1835-36, Chapter 62, declared that the Wolf River from its mouth up to the ford near James Seatons was navigable and any persons placing obstructions therein shall be deemed guilty of a misdemeanor and shall be subject to fines of \$50.00 for each offense, onehalf to the person prosecuting and one-half to the county.
10. Acts of 1837-38, Chapter 289, Section 12, was the enabling legislation for John Kennedy, Joseph Goodbar, George Christian, T. T. Thomas, C. Lin, Abraham Haytor, Adam Winnington, George W. Hill, Creed Huddleston, William Turner, Senator William C. Heard, E. N. Cullom, Edmond Gibbons, Martin Marchbanks, John B. Murphrey, Thomas Butler, and John McDonald, Sr., all of Overton County, and five more people from Fentress County, serving as commissioners to open books and subscribe stock to the Livingston Turnpike Company in an amount not to exceed \$50,000. The company would be incorporated and the stockholders would meet in Livingston and elect directors. A road would be constructed over the best route from Zacharias Sullins in Jackson County to Livingston, meeting all the specifications contained in the act.
11. Acts of 1843-44, Chapter 121, authorized Patrick Pool, Joseph Bates, Thompson R. Grace, Edward N. Cullom, George M. Hill, and Adam Winningham, as commissioners, to accept subscriptions of stock up to \$25,000 to make and build a turnpike road from Livingston, in Overton County, by Monroe, crossing Obeds River at or near Stephen Garrets, to the Kentucky line as soon as a sufficient amount of stock is subscribed, the commissioners may call a meeting and elect five directors. The specifications for the road must be met as they are expressed in the act, and tolls not to exceed those mentioned in this law may be charged. The company has five years to complete the road and then will have a franchise for the next thirty years following but citizens of Overton County may pass the toll gates free.
12. Acts of 1847-48, Chapter 19, was the legal authority for Burton Marchbanks, of Overton County, to open a turnpike road from the Nashville Turnpike road, at or near Smithville, in DeKalb County, running in the direction of White Plains in Jackson County to the Jackson County line. The right of way must be cleared and the road constructed at a width of thirty feet except on a hill where it must be at least sixteen feet wide. Commissioners from DeKalb and Jackson counties will inspect the road whose tools shall be charged according to the schedule set out in this law.
13. Acts of 1849-50, Chapter 157, stated that all persons owning land along the banks of the Wolf River in Overton County may build mill dams across the river, if the wings are properly constructed and navigation is not obstructed. The act sets up a standard to be applied to see when the stream has been obstructed.
14. Acts of 1855-56, Chapter 129, Section 7, incorporated H. P. Hoover and Tillman Rogers, as a Turnpike Company to be called the West Fork Turnpike Company, of Overton County, which would build a road with one tollgate from Adam Winningham's (or one mile thereof) in Overton County up the west fork of the Obeds River by way of the H. P. Hoover residence to Hurricane Creek and to intersect Taylor's Road in the direction of Crossville.
15. Private Acts of 1859-60, Chapter 28, Section 2, incorporated John Lea, Richard Copeland, Richard Poteete, Burton Marchbanks, Edward Draper, Charles Burton, Holland Denton, Stephen Burton, Benjamin Gardenhire, and James Gilliland, as the Livingston and Caney Fork Turnpike Company which would build a road from the Kentucky line near Livingston to the Caney Fork River in the direction of Nashville. When the amount of \$10,000 in stock was subscribed, a meeting would be called to organize the company.
16. Private Acts of 1869-70, Chapter 43, Section 2, granted the Cincinnati and Southern Railroad the right to enter upon land in several counties listed in the act, including Overton County, for the purpose of examining and selecting rights of way for the railroad which will commence at a selected point in Chattanooga and proceed to the northern boundary of the State of Tennessee. A copy of any surveys, maps, plats, or any other documents, shall be filed with the county court clerk of the affected county.
17. Public Acts of 1901, Chapter 136, was a general road law applicable to every county in Tennessee

under 70,000 in population according to the 1900 Federal Census. The county court would pick one road commissioner to serve two years from each road district in the county, the road districts being co-extensive with the civil districts. He would be sworn, bonded, and in charge of all roads, bridges, hands, tools and materials used in his area, and be compensated at the rate of \$1.00 per day but for no more than 10 days each year. county court would set the days road hands would work, from five to eight, and fix the price on a day's labor. The county court could levy a special road tax of two cents per \$100.00 property for each day the road hands were required to work. Road commissioners would name and supervise road overseers in their districts who would supervise a road section, work the same number of compulsory days as anyone else and then be paid up to \$6.00 a year for extra work. All males outside of cities between ages of 21 and 45 must work on the roads. The commissioners would dispose of petitions to open, close, or change a road, would classify and index the roads in their districts, and would see that roads met the basic specification set up in the act. This act was involved in the case of Carroll v. Griffith, 117 Tenn. 500, 97 S.W. 66 (1906).

