



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 15 September 2021

SUBJECT: House Bill 366/Senate Bill 1604 (Right-of-Way Dedications) - Panel

New developments need infrastructure such as roads and utility service. Before subdivisions are built, local governments, including their planning commissions, may require property owners to dedicate land or the authority to use a portion of their land through an easement for a right-of-way. It is common practice for local governments' planning commissions to adopt a dedication requirement as a part of their subdivision regulations and to require right-of-way dedication along existing roads that either are not wide enough to accommodate the new development or fail to meet the width requirements of the local major thoroughfare plan. In the right-of-way, infrastructure can be built, or improvements can be made to existing infrastructure. Local governments typically don't pay landowners for dedications.

During the 112th General Assembly, Senate Bill 1604 by Senator Bailey and House Bill 366 by Representative Williams was filed, which would prohibit a governmental entity from requiring a landowner to transfer ownership of any part of his or her property located along an existing public right-of-way to the entity as a condition of approving any application made to the entity to develop the property. The bill would authorize a governmental entity to require a right-of-way reservation as a condition of approving any proposed subdivision of a property, but if a governmental entity takes possession of a property covered by the reservation, then the owner will be entitled to just compensation. This bill also specifies that a real estate agent has no duty to inform any party to a real estate transaction concerning a right-of-way reservation. At the request of the bill sponsors, the Lieutenant Governor, and House Speaker, a letter was sent to the Commission requesting a study of the bill.

Today the Commission will hear from four experts with knowledge of the issue:

- Sandra Knight, Bradley County Highway Superintendent, Tennessee County Highway Officials Association representative;
- Kevin Rigsby, Town Planner, Town of Smyrna, Tennessee Municipal League representative;
- Benjamin Moorman, Legislative Chair, Tennessee Association of Professional Surveyors; and
- Charles Schneider, Executive Director, Tennessee Home Builders Association.