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A SUMMARY OF GENERAL HIGHWAY LEGISLATION IN TENNESSEE
DURING THE PERIOD 1881-1909

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DURING THE PERIOD 1881-1909

Special Publication Series

No. 3

Prepared by
The Tennessee Historical Records Survey Project
Division of Professional and Service Projects
Work Projects Administration

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Nashville, Tennessee
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PREFACE

Although the Historical Records Survey Project has as its chief purposes the preparation and publication of guides to and inventories of public archives, church records, early American imprints, manuscripts, and manuscript depositories and collections, it has accumulated, as by-products, a considerable amount of material and prepared numerous memoranda in the course of routine editorial work, which under original plans would not be made available generally.

Since publication, from time to time, of various parts of this miscellaneous material will not interfere unduly with the regular program of publication and since some of it may be of general interest and value, the Survey has decided to institute a series of special publications, making this material available in substantially the same form as it appears in our files. Thus the policy of preparing this material for publication with a minimum of editing has, in this instance, resulted in the retention of the chronological treatment of the subject, which was the method better suited for the purposes for which this article in its original form was prepared.

This publication, summarizing general highway and road legislation in Tennessee during the period 1881-1909, was prepared from a memorandum addressed to the editors and field workers of the Survey as a guide in interpreting road and highway records in the inventories of the archives of the various counties of the State. By means of such memoranda the missing dates of records are more easily determined and records may be assigned to the proper offices with more facility.

The memorandum from which this article was prepared did not attempt to explore local acts which, roughly after 1902, increasingly amended and repealed general legislation, but was designed merely to be a brief general summary of legislation, with emphasis on records, during a period in which general road and highway legislation occupied increasingly prominent places on the legislative calendar and before the enactment, by the scores, of special and local acts began in earnest.

Only the legislative acts were drawn on in the preparation of this memorandum; no attempt was made to determine in what manner the law was applied, for the records themselves will reveal that; and no attempt was made to state the effect of judicial interpretation. Not all of the acts passed during this period were mandatory, and, of course, some counties were already the objects of local legislation, a matter discussed in special memoranda on such counties.

The memorandum from which this article was prepared was written under the supervision of William L. Miller, supervisor in charge of legal research.

T. Marshall Jones, State Supervisor
Tennessee Historical Records Survey Project

Nashville
January 30, 1940

A SUMMARY OF GENERAL HIGHWAY LEGISLATION IN TENNESSEE
DURING THE PERIOD 1881-1909

During the period 1881-1909 roads and highways were classified as district roads, or simply roads, or as turnpikes. Consequently a law applying to roads and road commissioners does not apply to turnpikes and turnpike commissioners, and a law applying to turnpikes and turnpike commissioners does not apply to roads and road commissioners.

A general law of 1881 directed the quarterly county court of each county to divide the county into road districts and to appoint from without its membership three commissioners for each district (1), with the proviso that the number of commissioners for each road district could be increased or decreased by the court (2). The first commissioner named automatically became clerk and treasurer for the commission of his district (3). Each commissioner was to receive from the court, through the sheriff, a certificate notifying him of his election and defining his road district (4). A duplicate certificate on which the sheriff was to make his return was to be filed with the county court clerk (5). Before a commissioner could enter upon his duties, his bond and oath were to be filed with the county court clerk (6). Each commissioner was to be paid a dollar for each day of work above the number of days of road duty required of all (7). The clerk was allowed additional compensation for collecting the highway tax (8). Any commissioner could be removed (9) and vacancies were to be filled by the court (10).

The commissioners were to appoint overseers, each of whom was to have charge of from three to ten miles of road (11). Within ten days after his appointment, each road overseer was to receive from the district clerk an order of appointment, giving the limits of his road section and the road hands assigned to him (12). Each overseer was to receive a dollar for each day of service above the number of days of compulsory duty (13). The term of office was one year (14). Overseers could be removed by the commissioners for failure to perform their duties (15).

The quarterly court was to provide labor by requiring every able-

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1. Acts 1881, ch. 38, secs. 1, 40.
 2. Ibid., sec. 2.
 3. Ibid., sec. 1.
 4. Ibid., sec. 7.
 5. Ibid.
 6. Ibid.
 7. Ibid., sec. 36.
 8. Ibid.
 9. Ibid., sec. 35.
 10. Ibid., sec. 2.
 11. Ibid., sec. 12.
 12. Ibid.
 13. Ibid., sec. 36.
 14. Ibid., sec. 12.
 15. Ibid., sec. 17.

bodied man between the ages of eighteen and fifty to work from three to six days upon the roads or to pay a dollar for each day of failure to do so (16). Inmates of the county jail could be requisitioned for road duty (17).

