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# Private Acts of 1988 Chapter 231

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Sincerely,

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# Private Acts of 1988 Chapter 231

**SECTION 1.** Blount County shall have the power to design, or cause to be designed, contract for, and execute, or cause to be executed, the construction and improvement or the reconstruction or reimprovement of any road by opening, extending, widening, grading, paving, macadamizing, curbing, guttering, draining, or otherwise improving the same in such manner and with such materials and with such culverts and drains as the legislative body of such county may prescribe, and to cause not less than two thirds ( $\frac{2}{3}$ ) of the cost or expense of the aforesaid work and improvements to be assessed against the property abutting or adjacent to the road so improved.

As used in this act, "road" means any road, street, avenue, alley, highway, or other public place.

The provisions of this act shall apply only to the construction and improvement or the reconstruction or reimprovements of roads:

- (a) which are private roads within subdivisions developed prior to January 1, 1977; or
- (b) which are private roads serving residential developments created by conveyances of property by metes and bounds prior to January 1, 1977; and
- (c) on which the county has obtained rights-of-way in fee or by easement from the abutting property owner in the width deemed sufficient by the county and without any costs to the county and the county has accepted such road as a public road; and
- (d) on which signed petitions or statements requesting the construction and improvement or the reconstruction or reimprovement of each road from each owner of record of the abutting property on such road have been filed with the county clerk.

**SECTION 2.** When the legislative body of Blount County shall determine to construct any improvement authorized by Section 1, it shall adopt a resolution that such improvement shall be made. Such resolution shall describe the nature and extent of the work, the character of materials to be used, the location and the terminal points of the proposed improvements, and the roads or part or parts thereof, on which such improvements are to be made. Such resolution shall direct that full details, drawings, plans, specifications, and surveys of the work and estimates shall be prepared by the county road superintendent, or such other person as may be designated in such resolution. The legislative body may adopt plans for such work which are already prepared.

**SECTION 3.** Such details, drawings, plans, specifications, and estimates shall, when completed, be placed on file in the office of the county road superintendent, or other official designated in such resolution, where the property owners who may be affected by such improvement may see and examine such documents.

**SECTION 4.** The resolution shall appoint a time when the legislative body of such county shall meet, which shall not be less than two (2) weeks after the date of the first publication of notice of the resolution, to hear any objections or remonstrances that may be made to the improvement, the manner of making same, or the character of material to be used.

**SECTION 5.** Notice of the adoption of such resolution shall be given by publishing a notice once a week for two (2) consecutive weeks in some newspaper of general circulation in the county. It shall not be necessary to set out in full in such notice the resolution, but such notice shall state the character of such improvement, the location and terminal points thereof, and also the time and place, not less than two (2) weeks from the date of first publication of the notice, at which the legislative body of such county shall meet to hear remonstrances or protests against the making of such improvement.

**SECTION 6.** At the time and place thus appointed, the legislative body shall meet, and at the meeting, or at the time and place to which same may be adjourned from time to time, all persons whose property may be affected by such improvement may appear in person or by attorney or by petition and protest against the making of such improvement or improvements, the material to be used, and the manner of making same; and the legislative body shall consider such objections and protests, if any, and may confirm, amend, modify, or rescind such original resolution. Failure to object or protest at the time of confirmation of the original resolution shall constitute a waiver of any and all irregularities, omissions, and defects in the proceedings taken prior to such a time.

**SECTION 7.** Upon the confirmation of the resolution, it shall be the duty of the legislative body to proceed to construct the improvements thus authorized, which may be done by contract with the lowest and best responsible bidder, as provided by law or it may be done by the county as it may elect.

**SECTION 8.** In case the work is let to the lowest and best responsible bidder, all bids submitted for the construction of such improvement shall be accompanied by a certified check or a suitable bond, with at

least two (2) good and solvent sureties, who are citizens or residents of Blount County; or in lieu or personal sureties, deposit of cash, a certificate of deposit in a bank or savings and loan association chartered by the United States or the State of Tennessee, or the bond of some surety company authorized to do business in this state may be given in a penal sum of at least ten percent (10%) of the entire cost of the work to be done or improvements to be made, computed on the basis of the bid submitted, and conditioned that the contractors named therein shall, in case the work is awarded to them, enter into a contract with the county within the time required and for the price named in their respective bids, and in accordance with the plans and specifications of the county and the provisions of the resolution providing for the improvement.

