

1 HB281
2 199725-4
3 By Representatives Brown (C) and Stringer (N & P)
4 RFD: Mobile County Legislation
5 First Read: 21-MAR-19

1
2 ENROLLED, An Act,

3 Relating to Mobile County; to create a procedure for
4 the Mobile County Commission to provide for the acceptance,
5 maintenance, and regulation of construction of certain
6 unimproved roads; and to repeal Act 87-663, 1987 Regular
7 Session (Acts 1987, p. 1172), Act 91-337, 1991 Regular Session
8 (Acts 1991, p. 657), Act 2004-688, 2004 1st Special Session
9 (Acts 2004, p. 71), and Act 2009-554, 2009 Regular Session
10 (Acts 2009, p. 1600).

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall only apply to Mobile
13 County.

14 Section 2. The county commission may accept each
15 year a total number of miles of public roads equal to the
16 number of miles of county maintained dirt roads graded,
17 drained, based, and paved under any pay-as-you-go program
18 during the preceding calendar year and shall not accept any
19 other dirt or otherwise substandard road constructed or
20 improved after January 1, 1984. The county commission shall
21 require that the division of a lot, tract, or parcel of land
22 into two or more lots, plats, sites, or other divisions of
23 land for the purpose, whether immediate or future, divided for
24 purposes of sale or of building development shall be done by

1 recorded plat in accordance with Section 35-2-50, Code of
2 Alabama 1975.

3 Section 3. In order for a road to be considered
4 under this act, all of the owners of property located adjacent
5 to the named road, or portion of the named road to be
6 considered, and whose property does not gain access from
7 another openly traveled public or private right-of-way, shall
8 sign the petition. The petition shall be submitted to the
9 county commission during the month of January requesting the
10 commission to consider the acceptance of the named privately
11 maintained road into the county road maintenance system.

12 Section 4. A chair shall be designated on this
13 petition to represent the petitioners and to act on their
14 behalf. A map of legible size indicating the location of the
15 named road shall be presented with the petition. The petition
16 should clearly state the name to be assigned to the road. The
17 petition shall certify to the intent of the adjacent property
18 owners to offer jointly, at no cost to the county, a minimum
19 of 60-foot width of right-of-way, along an alignment that
20 complies with accepted design criteria and does not compromise
21 the safety of the traveling public, together with any required
22 drainage easements as determined by the county engineer to
23 adequately maintain the road. The petition shall certify that
24 the adjacent property owners will jointly and severally
25 indemnify the county against liability for roadway defects for

1 a period not to exceed five years after acceptance of the road
2 or roads by the county. The petition shall certify that the
3 petitioners, at their expense, shall provide funds for the
4 purchase of the necessary driveway culvert pipe for
5 installation by the county as a prerequisite to acceptance and
6 maintenance. The petition shall certify that the petitioners,
7 at their expense, shall pay for the relocation of any
8 utilities and any fences required to accommodate the necessary
9 roadway improvements and associated drainage improvements.

10 Section 5. On or prior to the first day of the month
11 of February, the county commission shall submit copies of each
12 petition received to the county engineer. The county engineer,
13 on or prior to the last day of the month of March of the same
14 year, shall return to the commission a prioritized list of the
15 roads submitted by petitioners. This prioritized list shall be
16 based on the density of development along each road. The list
17 shall designate the commission district in which the road is
18 located. The county commission shall review the list of
19 eligible roads, and on or prior to the last day of April,
20 shall return to the county engineer the prioritized list
21 designating those roads which shall be considered for
22 acceptance for the county road maintenance system in
23 accordance with the prioritized density of development. The
24 county commission shall concurrently notify the chair for the
25 petitioners of each selected road to contact the county

1 engineer to coordinate the right-of-way acquisition, utility
2 relocations, fence relocations, and the purchase of driveway
3 culvert pipe.

4 Section 6. The provisions of this act shall be in
5 accordance with the following sequence dates:

6 (1) January - Petitions for road maintenance will be
7 accepted by the county commission only during the month of
8 January.

9 (2) February - Petitions forwarded to the county
10 engineer for analysis and recommendations.

11 (3) March - On or before the last day of the month
12 of March, the county engineer shall submit a prioritized list
13 of roads submitted by petition to the county commission.