The court was to levy a highway tax of from two to fifteen cents on each hundred dollars of taxable property and a tax on privileges not to exceed "one fourth of the county assessment" (18). However, one-half of these taxes could be paid by furnishing labor and equipment for road work at daily rates specified in the act (19). The county court clerk was to make out a highway tax assessment book for each district (20). Collections, according to the act, were to be made by the district clerks (21). Normally the property tax would have been collected by the trustee and the privilege tax by the county court clerk. Disbursements were to be made by the clerks upon orders signed by two of the district commissioners or upon orders signed by the county judge or the chairman of the county court (22).

The commissioners were to have charge of the road tools of their districts and could require bonds of overseers for the care of tools furnished them (23). Materials needed for purposes of road maintenance could be condemned by the road overseers (24).

Applications to open, close, or change roads were to be addressed to the commissioners. Damages were to be assessed by the commissioners and were to be paid by the applicants except that "for good reason" they could be charged to the county. The commissioners were to report their action to the quarterly court for its approval (25).

The commissioners were to classify the roads of their district according to width and to have all first and second class roads, i.e., roads between twenty and forty feet and roads between twelve and twenty-four feet, entered on a record to be kept by the county court clerk (26).

The district clerks were to keep a record of all official business transacted by the commissioners (27). They were to make "all necessary returns to the Chairman or Clerk of the County Court" and to make an annual financial report, accompanied by vouchers for disbursements, to

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16. Acts 1881, ch. 38, sec. 4.
 17. Ibid., sec. 43.
 18. Ibid., sec. 5.
 19. Ibid.
 20. Ibid., sec. 8.
 21. Ibid., sec. 21.
 22. Ibid., sec. 22.
 23. Ibid., sec. 13.
 24. Ibid., sec. 30.
 25. Ibid., sec. 14.
 26. Ibid., secs. 11, 31.
 27. Ibid., sec. 10.

the county judge or chairman of the county court to be filed in the office of the county court clerk (28).

This law of 1881 did not apply to incorporated towns in which the inhabitants were taxed for the upkeep of the streets (29).

Another law of 1881 authorized the counties to acquire and manage turnpikes (30). When the county acquired a turnpike, the quarterly court was to appoint three turnpike commissioners to serve for one year. The commissioners were to appoint toll-gate keepers and other necessary laborers, to fix the rate of tolls, and to make an annual report to the court (31).

In 1882 the general road law of 1881 was amended so as to require the road commissioners appointed by the quarterly court to serve at least one year and to make other minor changes (32).

In 1883 the general road law of 1881 was again amended so as to provide for one commissioner to serve for one year in each district instead of three to serve for three years (33). The bond and the oath of each commissioner were to be filed with the county court clerk (34).

Also under this act of 1883, the trustee displaced the district clerks as collectors of the highway tax. The assessor's and collector's books were to have columns ruled for the extension of this tax (35). The trustee was to keep an account of the collection for each district and to pay over to the district commissioner funds as rapidly as collections were made, on the condition that the commissioner had made bond (36). If the commissioner had failed to make bond, disbursements were to be made by the trustee upon the order of the commissioner (37).

The road overseers were to work on their roads a sufficient number of days, not to exceed ten, each year, to keep them in good repair (38).

The commissioner was, by December 25th of each year, to make an itemized statement of receipts and disbursements to the county judge or the chairman of the county court, this statement, together with all vouchers, to be filed in the office of the county court clerk (39).

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28. Acts 1881 ch. 38, sec. 10.
 29. Ibid., sec. 37.
 30. Acts 1881, ch. 118, sec. 1.
 31. Ibid., sec. 2.
 32. Acts 1882, ex. ses., ch. 18.
 33. Acts 1883, ch. 128, sec. 2.
 34. Ibid., sec. 3.
 35. Ibid., sec. 5.
 36. Ibid., secs. 3, 6.
 37. Ibid., sec. 3.
 38. Ibid., sec. 12.
 39. Ibid., sec. 4.

On or before October 1st of each year, each overseer was to furnish the trustee a list of persons subject to road duty in his section with notations showing the persons who had commuted all or part of their tax by work (40).