**SECTION 9.** The legislative body of Blount County shall have the power to reject any and all bids and to order new bids.

**SECTION 10.** The successful bidder shall execute a bond to Blount County, or make a deposit of cash or a certificate of deposit as provided in Section 8, in an amount equal to fifty percent (50%) of the entire contract price of the improvement, conditioned that the party shall well and truly perform all of the terms and conditions of the contract, in a good and workmanlike manner, and in accordance with the plans and specifications, which shall form part of the contract, and shall indemnify and save the county harmless from all losses, costs, and expenses which it may sustain by reason of any negligence or default of such contractor.

**SECTION 11.** After the completion of the work or improvement, it shall be the duty of the legislative body, in conformity with the requirements of the resolution, to apportion two thirds ( $\frac{2}{3}$ ) of the cost of such improvement upon the land abutting on or adjacent to the road which apportionment shall be made against the land, and the several lots or parcels thereof, according to the frontage of the lots or parcels on the road.

**SECTION 12.**

(a) The aggregate amount of the levy or assessment made against any lot or parcel of land shall not exceed one half ( $\frac{1}{2}$ ) of the cash value of the lot and improvements thereon.

(b) By cash value it is the intent of this section to mean the fair sale price of the lot and improvements thereon if sold at a voluntary sale

(c) The county shall pay any part of the levy or assessment against any such lot or parcel of land as may be in excess of one half ( $\frac{1}{2}$ ) of the cash value thereof.

**SECTION 13.** Where intersections of any road are improved, the county shall pay one third ( $\frac{1}{3}$ ) of the cost thereof, and the balance shall be assessed against the property of the street improved and the intersecting street or streets for one half ( $\frac{1}{2}$ ) a block in all directions according to the frontage thereof.

**SECTION 14.** In the event a petition be presented to the legislative body of Blount County averring the willingness of each of the signers to pay his or her pro rata share of the entire cost of any improvement such as is authorized by this act and relieve the county from the payment of any part thereof as to any road, or part or parts thereof, which petition is signed by all of the owners of the frontage of the lots or parcel of land abutting on such road or part or parts thereof, proposed to be thus improved, such petition may be granted by the legislative body; and thereupon proceedings may be had under this act, the same in all respects as if the improvement had been begun by the legislative body on its own initiative; and bonds may be issued and assessments shall be made, except that the assessments shall, in such event, be made for the entire cost of the improvement, and bonds may be issued for the entire cost instead of assessments being made and bonds being issued for only two ( $\frac{2}{3}$ ) of the cost thereof; provided that no assessment under this section shall in any event exceed on any lot one half ( $\frac{1}{2}$ ) of the assessed value of such lot for county taxes for the current year, and all other provisions of this act shall be applicable in respect of any improvement made under this section, except as in this section otherwise expressly provided.

**SECTION 15.** The cost of any improvement contemplated in this act shall include the expense of the preliminary and other surveys, the inspection and superintendence of such work, the preparation of plans and specifications, the printing and publishing of notices, resolutions required, including notice of assessment, preparing bonds, interest on bonds, and any other expense necessary for the completion of such improvement; provided, however, that the cost of any guaranty or maintenance of any work constructed under the terms of this act shall not be assessed against the property abutting on or adjacent to road or other ways improved.

**SECTION 16.**

(a) Before making any of the improvements contemplated in this act, the legislative body shall have the power to order the owners of all abutting real estate to connect their several premises with any utility

lines, including water, sewer, electrical, telephone, or other, located in the roads adjacent to their several premises; and upon default of the owners for thirty (30) days after such order to make connection, the county may contract for and make the connection aforesaid, at such distances, under such regulation, and in accordance with such specifications as may be prescribed by the legislative body; and the whole cost of each connection shall be assessed against the premises with which the connection is made.

(b) Any number of such connections may be included in one (1) contract, and the cost thereof shall be added to the final levy or assessment made against the property of each lot owner, as hereinbefore provided.