14 (4) April - On or before the last day of the month
15 of April, the county commission shall designate those roads
16 which will be considered for addition to the county road
17 maintenance system.

18 (5) May - Prior to or during the first regular
19 commission meeting in the month of May, the county commission
20 shall assign consultants to prepare surveys, construction
21 plans, and deed and easement documents.

22 (6) July - The consultant designated by the
23 commission shall have until the last day of July to prepare
24 right-of-way deed and easement documents, as required. On or
25 prior to the last day of the month of July, the county

1 engineer shall notify the chair for each petition selected by
2 the commission that the right-of-way deed and easement
3 documents are prepared and request that the chair begin work
4 toward the execution of the documents.

5 (7) August - The consultant designated by the
6 commission shall have until the last day of August to complete
7 the design of the roadway improvements and the associated
8 drainage improvements. On or prior to the last day of August,
9 the county engineer shall notify the chair for each petition
10 that the construction plans for the roadway have been
11 completed and are ready for use in coordinating the relocation
12 of utilities and the relocation of fences. The chair processes
13 the right-of-way deed and easement documents and coordinates
14 activities with the property owners.

15 (8) September - On or prior to the last day of the
16 month of September, all right-of-way deed and easement
17 documents shall be executed and returned to the county
18 engineer by the chair.

19 (9) October - The chair shall work on the
20 coordination of utility relocations and the collection of
21 funds from the individual property owners for the purchase of
22 driveway culvert pipe.

23 (10) November - On or prior to the last day of the
24 month of November, the chair shall have reported to the county
25 engineer that all utility relocations have been completed,

1 that all fences have been relocated, and that all the funds
2 have been collected and delivered for the purchase of all of
3 the required driveway culvert pipe to the county engineer's
4 office. The county shall deposit the delivered funds for the
5 purchase of driveway culvert pipe into an escrow account for
6 this road improvement.

7 (11) December - On or prior to the last day of the
8 month of December, the county commission shall accept those
9 roads on which the chair has met all the requirements set out
10 in the act at an official county commission meeting and
11 instruct the county engineer to place the roads on the county
12 road maintenance system.

13 Section 7. Any chair who has not met all the
14 requirements pursuant to the schedule set out in this act may
15 request in writing a one-year extension, and upon the
16 recommendation of the county engineer and approval of the
17 county commission, be continued in the program and allowed one
18 additional year to complete all the requirements set out in
19 the act for acceptance into the county road maintenance
20 system.

21 Section 8. The county engineer shall submit a
22 prioritized list based on density of development, as
23 determined by a check of the records in the office of the
24 county tax assessor, of those roads which have been submitted
25 by petition to the county commission. The list shall be

1 submitted to the commission for acceptance on or prior to the
2 last day of March. The county engineer shall submit a report
3 on the number of miles of county maintained dirt roads graded,
4 drained, based, and paved by the county in the unincorporated
5 areas of the county during the preceding calendar year. This
6 report shall be by commission district. The county commission
7 shall select the appropriate number of miles in each
8 commission district for that year's program from the
9 prioritized listing submitted by the county engineer.

10 Section 9. The petitioners shall not submit any road
11 or portion of road for consideration in this program that do
12 not connect directly to an existing county, municipal, or
13 state maintained road. Individual property owners shall be
14 required to bear the expense of the purchase of driveway
15 culvert pipe as required to provide adequate drainage and
16 serve the property owner for access to the property.
17 Individual property owners shall be required to execute any
18 right-of-way deed or easement documents as an obligation under
19 this act at no expense to the county. Property owners,
20 individually or jointly, shall be required to bear the cost of
21 any utility relocations necessary to accommodate the roadway
22 improvements and associated drainage improvements. Property
23 owners, individually or jointly, shall be responsible for the
24 relocation of existing fences or private encroachments out of
25 the proposed 60-foot minimum width right-of-way at no cost to

1 the county. Individual property owners shall cooperate fully
2 with the chair selected in the petition and coordinate any and
3 all matters concerning the road with and through that
4 designated individual.

5 Section 10. The chair designated on the petition
6 shall be the official representative for the petitioners and
7 shall be responsible for the following duties:

8 (1) Upon notification by the county commission that
9 the road has been selected for the program, the chair shall
10 contact the county engineer and coordinate all further
11 activities with that office.