Another act of 1883 authorized the quarterly court to organize a turnpike commission, consisting of the chairman of the court or the county judge as chairman and two other members selected by but not from the membership of the court (41). Before entering upon the discharge of their duties the commissioners were to file their oaths and bonds with the county court clerk (42). The commission was to organize by electing one of its members, other than the chairman, secretary of the board and supervisor of the work to be done (43).

When and if the quarterly court set up such a commission, it was to levy a turnpike tax of not more than ten cents upon each hundred dollars of taxable wealth and a tax on privileges not to exceed one-fourth the total county tax on privileges (44). The taxes were to be collected by the trustee, and disbursements of the proceeds were to be made by him upon the warrants of the commissioners (45). However, privilege taxes, normally, were collected by the county court clerk and paid over to the trustee and it is possible that the county court clerk continued to collect this tax and then settled with the trustee.

The commission was required to keep a record of all its official transactions, to make "all necessary returns to the Clerk of the County Court" and to make an annual report to the quarterly court, which, together with all vouchers, was to be filed in the office of the county court clerk (46).

The road law of 1881 was superseded in 1885 (47). The quarterly county court was directed to divide the county into road districts and to appoint a commissioner for each district to serve for one year (48). Before entering upon his duties, each commissioner was to file an oath with the county court clerk (49), but he was not required by the act to make bond. Within ten days after his election, each commissioner was to receive a certificate giving the bounds of his road district (50). A duplicate, on which the sheriff was to make his return, was to be filed

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40. Acts 1883, ch. 128, sec. 7.
 41. Ibid., ch. 167, sec. 1.
 42. Ibid., sec. 4.
 43. Ibid., sec. 6.
 44. Ibid., sec. 2.
 45. Ibid., sec. 4.
 46. Ibid., sec. 5.
 47. Acts 1885, ch. 2, sec. 42.
 48. Ibid., sec. 2.
 49. Ibid., sec. 8.
 50. Ibid., sec. 7.

in the office of the county court clerk (51). Except for the provision that the pay of a commissioner was not to exceed ten per-cent of the tax collected in his district (52), there was no definite provision for his compensation. The quarterly court could remove a commissioner (53) and fill vacancies (54).

Under the act of 1885, the commissioners were to appoint the overseers for their districts. Each overseer was to have charge of from one to five miles of road. Within ten days after his appointment, each overseer was to receive from the commissioner appointing him a certificate giving the bounds and class of his section of road, the farms or residences allotted to each section, and the number of days each hand was subject to road duty (55). Each road overseer received a per diem of one dollar but could receive no pay for the number of days which all physically able males were to work the roads (56). The term of office was one year (57). Overseers were removable by the commissioners for failure to perform their duties (58). All able-bodied male inhabitants between the ages of eighteen and fifty were to work upon the roads of their districts from three to six days annually or pay a dollar for each day of failure to work (59). Inmates of the county jail or workhouse were to be worked on the roads (60).

The quarterly court was to levy a highway tax of from five to twenty-five cents upon each hundred dollars of taxable property in the county and a tax on privileges of not more than one-fourth that assessed for county purposes, to be payable in money except when the quarterly court permitted half the tax to be worked out at the current market prices for labor (61). The taxes were, according to the act, to be collected by the county trustee (62) and disbursed by him upon the written orders of the commissioner (63). Again it is likely that the county court clerk made the initial collection of the tax on privileges.

The commissioner could contract with "any tax-payer" to furnish labor or material (64). Materials could be condemned by the road overseer (65). The commissioners were to have custody of the road tools and

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51. Acts 1885, ch 2, sec. 7.
 52. Ibid., sec. 29.
 53. Ibid., sec. 9.
 54. Ibid., sec. 3.
 55. Ibid., sec. 12.
 56. Ibid., sec. 29.
 57. Ibid., sec. 12.
 58. Ibid., sec. 16.
 59. Ibid., sec. 37.
 60. Ibid., sec. 35.
 61. Ibid., sec. 38.
 62. Ibid., sec. 39.
 63. Ibid., sec. 40.
 64. Ibid., sec. 6.
 65. Ibid., sec. 21.

they could require bonds of overseers for the care of tools furnished them (66).

An application for opening, closing, or changing a road was to be addressed to the commissioner of the district through which the road ran or was to run (67). Damages were to be paid by the applicants unless "for good reason" they were assessed against the county (68).

