County Technical Assistance Service
INSTITUTE for PUBLIC SERVICE

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Asphalt Plants

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Reference Number: CTAS-117

Under a statute enacted in 2005 (2005 Public Chapter 344 amending T.C.A. § 12-8-101), counties and municipalities may individually or jointly own or operate a hot mix asphalt facility but only if certain conditions are met. A financial feasibility study, conducted jointly by all participating local governments, using factors specified by the statute must be completed and reviewed by a three-member feasibility oversight committee consisting of members named by the Comptroller, the Tennessee Road Builders Association, and the Tennessee County Highway Officials Association. The completed study must be filed with the Comptroller and the county mayor/executive and be available for public inspection. The committee's function is to review the feasibility study to determine if all appropriate costs are included and publically disclosed. The committee either approves the study or disapproves the study if it is deemed incomplete and lacks substantial information to provide an accurate estimate of the costs and benefits of owning and operating a plant. The committee is to itemize any deficiencies and return the study to the local government or governments for modification and resubmission. If after a second submission a majority of the committee determines the study to be incomplete, it will be forwarded to the county or municipal governing body with a negative recommendation within thirty (30) days after the meeting. Any minority report must also be forwarded. The county legislative body or municipal governing body then determines whether or not to approve or deny any action required to acquire an asphalt facility. The resolution or ordinance requires a two-thirds majority vote before any public funds may be expended on a hot mix asphalt facility. Asphalt produced from such a public facility must be used exclusively for paving public streets, roads or highways under control of the unit of local government that owns the plant. Asphalt facilities owned by local governments on March 29, 1976, and all metropolitan governments are exempt from the additional requirements of 2005 Public Chapter 344. All local governments acting under the new public chapter that own and operate an asphalt facility are required to solicit bids annually for hot mix asphalt products but may reject any and all bids. T.C.A. § 12-8-101.

All counties and municipalities that did not own or operate an aggregate facility for the production of crushed limestone, commercial lime, agricultural lime, sand, gravel, or any other product resulting from the processing of aggregate on June 7, 2005, are prohibited from acquiring such a facility unless the county or municipality prepares a financial feasibility study comparable to the one required for asphalt facilities and a review procedure substantially similar to the one for asphalt facilities is used. The acquisition of such an aggregate facility also requires a two-thirds majority vote of the county legislative body or municipal governing body as appropriate. A local government that owns and operates an aggregate facility may transfer materials to another entity of that local government only if a study has been completed to determine the actual costs of producing that material and reimbursement of actual costs is made. Otherwise, it is unlawful for crushed limestone, commercial lime, agricultural lime, gravel, or any other product resulting from processing of stone, produced in whole or in part by any governmentally owned or operated plant, quarry, crusher, or stone processing plant to be sold, traded, bartered, lent, or given away. T.C.A. § 12-8-101. A violation of this section results in a Class C misdemeanor. T.C.A. § 12-8-102. However, counties may sell agricultural lime to farmers for their own farming activity. T.C.A. § 12-8-103.