**SECTION 17.**

(a) When the legislative body shall have completed such apportionment, the county clerk, or such person as may be designated by the legislative body of Blount County, shall publish a notice that the assessment list has been completed, and that, on a day named, which shall be not less than ten (10) days after the date of publication of the notice, the county legislative body will consider any and all objections to the apportionment that have been filed in the office of the county clerk or person designated.

(b) The notice shall further recite that the lists are in the office of the county clerk or person designated, and may be inspected within business hours and during the time specified by anyone interested.

(c) The notice shall also state the general character of the improvement and the terminal points thereof.

**SECTION 18.** All persons whose property it is proposed to assess for the cost of the improvement may at any time on or before the date named in the notice, and before the meeting of the legislative body, file in writing with the county clerk or person designated any objections or defense to the proposed assessment or to the amount thereof.

**SECTION 19.** On the date named in the notice, or at any day to which the meeting may be adjourned or to which consideration of the assessments and the objections thereto may be postponed, the legislative body shall hear and consider the assessment and objections thereto, and, after so doing, shall confirm, modify, or set aside the assessments as shall be deemed right and proper.

**SECTION 20.**

(a) If no objection to the pro rata or the amount thereof is filed, or if the property owners fail to appear in person or by attorney and insist upon the same, the assessment shall be confirmed and made final.

(b) Property owners who do not file objection in writing or protest against such assessment shall be held to have consented to the same and forever barred to attack the regularity, validity, or legality of such assessment.

**SECTION 21.**

(a) The confirmation and final action by the legislative body specified in Section 20 shall be done at a single meeting of the body.

(b) It is hereby declared that the provisions of the law in reference to the passage of resolutions shall not be applicable to the action of the bodies in levying such assessments, except that such levy or assessment shall be approved by the county executive, and in the event he refuses to approve or vetoes the levies or assessments, which he shall do as a whole, such levies or assessments shall be passed over his veto in like manner as resolutions are passed over such vetoes.

**SECTION 22.** When any owner or part owner of any of the lots of lands abutting on or adjacent to any road that is improved or about to be improved pursuant to the provisions of this act, and upon or against which lots or lands, levies or assessments have been made for the purpose of paying for such improvement, shall be aggrieved by the action of the legislative body of such county in confirming the levies or assessments made by the legislative body, such owner or person shall have right to appeal from the action of such legislative body to the circuit court of the county; provided the owner made objection or protest to the levies or assessments at the time provided for and appointed for objecting thereto, such appeal shall be perfected by filing with the clerk of such circuit court a petition setting forth the facts in regard to such levies and assessments and the irregularities or illegal acts in the making thereof; and such clerk and shall thereupon notify such county to deliver a copy of such levies or assessments, and all proceedings had in reference thereto, to the clerk of the circuit court, and such case thereupon be docketed for trial as other civil causes at law; provided, that the appeal of any individual shall in no wise affect the legality of such levy or assessment as to other property involved in the levies or assessments; and provided, further, that such appeal shall be perfected within thirty (30) days after the final action of the legislative body making such levies or assessments; and if not perfected within this time, the levies or assessments shall be regarded as final, and shall not be reviewed by certiorari, injunction, bills to quiet title or otherwise by any of the courts.

**SECTION 23.** If in any court any final assessment made in pursuance of this act is set aside for irregularities, omissions, or defects in the proceedings, then the legislative body of Blount County may, upon recommendation and notice as required in the making of an original assessment, make a new assessment in accordance with the provisions of this act.

**SECTION 24.** Any error, mistake of name, number of lot, amount, or other irregularity may at any time be corrected; and no such levy or assessment shall ever be declared void or invalid by reason thereof, but the person aggrieved may have the same corrected by application to the legislative body of such county.

**SECTION 25.**

(a) After the legislative body shall have levied the assessments against the property abutting upon such road, the county clerk or person designated shall deliver such assessments to the Blount County trustee, who shall enter same in a well bound book, styled "Special Assessment Book," which book shall be so ruled as to conveniently show:

1. Name of owner of such property;
2. The number of lot or part of lot and the plan thereof, if there be a plan;
3. The frontage of the lot and the depth thereof;
4. The amount that has been assessed against such lot;
5. The amount of such installment and the date on which installment shall become due.

(b) The book shall be indexed according to the names of the owners of the property and according to the names of the roads that have been improved.