The road commissioners, were to classify the roads of their districts into three classes, according to width, the classifications to be entered by the county court clerk in a book kept by him for the purpose of making such entries (69). Each commissioner was required to keep a record of all his official transactions to make "all necessary returns to the Judge or Chairman", and to make an annual report, along with the vouchers for disbursements, to be filed in the office of the county court clerk (70).

This law of 1885 did not apply to incorporated towns and cities whose inhabitants were taxed for the upkeep of the streets (71).

The road law of 1885 was repealed in 1889 (72). Under the act of 1889, road districts were to be co-extensive with the civil districts (73). The quarterly court was to classify the roads of the county and to have the classifications entered into a book to be kept by the county court clerk (74). The court was to appoint road overseers, each to have charge of from one to five miles of road (75). Within ten days after his election, each overseer was to receive from the quarterly court, through the sheriff, a certificate delimiting and giving the class of his section of road and giving the names of persons subject to road duty under him and the number of days each hand was to work. The sheriff was to make his return upon a duplicate to be filed in the office of the county court clerk (76). Neither oath nor bond was required of the overseer by the act. The overseer's compensation was to be a dollar for each day of actual service above the compulsory duty required of all (77). The overseer was removable by the quarterly court (78).

All able-bodied male residents of the county between the age of eighteen and forty-five were to work upon the roads from four to twelve

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66. Acts 1885, ch. 2, sec. 13.
 67. Ibid., sec. 14.
 68. Ibid.
 69. Ibid., sec. 11.
 70. Ibid., sec. 10.
 71. Ibid., sec. 30.
 72. Acts 1889, ch. 71.
 73. Ibid., sec. 2.
 74. Ibid., sec. 5.
 75. Ibid., sec. 6.
 76. Ibid., sec. 4.
 77. Ibid., sec. 20.
 78. Ibid., sec. 9.

days a year or pay seventy-five cents for each day of failure to work (79).

The quarterly court was to levy a highway tax of between five and twenty cents on each hundred dollars of taxable property and a highway tax on privileges not to exceed one-fourth of "the assessment made for county purposes" (80). These taxes, according to the act, were to be collected by the county trustee (81) and disbursed by him upon the order of the county judge or chairman of the county court (82). Again, probably, the initial collections of the tax on privileges were made by the county court clerk.

The road overseer was vested with power to condemn materials needed for road building or maintenance (83). The quarterly court was to purchase and have the custody of road tools (84). The county judge or the chairman of the county court was to settle with the overseers before December 20th of each year and to give orders on the trustee for the accounts due them (85).

An act of 1891 repealed the road law of 1889 (86). This act of 1891 ordered the quarterly county court to divide the county into one or more road districts and to elect a road commissioner for each district (87). Before entering upon his duties, each commissioner was to file an oath with the county court clerk (88) but was not required by the act to make bond. As compensation, the commissioner was to receive a dollar for each day of actual service above the number of days of compulsory road service (89). The term of office was to be two years (90). The commissioner was removable (91) presumably by the quarterly court. Vacancies were to be filled by the court (92).

Within ten days after his election, each commissioner was to receive from the quarterly court, through the sheriff, a certificate defining his district (93). The sheriff was to make his return upon a duplicate, which was to be filed by the county court clerk (94). The commissioner had general control over the working of the roads of his district (95).

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79. Acts 1889, ch. 71, sec. 27.
 80. Ibid., sec. 28.
 81. Ibid., sec. 29.
 82. Ibid., sec. 30.
 83. Ibid., sec. 14.
 84. Ibid., sec. 7.
 85. Ibid., sec. 10.
 86. Acts 1891, ch. 1.
 87. Ibid., sec. 1.
 88. Ibid., sec. 8.
 89. Ibid., sec. 31.
 90. Ibid., sec. 1.
 91. Ibid., sec. 9.
 92. Ibid., sec. 3.
 93. Ibid., sec. 7.
 94. Ibid.
 95. Ibid., sec. 5.

The usual system of working roads was apparently by road hands working under road overseers appointed annually by the road commissioners (96). Within ten days after his appointment, each overseer was to receive from the commissioner an order describing his road section (97). As compensation, the overseer was to receive a dollar for each day of actual service above the number of days of compulsory road duty (98). The overseer was to settle annually on or before December 25th with the commissioners (99).

