

**STATE OF TENNESSEE**

OFFICE OF THE  
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May 17, 2001

Opinion No. 01-080

County Highway Department's Responsibility for Private Bridge Repairs

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**QUESTION**

Does a county highway department have the responsibility to maintain and repair bridges on private property within the county?

**OPINION**

No. The responsibility of county highway departments governed by the County Uniform Highway Law to maintain and repair bridges in the county pertains to public bridges, or those that any and all members of the public have an absolute right to use as distinguished from a permissive privilege as in a private passageway.

**ANALYSIS**

The Tennessee County Uniform Highway Law (CUHL), Tenn. Code Ann. § 54-7-101, et seq. as supplemented by private act, governs the operation of county highway departments in all counties except Shelby, Davidson, Knox and Hamilton. The CUHL is the primary source of authority for the day-to-day operations of most county highway departments. Since no specific county was addressed in your request, the question will be answered according to the Tennessee County Uniform Highway Law.

The maintenance and repair of the county road system to include bridges is governed in part by Tenn. Code Ann. § 54-7-109, relating to the duties of the chief administrative officer. In pertinent part, the statute provides as follows:

The chief administrative officer . . . shall be the head of the county highway department and shall have general control over the . . . repair and maintenance of the county road systems of the county, . . . and including bridges and ferries . . . .

Tenn. Code Ann. §54-7-112 vests in the chief administrative officer, as defined under section 54-

7-103, the supervision, control and responsibility for all machinery, equipment, tools, supplies and materials owned or used by the county in its work to include “repair and maintenance of the county roads and bridges.” The private use of equipment and materials is prohibited by Tenn. Code Ann. § 54-7-202, and is punishable as a misdemeanor. Tenn. Code Ann. § 54-7-204 authorizes the commissioner of the department of transportation to withhold state-aid highway system funds due a county for violations of the County Uniform Highway Law.

The issue here is whether the nature and character of the bridges in question are public or private. The leading Tennessee case defining what constitutes a “public way” is *Standard Life Insurance Company v. Hughes*, 315 S.W.2d 239 (Tenn. 1958). The *Hughes* Court, quoting from another case, defines a public road as “a way open to all the people, without distinction for passage and repassage at their pleasure.” *Id.* at 242. A public passageway may be created by act of the public authorities, the express dedication by the owner, an implied dedication by means of the use by the public and acceptance by them with the intention of the owner that the use become public, or by adverse user for a period of 20 years continuously creating a prescriptive right. See also *Sanders v. Mansfield*, 1998 WL 57532 (Tenn. Ct. App.).

Unless the bridges are public ones or have somehow obtained a public nature or character so that all members of the public have an absolute right to use them, the county highway department is not responsible for repairs, even if the bridges were originally constructed by the county.

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