**SECTION 26.** The special assessment book heretofore referred to shall be a book or original entries for any and all purposes, and certified copies thereof shall be competent evidence in all cases in all the courts.

**SECTION 27.**

(a) All such assessments shall constitute a lien on the respective lots or parcels of land upon which they are levied, superior to all other liens except those of the state and county, for taxes.

(b) The enforcement by the state, and county of their liens for taxes on any lot or parcel of land upon which has been levied an assessment for any improvement authorized by this act shall not operate to discharge or in any manner affect the county's lien for such assessment; however, a purchaser at a tax sale by the state or county of any lot or parcel of land upon which the assessment has been levied shall take the same subject to the lien of such assessment, and if bought by the state, any conveyance of the title thus acquired or any redemption shall be subject to the lien of such assessment.

**SECTION 28.** The tax collector shall issue his receivable warrant to the individual or owner desiring to pay any of the assessments, which amount shall be paid to the trustee of the county as other taxes of the county are now paid.

**SECTION 29.** All assessments levied by virtue of this act shall be due and payable within thirty (30) days after the assessment is made final; but at the election of the property owner, to be expressed by notice as hereinafter provided, the assessment may be paid in five (5) annual installments, and shall bear interest at the rate of six percent (6%) per annum, interest payable semiannually.

**SECTION 30.**

(a) A property owner desiring to exercise the privilege of payment by installments shall, before the expiration of such thirty (30) day period, enter into an agreement in writing with the county that, in consideration of such privilege, he will make no objection to any illegality or irregularity with regard to the assessment against his property, and will pay the same, as required by law, with the specified interest.

(b) Such agreement shall be filed in the office of the county clerk or person designated by the county.

**SECTION 31.** In all cases where such agreement has not been signed and filed within the time limited, the entire assessment shall be payable in cash, without interest, before the expiration of such thirty (30) days.

**SECTION 32.** Any property owner who shall have elected to pay his assessments in five (5) annual installments shall have the right and privilege of paying the assessment in full at any installment period by paying the full amount of the installments, together with all accrued interest, and an additional sum equal to one half (1/2) the annual interest thereon.

**SECTION 33.** If any property owner makes default in the payment of any installment and interest thereon, all the installments, with interest, and an additional sum equal to one half (1/2) the annual interest, shall become immediately due and payable.

**SECTION 34.**

(a) Whenever any installments of any assessments shall become past due for a period of sixty (60) days, it shall be the duty of the county trustee to certify the installment and all other installments of the same assessment to the county attorney whose duty it shall be to immediately enforce the collection of the installment or installments, by attachment levied upon the lot or parcel of ground upon which such assessment was levied. In case of any such delinquency, attachment shall be sued out and the lien thereunder enforced in chancery court.

(b) Any land so attached may be sold in the attachment proceedings in bar of the equity of redemption and all other rights, legal or equitable, belonging to the owners of the land.

**SECTION 35.** Whenever such proceedings are taken by Blount County as shall result in the sale of any lot of ground to pay any installment or installments of such levies or assessments, the county executive shall have the right to bid at such sale up to the amount of all of the assessments that are outstanding against the property; and if the property is struck off the county executive, the title thereof shall be taken in the name of the county; and the county executive shall thereafter have the power to execute a quitclaim deed of such county to any individual who shall tender in consideration thereof the amount of such special assessments that may have been levied against such property, together with all costs, interest, or charges that may have been incurred in the effort to collect such assessments.

**SECTION 36.** Blount County shall have the authority and power to borrow money for the purpose of making payments for the improvements herein contemplated in anticipation of realization of funds, either by the sale of bonds or special assessment; and such county if further authorized to make payments out of any funds on hand or such funds as may be available for either that portion of the work to be assessed against the abutting property owner or to be paid by the county itself; provided, further, that nothing in this act shall be construed to prohibit the county affected hereby from making payment of the entire cost of such improvements out of any funds which may be provided or available for such purposes.

**SECTION 37.** The provisions of this act shall be additional and supplemental to the powers conferred by other laws and the county may take advantage of any of the rights, powers, and authority conferred by such laws.

**SECTION 38.** This act shall have no effect unless it is approved by a two-thirds ( $\frac{2}{3}$ ) vote of the legislative body of Blount County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

**SECTION 39.** 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 38.

PASSED: April 29, 1988.

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