All able-bodied males between the ages of eighteen and forty-five were subject to from four to eight days compulsory labor as decreed by the quarterly court or to the payment of seventy-five cents for each day of failure to work (100). The road commissioner was to collect this alternative tax in his district and to give receipts (101). Prisoners in the county jail or workhouse were to be worked upon the roads (102).

A road tax of from five to twenty-five cents on each hundred dollars of taxable property and a tax on privileges not to exceed one-fourth of the "assessment for county purposes" were to be levied by the quarterly court (103). According to the act these taxes were to be collected by the county trustee (104), but again it is probable that the county court clerk made the initial collections of the privilege tax. The proceeds were to be spent in the district where the tax was assessed except that a special allocation of the proceeds of the railroad tax was to be made by the quarterly court (105). Disbursements were to be made by the trustee upon the warrants of the judge or the chairman of the county court issued upon the written orders of the commissioner (106).

The road commissioner was in charge of the road tools in his district and was authorized to require bonds of overseers for the care of tools entrusted to them (107). The commissioner was authorized to make further purchases of tools (108).

Each commissioner could contract with "any tax payer" to furnish labor or materials (109). The overseers further had the power to condemn

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96. Acts 1891, ch. 1, secs. 5, 12, 21.
97. Ibid., sec. 12.
98. Ibid., sec. 31.
99. Ibid., sec. 18.
100. Ibid., sec. 40.
101. Ibid., sec. 33.
102. Ibid., sec. 37.
103. Ibid., sec. 38.
104. Ibid., sec. 41.
105. Ibid., sec. 38.
106. Ibid., sec. 42.
107. Ibid., sec. 13.
108. Ibid., sec. 15.
109. Ibid., sec. 6.

materials for use in road building or maintenance (110).

An application to open, change, or close a road was to be addressed to the road commissioner of the district in which the road was to be opened or changed (111). Damages in connection with such changes were to be assessed by a jury of view composed of the commissioner and two free-holders, and paid out of the county funds, if the county judge or chairman approved the change (112).

The county court clerk was to keep a road record book showing the classification of all roads in the county (113) and to furnish to the commissioners lists of persons in their districts subject to road duty (114). The commissioner was to keep a record of all his official transactions and annually to make a complete report of those to the county judge or the chairman of the county court (115). The commissioner's receipt stubs and road order stubs were to be filed with the annual report (116).

Even though the working of the public roads under overseers seems to have been the norm, any section of road, at the direction of the quarterly court, could be worked by the road hands under the direction of a person operating under contract with a board composed of the judge or the chairman of the county court and the road commissioner of the district. The contractor was to be bonded to this board (117).

Another act of 1891 authorized the quarterly county court to appoint three commissioners who could employ engineers and other experts to conduct a survey of the county road system and to propose improvements (118). The commission was required to make a full report of its activities and recommendations, the report, upon being approved by the quarterly county court, to be spread on the minutes of the court (119). Upon its approval of the report, the court was to order the sheriff to hold a general election to determine whether there should be a bond issue to obtain funds to finance the recommended improvements (120). If a favorable vote resulted, the court was to elect three commissioners to advertise for bids for making the improvements and to supervise the projects (121). The commission was to be required to make detailed reports to the court at each of its sessions and, at the completion of the work, to make a final report (122).

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110. Acts 1891, ch. 1, sec. 23.
111. Ibid., sec. 14.
112. Ibid.
113. Ibid., sec. 11.
114. Ibid., sec. 39.
115. Ibid., sec. 10.
116. Ibid., sec. 33.
117. Ibid., sec. 45.
118. Acts 1891, ch. 211.
119. Ibid., sec. 2.
120. Ibid., secs. 6, 7.
121. Ibid., sec. 8.
122. Ibid., sec. 9.

An act of 1899 directed the quarterly county court of each county with a population of less than one hundred and ten thousand to re-organize the administrative set-up for roads at its session in January 1900 (123). At this time, the court was to appoint a freeholder of the county with experience in road building as road commissioner for the county. Before entering upon his duties, the commissioner was to take an oath before the county court clerk (124), but he was not required by the act to make bond. The commissioner was to receive a per diem of two dollars, but he could not receive more than a hundred and twenty dollars a year in any county with a population less than twenty-five thousand, more than one hundred and seventy dollars in any county with a population between twenty-five thousand and fifty thousand, or more than two hundred and forty dollars in any county with a population in excess of fifty thousand. The term of office was to be two years. The commissioner was removable by the quarterly court for misconduct in office or neglect of duty (125).