12 (2) The chair shall be responsible for getting all
13 right-of-way deed and easement documents executed and
14 submitted to the county engineer on or prior to the last day
15 of the month of September. All deed and easement documents
16 necessary for the road to be accepted in the program shall be
17 submitted together in one submittal.

18 (3) The chair shall coordinate the relocation of all
19 utilities necessary for the proper maintenance of the road
20 with the proper utility authorities and shall notify the
21 county engineer when all such relocations have been completed.

22 (4) The chair shall coordinate the collection of
23 funds from the individual property owners for the purchase of
24 all driveway culvert pipes and deliver a single cashier's
25 check for the total amount of all the funds for all the

1 required driveway culvert pipes to the county engineer. The
2 chair shall provide a list of the funds collected for each
3 tract or property along the selected roadway. This task shall
4 be completed on or prior to the last day of the month of
5 November.

6 (5) The chair shall coordinate the relocation of
7 existing fences and other private encroachments out of the
8 proposed 60-foot minimum width right-of-way. This task shall
9 be completed on or before the last day of the month of
10 November.

11 Section 11. The county shall be financially
12 responsible for the cost of all consulting fees for the
13 surveying and design or roadway construction plans,
14 right-of-way surveys and the preparation of all deed and
15 easement documents, for the recording of all right-of-way deed
16 and easement documents, the cost of the installation of all
17 driveway culvert pipes, the cost of purchase and installation
18 of all cross drain pipes and headwalls, the cost of all
19 traffic control devices and the installation and maintenance
20 of the devices, and shall bear the cost of continued
21 maintenance.

22 Section 12. The alignment of the centerline of the
23 proposed right-of-way will follow as closely as feasible the
24 existing centerline of the existing roadway except where such
25 alignment would not comply with accepted design criteria or

1 compromise the safety of the traveling public. The
2 right-of-way shall be a minimum of 60-foot in width.

3 Section 13. Upon acceptance of any public roads into
4 the county road maintenance system, the county engineer shall
5 instruct the appropriate road maintenance departments to
6 commence maintenance and to install the appropriate traffic
7 control devices. The chair for any selected road which does
8 not fulfill the provisions of the act by the dates established
9 herein and not granted a one-year extension by the county
10 commission shall be allowed to reapply for the next available
11 future program.

12 Section 14. (a) The county commission is empowered
13 to adopt the necessary rules for the construction of county
14 maintained roads in the county. The county commission shall be
15 authorized to adopt rules regarding the planning and
16 construction of streets and roads within subdivisions.
17 Subdivision rules shall be adopted or amended by first holding
18 a public hearing thereon after due notice thereof as otherwise
19 required by law for similar matters requiring a public
20 hearing.

21 (b) Exempt and excluded from the definition of a
22 subdivision and exempt from the laws and regulations
23 pertaining to subdivisions shall be the division of a tract of
24 land into parcels or property containing five acres or more
25 each.

1 (c) The county commission may authorize the use of
2 private paved roads, provided all of the following conditions
3 are satisfied:

4 (1) A recorded plat shall be required for a proposed
5 subdivision that incorporates a private road or contains
6 property situated adjacent to a private road.

7 (2) The private road or roads shall be plainly
8 marked and identified on the plat as a "private road - not to
9 be maintained by the State of Alabama or Mobile County."

10 (3) The private road or roads shall have a minimum
11 right-of-way width of 50 feet, unless waived by the county
12 engineer, due to special or unique circumstances of the
13 proposed development, and shall provide continuous paved
14 access to a publicly maintained road.

15 Section 15. The provisions of this act are
16 severable. If any part of this act is declared invalid or
17 unconstitutional, that declaration shall not affect the part
18 which remains.

19 Section 16. All laws or parts of laws which conflict
20 with this act are repealed. Act 87-663, 1987 Regular Session
21 (Acts 1987, p. 1172), Act 91-337, 1991 Regular Session (Acts
22 1991, p. 657), Act 2004-688, 2004 1st Special Session (Acts
23 2004, p. 71), and Act 2009-554, 2009 Regular Session (Acts
24 2009, p. 1600), are specifically repealed.

1 Section 17. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 07-MAY-19, as amended.

Jeff Woodard
Clerk

Senate

23-MAY-19

Passed