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Opinion No. 10-72

Amending Transportation Act with Restrictive Caption

QUESTION

The caption of House Bill 3230 is “AN ACT to amend Tennessee Code Annotated, Title 4; Title 54 and Title 69, relative to the Little River in Blount County, Tennessee.” A proposed amendment would direct the Department of Transportation to convert a tract of land in Rutherford County to an uncontrolled access road. Does the proposed amendment fall within the caption of the bill as required by Article II, Section 17, of the Tennessee Constitution?

OPINION

The proposed amendment falls outside the restrictive caption of the bill and, therefore, would violate Article II, Section 17, of the Tennessee Constitution.

ANALYSIS

This opinion concerns a proposed amendment to House Bill 3230. The caption of this bill is: “AN ACT to amend Tennessee Code Annotated, Title 4; Title 54 and Title 69, relative to the Little River in Blount County, Tennessee.” House Bill 3230, as proposed, provides:

Section 1. The department of transportation, in consultation with the department of environment and conservation, shall redress recurring flooding near the Sunbright Community in Blount County, Tennessee, caused by clearing a landslide from the highway running parallel to the Little River into such river including, but not limited to, clearing boulders displaced into the river during the clearing process.

Section 2. The department shall utilize all available federal funding for such purposes.

Section 3. This act shall take effect upon becoming a law, the public welfare requiring it.

Senate Bill 94, as amended by the amendment with drafting code SA0953 01550973, provides:

Section 1. Subject to any mandatory federal approval, the department of transportation shall move or remove any barriers or obstacles on a certain tract of land adjacent to Interstate 24 in Rutherford County and shall convert such property to an uncontrolled access road to enhance the economic features of the contiguous area. Such tract of land being more particularly described as follows:

* * * *

Section 2. No public funds shall [be] allotted or expended for the design, construction or any other cost for such uncontrolled access road[.]

Section 3. The Tennessee department of transportation is directed to report to the house and senate transportation committees by February 15, 2011, on the conversion of the tract of land described in this act to an uncontrolled access road.

Section 4. This act shall take effect upon becoming a law, the public welfare requiring it.

The request asks whether this language may constitutionally be added to House Bill 3230.

Article II, Section 17, of the Tennessee Constitution states: “No bill shall become a law which embraces more than one subject, that subject to be expressed in the title.” Courts have used various tests for proper construction of this constitutional provision, but “the true rule of construction, as fully established by the authorities, is that any provision of the act, *directly or indirectly relating to the subject expressed in the title*, and having a natural connection thereto, and not foreign thereto, should be held to be embraced in it.” *Chattanooga County Hospital Authority v. City of Chattanooga*, 580 S.W.2d 322, 326 (Tenn. 1979) (emphasis in original, quoting *Cannon v. Mathes*, 55 Tenn. 504, 523 (1872)). If the title to the act is general or broad and comprehensive, all matters which are germane to the subject may be embraced in the act. If the matters are naturally and reasonably connected with the subject expressed in the title, then they are properly included in the act. *Tennessee Municipal League v. Thompson*, 958 S.W.2d 333, 336-37 (Tenn. 1997). If, on the other hand, the act has adopted a restrictive title where a particular part of a subject is carved out and selected, then the body of the act must be confined to the particular portion expressed in the limited title. *Id.*

In this case, while the subject of House Bill 3230 refers to amending three different titles in the Tennessee Code, it also contains the restrictive phrase, “relative to the Little River in Blount County, Tennessee.” The subject matter of the proposed amendment relates to a tract of land in Rutherford County and, therefore, is not embraced within the restrictive caption of House Bill 3230. For this reason, the amendment would violate Article II, Section 17, of the Tennessee Constitution.

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