By this law, the office of overseer was abolished and provision made for working the roads under contracts with the lowest bidders. Bids were to be opened and contracts awarded by the road commissioner and the county judge or the chairman of the quarterly court. The contractors were to be under bond with the commissioner and the judge or chairman (126).

All physically able male residents of the county between the ages of eighteen and fifty were to be subject to road labor, the number of days presumably to be specified by the quarterly court. In lieu of labor, a resident could pay the contractor or the commissioner fifty cents for each day of failure to work. Prisoners were to be worked upon the roads " as far as practicable" (127).

The quarterly court was to levy a highway tax of between five and forty cents upon each hundred dollars of taxable property in the county (128). This tax was to be collected by the trustee and disbursed upon the warrant of the judge or chairman (129). The judge or chairman was to make to the quarterly court a quarterly report of receipts and disbursements of the highway money (130).

An application for opening, closing or changing a road was to be addressed to the road commissioner. Damages were to be assessed by the commissioner. The commissioner was to file the petitions and the assessments of damages with the quarterly court for its consideration (131).

123. Acts 1899, ch. 368.

124. Ibid.

125. Ibid., sec. 1.

126. Ibid., sec. 4.

127. Ibid., sec. 7.

128. Ibid., sec. 3.

129. Ibid.

130. Ibid.

131. Ibid., sec. 6.

The contractor was to furnish all materials needed for road maintenance, including materials necessary for small bridges (132). The county's road tools were to be sold at auction (133).

The commissioner was required to make quarterly reports to the quarterly court showing in detail the amount and nature of the work done during the quarter, to make an annual report to be spread on the minutes of the court showing the work done and the classification of each road in the county, and to make a report at the end of his term (134).

An act of 1901 authorized the quarterly county court of each county, except Knox, to appoint a turnpike commissioner for each turnpike owned by the county and, also, a county turnpike superintendent (135). The salary of the superintendent was not to exceed fifteen hundred dollars a year (136); that of each turnpike commissioner was to be one hundred dollars a year (137). The superintendent was to be under a bond of five thousand dollars with the county court clerk (138). Both the turnpike superintendent and the commissioners were to serve for four years (139). These officials were to see that the county turnpikes were kept in good condition. Work could be done by the county through its own employees or done with lowest bidders (140). No records were required of these officials by law.

Under another act of 1901, in January 1902 the quarterly county court in each county having a population of less than seventy thousand was to elect for each civil district a free-holder of that district with experience in road building as road commissioner for that district (141). Before entering upon the discharge of his duties, each road commissioner was to subscribe to an oath before the county court clerk and to make a bond, presumably of such size as the court ordered. Each commissioner was to receive a dollar for each day of actual service, but could not claim pay for more than ten days a year (142). Presumably a road commissioner was removable by the quarterly court.

Roads were to be worked under the direction of overseers appointed by the district commissioners (143), except that the quarterly court could designate certain thoroughfares to be worked under contract with

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132. Acts 1899, ch. 368, sec. 10.
133. Ibid., sec. 10.
134. Ibid., sec. 8.
135. Acts 1901, ch. 158, secs. 1, 3.
136. Ibid., sec. 1.
137. Ibid., sec. 3.
138. Ibid., sec. 2.
139. Ibid., secs. 1, 3.
140. Ibid., sec. 4.
141. Acts 1901, ch. 136, sec. 1. Strictly this was a local act, Acts 1891, ch. 1, technically remaining in force.
142. Acts 1901, ch. 136, sec. 1.
143. Ibid., sec. 4.

the lowest bidders (144). Each overseer was to receive a dollar a day for not more than six days a year of actual service above the number of days of compulsory road duty (145). His term of office was to be one year (146).

Every physically able male resident of the county between the ages of twenty-one and forty-five was to be subject to work upon the roads from five to eight days a year, as decreed by the quarterly court, or to pay to the commissioner of his district seventy-five cents for each day of failure to work (147). County prisoners subject to labor were to be used on the roads (148).

The quarterly court was to levy a highway tax of two cents for every day of compulsory road duty on each hundred dollars of taxable property outside incorporated towns, cities, and taxing districts (149). This tax was to be collected by the county trustee and disbursements of the proceeds were to be made by him upon the warrants of the district commissioner, approved by the judge or chairman of the county court (150). A person could work out two-thirds of his assessment, obtaining a receipt from the commissioner of the district for this work (151). Two-thirds of the tax was to be spent in the districts where it was assessed and one-third was to be spent upon the main thoroughfares (152). The judge or chairman of the county court was charged with making quarterly reports on receipts and disbursements, and these reports, when approved by the finance commissioners, were to become part of the minutes of the court (153).