18. Acts of 1905, Chapter 478, amended Acts of 1901, Chapter 136, Item 17, in several minor particulars but primarily in the procedures to be followed in the exercise of eminent domain to acquire rights of way.
19. Private Acts of 1913, Extra Session, Chapter 107, was the first comprehensive road law for Overton County and provided that the county court would elect one road commissioner from each civil district and one from the town of Livingston to two year terms. The court was given the authority to levy a tax from 15 cents to 30 cents per \$100 property valuation to keep up the county roads, and to buy machinery, equipment, and materials. The trustee would collect this tax as any other tax. The county court would also set the days each male between 21 and 45, outside cities, would work on the roads, ranging from five to eight, or pay \$1.00 a day in commutation fees. The commissioner would appoint overseers and assign them to road sections to be worked, sending each a sufficient number of road hands to accomplish the same. Overseers would serve one year in their jobs. The county court clerk would furnish books upon which the commissioners would keep records. Failure to comply could result in fines and forfeiture of the office. The commissioners must lay out and classify all the roads in the district, and furnish tools to improve, or repair, them. Overseers must serve the same number of days as others and be paid only for the extra days. commissioners would be paid \$1.50 for each day devoted to the work.
20. Private Acts of 1915, Chapter 632, amended Private Acts of 1913, Extra Session, Chapter 107. Section 7 was amended to make the commissioners liable to settle with the county judge, or chairman, at the end of the year. Section 8 was rewritten to make it a misdemeanor for the road commissioner to fail to perform his duties for which he may be fined, and the commissioners were required to place mile boards at proper places on all first and second class roads for which a fine could also be levied when not done. The county court may elect at any time a road superintendent who must be an engineer and who would be paid by order of the court after performing suitably the responsibilities delegated to him by the court. Each road overseer shall cause all his roads to be inspected annually and remove all timber and obstructions from them and drain the road in a proper fashion.
21. Private Acts of 1917, Chapter 641, amended Private Acts of 1913, Extra Session Chapter 107, by removing the authority of the county court to elect a road commission for the city of Livingston, and by adding a provision that the county court shall have no authority, or jurisdiction, over the streets, or alleys, and the road taxes collected in the city but the mayor and aldermen of that city shall hereafter be responsible for the care and keeping of those passageways, and for working and repairing them.
22. Private Acts of 1935, Chapter 439, was the next general road law for Overton County with a general repealing clause. This act provided for a three member county highway commission of good taxpaying citizens who would be elected by the voters of each road district for a two year term, taking office on September 1 following the general August election beginning in 1936, whose duty it was and would be to provide an efficient road system. The first road district was composed of civil districts 1, 2, 3 and 5; the third road district had in it civil districts 8, 9, 10 and 11; and the second road district was made up of civil districts 6, 12, 4 and 7. The chairman of the commission, selected by the others, would be the agent of the county in its transactions with the State of Tennessee. The commission may employ a road superintendent at no more than \$100.00 a month who shall perform the duties of the former road commissioners and such others as this commission may designate. The commission may also employ any other people it considers necessary to carry on the work. The commission is in overall charge of roads, bridges, tools, equipment, and materials while the superintendent was granted all the authority of the district

road commissioners. The commissioners would be paid a salary fixed by the county court plus expenses when the expenses were justified and supported. The commission would make an annual report to the quarterly court in January of each year upon which the road program for that year would be based.

23. Private Acts of 1939, Chapter 191, stated that no person in Overton County, identified by the use of the 1930 Federal Census for the county, shall be compelled to perform manual labor upon the roads of the county or to commute by paying money in lieu thereof. This act was repealed by the one following below.
24. Private Acts of 1941, Chapter 374, expressly repealed Private Acts of 1939, Chapter 191, which released the citizens of Overton County from manual compulsory road labor or the payment of commutation fees.
25. Private Acts of 1941, Chapter 376, amended Private Acts of 1935, Chapter 439, Section 3, by adding at the end of that section a provision that all funds coming into the hands of the county highway commission shall be distributed and expended in the different districts set out in the act in an equitable manner based on the existing mileage, or the contemplated mileage in the districts.
26. Private Acts of 1947, Chapter 809, amended Private Acts of 1935, Chapter 439, Section 2, by adding the provision that in Overton County at the regular August election in 1948, the qualified voters of the county shall elect from the county at large two members of the said county commission who shall be road commissioners and hold office for 2 years from September 1, 1948. The quarterly court could fill vacancies for the unexpired term.
27. Private Acts of 1949, Chapter 219, specifically repealed Private Acts of 1947, Chapter 809, in its entirety but the repeal would not become effective until the terms of the commissioners elected pursuant thereto expire

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