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Private Acts of 1991 Chapter 83

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1991 Chapter 83

SECTION 1. As used in this act, unless the context otherwise requires:

- (1) "Chief Administrative Officer" means the chief administrative officer of the county highway department as defined in Tennessee Code Annotated, Section 54-7-103, the same being the Commissioner of Highways for McMinn County according to Chapter 189 of the Private Acts of 1982.
- (2) "County road" or "county highway" means a public road not maintained by any other governmental entity and designated by the county legislative body as being located in the county and having sufficient use and importance so that the county, through its county highway department is authorized to maintain the road.
- (3) "County road list" means a listing of the roads designated as county roads by providing a name, description of beginning and ending points, and classification of each road on the list.
- (4) "Interested property owner" means a person or legal entity that holds a legal or equitable interest in real property (other than a leasehold interest) adjacent to a public road, or person or legal entity that has access to the public road by way of easement or right of way.
- (5) "Public road or public highway" means any road recognized by law as a way open to all the people, without distinction, for passage and repassage at their pleasure.

SECTION 2.

- (a) The chief administrative officer shall review the status of public roads and county roads in the county prior to January 1 of each year and shall make recommendations to the county legislative body as to the public roads that should be designated as county roads, the classification of the county roads, the roads that should be removed from the county road list, the private roads or rights of ways that should be accepted as gifts by deed or other instrument to become county roads, any real property or rights of way that should be purchased or condemned to become county roads, and any public road (including any county road) that should be closed.
- (b) After receiving the recommendation of the chief administrative officer, the county legislative body shall, at least annually and prior to February 1 of each year, designate and update previous designations of county roads. The county legislative body may accept or reject the recommendations of the chief administrative officer required under subsection (a), but the county legislative body shall not make any designation, nor accept any road as a county road, nor alter any classification, nor remove a road from the county road list, nor act to purchase or condemn land for a county road, nor close a public road, without first receiving the recommendation of the chief administrative officer. The county legislative body may request the recommendation of the chief administrative officer concerning any action it make take regarding the county road system and the public roads in the county at any time during the year. The chief administrative officer shall respond to such requests with a recommendation within sixty (60) days of receiving such a request. The roads designated as county roads by the county legislative body shall be entered on the county road list. The county road list shall be maintained by the chief administrative officer and a copy of it shall be kept by the county clerk.
- (c) The removal of a public road from the county roads list or the fact that a public road is not designated as a county road shall not impair its public character allowing all persons, without distinction, to pass over said road, but the removal of a public road from the county road list shall remove any obligation of the county to maintain said public road.
- (d) The chief administrative officer shall develop a classification system for the county roads based upon width of right of way, width of roadbed, and type of roadbed and surface. All county roads shall be classified in accordance thereto. The classification of all county roads shall be made a part of the county road list. The classification of the county roads shall be updated at least annually by the chief administrative officer in conjunction with the update of the county road list.

SECTION 3. The county legislative body may appropriate either county highway funds or county general funds for the purpose of acquiring real property, including rights of way (by purchase or exercise of the power of eminent domain), building, repairing, and maintaining county roads and bridges and to operate ferries connecting county roads or connecting a county road with any other public road.

SECTION 4. The county legislative body may close a county road or a public road not maintained by any governmental entity located in the county upon first receiving the recommendation of the chief administrative officer and following procedures which shall be adopted by the county legislative body that shall provide for a public hearing, notice to interested property owners, public notice, award of

compensation for any damages, and transfer of the county's interest in the road where appropriate. Appeal of any action by the county legislative body regarding closing of a road and awarding damages may be made to the Chancery Court.

SECTION 5. The chief administrative officer shall establish standards for the acceptance of subdivision roads and private roads as county roads; however, the standards for acceptance of subdivision roads shall not be inconsistent with any subdivision regulations established by a county or regional planning commission. A copy of any approved standards shall be maintained by the chief administrative officer and by the county clerk. Once these standards have been established, a road shall not become a county road that does not conform to these standards. However, a party offering a subdivision or private road to the county may receive conditional acceptance of such road as a county road upon recommendation by the chief administrative officer and approval of the county legislative body, and by posting security in the form of a bond payable to the county in such amount as would be required to bring the road into compliance with the established standards for acceptance. The bond shall be with a corporate surety approved by the county executive and in such amount as set by the chief administrative officer.

The bond shall be delivered to the county clerk. The bond shall be canceled by the chief administrative officer with the approval of the county executive when the terms of the bond have been met. The private party offering a road under this section may cause work to be performed on the road after such road has received conditional approval as a county road and until the bond is canceled. If the road is not in compliance with the standards for acceptance within one year of the date of delivery of the bond to the county clerk, then the bond shall become due and payable, and the proceeds shall be paid into the county highway fund to pay for the work required to bring the designated road into compliance with the acceptance standards. The county highway department shall bring a conditionally approved road into compliance with the approved standards after receiving bond proceeds for this purpose. After the bond is canceled or after bringing the conditionally approved road into compliance with the approved acceptance standards, the road shall be a county road.

SECTION 6. If any provisions 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 act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of McMinn County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified to the Secretary of State.

SECTION 8. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 7.

Passed: April 29, 1991.

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