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3 HOUSE MOBILE COUNTY LEGISLATION COMMITTEE SUBSTITUTE FOR HB281

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Mobile County; to create a procedure for  
14 the Mobile County Commission to provide for the acceptance,  
15 maintenance, and regulation of construction of certain  
16 unimproved roads; and to repeal Act 87-663, 1987 Regular  
17 Session (Acts 1987, p. 1172), Act 91-337, 1991 Regular Session  
18 (Acts 1991, p. 657), Act 2004-688, 2004 1st Special Session  
19 (Acts 2004, p. 71), and Act 2009-554, 2009 Regular Session  
20 (Acts 2009, p. 1600).

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall only apply to Mobile  
23 County.

24 Section 2. The county commission may accept each  
25 year a total number of miles of public roads equal to the  
26 number of miles of county maintained dirt roads graded,  
27 drained, based, and paved under any pay-as-you-go program

1 during the preceding calendar year and shall not accept any  
2 other dirt or otherwise substandard road constructed or  
3 improved after January 1, 1984. The county commission shall  
4 require that the division of a lot, tract, or parcel of land  
5 into two or more lots, plats, sites, or other divisions of  
6 land for the purpose, whether immediate or future, divided for  
7 purposes of sale or of building development shall be done by  
8 recorded plat in accordance with Section 35-2-50, Code of  
9 Alabama 1975.

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

19 Section 4. A chair shall be designated on this  
20 petition to represent the petitioners and to act on their  
21 behalf. A map of legible size indicating the location of the  
22 named road shall be presented with the petition. The petition  
23 should clearly state the name to be assigned to the road. The  
24 petition shall certify to the intent of the adjacent property  
25 owners to offer jointly, at no cost to the county, a minimum  
26 of 60-foot width of right-of-way, along an alignment that  
27 complies with accepted design criteria and does not compromise

1 the safety of the traveling public, together with any required  
2 drainage easements as determined by the county engineer to  
3 adequately maintain the road. The petition shall certify that  
4 the adjacent property owners will jointly and severally  
5 indemnify the county against liability for roadway defects for  
6 a period not to exceed five years after acceptance of the road  
7 or roads by the county. The petition shall certify that the  
8 petitioners, at their expense, shall provide funds for the  
9 purchase of the necessary driveway culvert pipe for  
10 installation by the county as a prerequisite to acceptance and  
11 maintenance. The petition shall certify that the petitioners,  
12 at their expense, shall pay for the relocation of any  
13 utilities and any fences required to accommodate the necessary  
14 roadway improvements and associated drainage improvements.

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

1 accordance with the prioritized density of development. The  
2 county commission shall concurrently notify the chair for the  
3 petitioners of each selected road to contact the county  
4 engineer to coordinate the right-of-way acquisition, utility  
5 relocations, fence relocations, and the purchase of driveway  
6 culvert pipe.

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

9 (1) January - Petitions for road maintenance will be  
10 accepted by the county commission only during the month of  
11 January.

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

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

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

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

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

1 prior to the last day of the month of July, the county  
2 engineer shall notify the chair for each petition selected by  
3 the commission that the right-of-way deed and easement  
4 documents are prepared and request that the chair begin work  
5 toward the execution of the documents.

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

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

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

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

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

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

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

20 Section 8. The county engineer shall submit a  
21 prioritized list based on density of development, as  
22 determined by a check of the records in the office of the  
23 county tax assessor, of those roads which have been submitted  
24 by petition to the county commission. The list shall be  
25 submitted to the commission for acceptance on or prior to the  
26 last day of March. The county engineer shall submit a report  
27 on the number of miles of county maintained dirt roads graded,

1 drained, based, and paved by the county in the unincorporated  
2 areas of the county during the preceding calendar year. This  
3 report shall be by commission district. The county commission  
4 shall select the appropriate number of miles in each  
5 commission district for that year's program from the  
6 prioritized listing submitted by the county engineer.

7 Section 9. The petitioners shall not submit any road  
8 or portion of road for consideration in this program that do  
9 not connect directly to an existing county, municipal, or  
10 state maintained road. Individual property owners shall be  
11 required to bear the expense of the purchase of driveway  
12 culvert pipe as required to provide adequate drainage and  
13 serve the property owner for access to the property.

14 Individual property owners shall be required to execute any  
15 right-of-way deed or easement documents as an obligation under  
16 this act at no expense to the county. Property owners,  
17 individually or jointly, shall be required to bear the cost of  
18 any utility relocations necessary to accommodate the roadway  
19 improvements and associated drainage improvements. Property  
20 owners, individually or jointly, shall be responsible for the  
21 relocation of existing fences or private encroachments out of  
22 the proposed 60-foot minimum width right-of-way at no cost to  
23 the county. Individual property owners shall cooperate fully  
24 with the chair selected in the petition and coordinate any and  
25 all matters concerning the road with and through that  
26 designated individual.

1           Section 10. The chair designated on the petition  
2 shall be the official representative for the petitioners and  
3 shall be responsible for the following duties:

4           (1) Upon notification by the county commission that  
5 the road has been selected for the program, the chair shall  
6 contact the county engineer and coordinate all further  
7 activities with that office.

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

14           (3) The chair shall coordinate the relocation of all  
15 utilities necessary for the proper maintenance of the road  
16 with the proper utility authorities and shall notify the  
17 county engineer when all such relocations have been completed.

18           (4) The chair shall coordinate the collection of  
19 funds from the individual property owners for the purchase of  
20 all driveway culvert pipes and deliver a single cashier's  
21 check for the total amount of all the funds for all the  
22 required driveway culvert pipes to the county engineer. The  
23 chair shall provide a list of the funds collected for each  
24 tract or property along the selected roadway. This task shall  
25 be completed on or prior to the last day of the month of  
26 November.



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

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

17           Section 12. The alignment of the centerline of the  
18 proposed right-of-way will follow as closely as feasible the  
19 existing centerline of the existing roadway except where such  
20 alignment would not comply with accepted design criteria or  
21 compromise the safety of the traveling public. The  
22 right-of-way shall be a minimum of 60-foot in width.

23           Section 13. Upon acceptance of any public roads into  
24 the county road maintenance system, the county engineer shall  
25 instruct the appropriate road maintenance departments to  
26 commence maintenance and to install the appropriate traffic  
27 control devices. The chair for any selected road which does

1 not fulfill the provisions of the act by the dates established  
2 herein and not granted a one-year extension by the county  
3 commission shall be allowed to reapply for the next available  
4 future program.

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

14 (b) Exempt and excluded from the definition of a  
15 subdivision and exempt from the laws and regulations  
16 pertaining to subdivisions shall be the division of a tract of  
17 land into parcels or property containing five acres or more  
18 each.

19 (c) The county commission may authorize the use of  
20 private paved roads, provided all of the following conditions  
21 are satisfied:

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

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

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

6           Section 15. The provisions of this act are  
7 severable. If any part of this act is declared invalid or  
8 unconstitutional, that declaration shall not affect the part  
9 which remains.

10           Section 16. All laws or parts of laws which conflict  
11 with this act are repealed. Act 87-663, 1987 Regular Session  
12 (Acts 1987, p. 1172), Act 91-337, 1991 Regular Session (Acts  
13 1991, p. 657), Act 2004-688, 2004 1st Special Session (Acts  
14 2004, p. 71), and Act 2009-554, 2009 Regular Session (Acts  
15 2009, p. 1600), are specifically repealed.

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