Tennessee County
Highway Officials
Association

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Working to make county roads better and safer

TCHOA Position on SB1604/HB366

When a developer or private property owner proposes new development in a community, that often creates a substantially greater burden on the county's transportation infrastructure system that serves that property and the surrounding region. Improving the infrastructure serving a parcel also benefits the developer, allowing them to develop the property, increasing the value of the property and thereby profiting from those improvements. If a local planning commission determines that additional rights-of-way or easements are necessary to provide the infrastructure needed to accommodate new development and provide a safe environment for the motoring public, that should be provided by the owner of the property being improved. Requiring taxpayers to subsidize the development by purchasing the right-of-way or easement from the developer who benefits from the improvements is unfair and unjust and places a burden on the local property taxpayers.

SB1604/HB366

As proposed, **SB1604/HB366** will create a long-term liability for the local governments by making it more costly to improve a road in and around new development. By creating a right-of-way "reservation," it will require the local government to purchase additional property to allow for further improvements at the expense of all taxpayers.

The bill alleges that governmental entities are "taking" property without adequate compensation. It should be noted that a developer of, say, a subdivision attaches to an existing local government road/street, they must provide a right-of-way easement or dedication of land for safe entrance to the development. In turn, if the developer builds the roads/streets inside the subdivision to established governmental standards, the appropriate governmental entity will accept those roads into the county road system. Acceptance of roads into the governmental road plan relieves the developer of future maintenance and removes the developer's liability for the life of the development. Until this bill, the acceptance of the road in perpetuity has been considered adequate compensation for the required dedication of that right-of-way.

TCHOA believes the bill as proposed will increase local government expenditures. As stated in the original fiscal note, that is estimated to be in excess of $1 million in FY21/22 and subsequent years.

This bill requires a developer, in lieu of dedicating land to the county, to grant the county a right-of-way "reservation." In order for the county to exercise the option to use the reservation, it must buy the land it is about to improve. In that case, county taxpayers would be supplementing private enterprise by enhancing the developer's property.

Continuing the current practice of having a developer provide a right-of-way for future improvements is the most fair way of accommodating the needs of a county or community without creating a burden on taxpayers.

Infrastructure management and planning of county transportation infrastructure is a local issue. One size does not fit all because every county is different. That planning should be controlled at the local level because of public safety and costs involved. **SB1604/HB366** restricts a local government's ability to govern their own infrastructure needs and adequately plan for its own growth and economic development.