An application to open, to close, or to change a road was to be made to the road commissioner of the district in which the road lay or was to lie (154). Damages were to be assessed by the commissioner (155). His assessments along with the original petitions were to be filed with the quarterly court, which would or would not order the proposed change to take place (156).

Each commissioner was required to make an annual report to the quarterly court showing the work done in his district during the year and the classification of each road in his district, the report to be filed in

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- 144. Acts 1901, ch. 136, sec. 11.
 - 145. Ibid., sec. 4.
 - 146. Ibid.
 - 147. Ibid., secs. 2, 4.
 - 148. Ibid., sec. 8.
 - 149. Ibid., sec. 3.
 - 150. Ibid.
 - 151. Ibid.
 - 152. Ibid.
 - 153. Ibid., sec. 3.
 - 154. Ibid., sec. 7.
 - 155. Ibid.
 - 156. Ibid.

the office of the county court clerk (157).

In case certain highways were designated by the quarterly court to be worked by private contractors, it was to set up a committee consisting of the chairman of the county court or the county judge and four other citizens to enter into contracts with the lowest bidders. Bids were to be opened in the presence of the district road commissioners. The commissioners could reject any and all bids or allow the contract to be made with the lowest bidders. Contractors were to make bond for the faithful performance of their duties. Contractors were to furnish their own tools, materials, and so on, or if no satisfactory bids were received, the commissioners could employ labor and purchase tools for the maintenance of the highways (158). The commissioners could employ a man "skilled in road making" to supervise the working of the county highways. His compensation was not to exceed two dollars for a day of actual service (159).

If the quarterly court took any of the steps contemplated in the section summarized in the foregoing paragraph, it was to levy a special tax of not more than twenty cents on each hundred dollars of taxable wealth in the county without the bounds of any incorporated town, city, or taxing district (160).

An act approved on April 15, 1907, created the office of the State Highway Commissioner (161). The act provided that the State Highway Commissioner was to be appointed by the Governor (162). To be eligible for appointment, one was required to be a civil engineer, a freeholder of the State, and at least thirty years of age. The State Highway Commissioner was required to be under a bond of ten thousand dollars with the State Comptroller and to subscribe to an oath to perform his duties faithfully and well (163). His salary was to be twenty-five hundred dollars a year (164), exclusive of necessary traveling expenses (165). His term of office was to be two years (166).

The Governor was also to appoint two Assistant Highway Commissioners, one for each grand division of the State other than that from which the Commissioner was appointed (167).

The State Highway Commissioner was to have general supervision and control over the building of a system of State highways contemplated by

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157. Acts 1901, ch. 136, sec. 9.
 158. Ibid.
 159. Ibid., sec. 11.
 160. Ibid., sec. 12.
 161. Acts 1907, ch. 560.
 162. Ibid., sec. 1.
 163. Ibid.
 164. Ibid., sec. 5.
 165. Ibid., sec. 6.
 166. Ibid., secs. 1, 4.
 167. Ibid., sec. 2.

the act (168). The commissioner could employ a clerk at a salary not to exceed twelve hundred dollars a year (169).

An annual appropriation out of the funds in the State treasury of five hundred thousand dollars was to be made to constitute a State highway fund to be apportioned among the counties of the State on the basis of area (170).

To work with the State Highway Commissioner, a five man board consisting of the county judge or chairman of the county court and four other persons appointed by the court was to be set up in each county (171). The State Commissioner, or one of the assistant Commissioners, was to go to each county to consult with its board and to decide where and what highways were to be built in the county (172). Copies of the resulting plans and specifications were to be filed in the office of the State Highway Commissioner and in the office of the county court clerk (173). As soon as the location of the proposed highway was decided upon, the State Commissioner was to advertise for bids and to contract in the name of the State with the lowest bidder (174).

This enactment had no direct effect upon the earlier laws outlined in this statement. It was itself repealed in 1909 (175).

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168. Acts 1907, ch. 560, secs. 1, 3.
169. Ibid., sec. 7.
170. Ibid., sec. 18.
171. Ibid., sec. 9.
172. Ibid.
173. Ibid.
174. Ibid.
175. Acts 1909, ch. 213.

