

1 HB148
2 159702-4
3 By Representative Johnson (R)
4 RFD: County and Municipal Government
5 First Read: 14-JAN-14
6 PFD: 01/10/2014

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ENROLLED, An Act,

To amend Section 23-4-20, Code of Alabama 1975, to further provide for the vacation of certain public roads or streets.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 23-4-20, Code of Alabama 1975, is amended to read as follows:

"§23-4-20.

"(a) Subject to the conditions set out in this subsection, any street or alley may be vacated, in whole or in part, by the owner or owners of the land abutting the street or alley or abutting that portion of the street or alley desired to be vacated by following the procedures set out herein. The owner or owners of the land abutting the street or alley to be vacated shall join in a written petition requesting that the street or alley be vacated and shall file the petition with the governing body with jurisdiction over the street or alley, or portion thereof, requesting the governing body's approval of the vacation. ~~Following receipt of the written request for assent, the governing body shall act upon the request applying the same notice, hearing, voting, and appeal procedures as set forth in Sections 23-4-2 and 23-4-5, and if~~ The governing body shall set the request for vacation for public hearing within 100 days from the date

1 the petition is received. Notice of the hearing shall be
2 provided as set out in Section 36-25A-3 for notice of meetings
3 of the governing body and shall describe the street or alley,
4 or portion thereof, requested to be vacated in the petition. A
5 copy of the notice shall also be served by U.S. mail at least
6 30 days prior to the scheduled meeting on any abutting owner
7 and on any entity known to have facilities or equipment such
8 as utility lines, both above ground or buried, within the
9 public right-of-way of the street or alley, or portion
10 thereof, to be vacated. Except as provided in subsection (c),
11 if the governing body elects to take action on the petition,
12 the governing body shall follow the procedures in Section
13 23-4-2(b) for taking the action. Any appeal of the decision of
14 the governing body to vacate the street or alley, or portion
15 thereof shall be as provided in Section 23-4-5. If the
16 governing body approves the vacation, it shall have the same
17 effect as provided therein in Section 23-4-2(b), including
18 that the vacation shall not deprive other property owners of
19 any right they may have to convenient and reasonable means of
20 ingress and egress to and from their property, and if that
21 right is not afforded by the remaining streets and alleys,
22 another street or alley affording that right must be
23 dedicated.

24 " (b) The provisions of this section shall not be
25 held to repeal any existing statute relating to the vacation

1 of roads, streets, or alleys, or parts thereof, and shall not
 2 be held to limit or expand any civil causes of action
 3 available under the law.

4 "(c) Notwithstanding the provisions of subsection
 5 (a) and Section 23-4-2 in conflict with this subsection, the
 6 following procedures may be applied in counties where the
 7 members of the county commission are elected by single-member
 8 districts if the property owners submitting the petition to
 9 vacate a street or alley or portion thereof are all members of
 10 the same immediate family. If, following the public hearing
 11 provided under subsection (a), the county commissioner from
 12 the district in which the street or alley or portion thereof
 13 does not move to vacate the street or alley or portion thereof
 14 within 100 days, the question of whether to vacate the street
 15 or alley or portion thereof may be placed on the agenda for a
 16 regular county commission meeting if, within 30 days
 17 thereafter:

18 "(1) A written request to have the issue of vacating
 19 the street or alley or portion thereof placed on the agenda
 20 for a regular county commission meeting is submitted to the
 21 chair of the county commission by a majority of other members
 22 of the county commission; and

23 "(2) A copy of the written request is delivered to
 24 the district commissioner in whose district the street or

1 alley or portion thereof is located at the same time written
 2 request is submitted to the chair.

3 "When the issue of vacating the street or alley or
 4 portion thereof is placed on the county commission agenda
 5 pursuant to the procedure set out herein, a motion to approve
 6 the vacation may be made during the county commission meeting
 7 at which the issue is debated by one of the members of the
 8 county commission who made the written request.

9 "For the purpose of this subsection, "immediate
 10 family" shall mean spouse, parent, child, sibling, and
 11 grandparent.

12 "(d) Notwithstanding the provisions of subsection
 13 (a) or Section 23-4-2 in conflict with this subsection, and
 14 except when an unpaved street or alley ends along a body of
 15 water, if the county commission denies or does not take action
 16 within 100 days after the public hearing is held on a petition
 17 to vacate an unpaved street or alley which is filed by all
 18 owners of property abutting all sides of the unpaved street or
 19 alley from its beginning to the place where it ends, the
 20 owners may file an action in the circuit court requesting an
 21 order vacating the unpaved street or alley. The petition shall
 22 be filed by all owners of property abutting all sides of the
 23 unpaved street or alley from its beginning to the place where
 24 it ends. Prior to any order for vacation being issued by the
 25 court, the county commission shall be granted an opportunity

1 to present evidence establishing why the unpaved street or
2 alley should not be vacated. The court may issue an order for
3 vacation of the street or alley pursuant to this subsection
4 only upon an affirmative finding that:

5 "(1) All owners of property abutting all sides of
6 the unpaved street or alley from its beginning to the place
7 where it ends have joined as plaintiffs in the civil action
8 filed pursuant to this section; and

9 "(2) Vacation of the unpaved street or alley will
10 not deprive other property owners of any right they may have
11 to convenient and reasonable means of ingress and egress to
12 their property.

13 "In the event the court grants the petition for
14 vacation of the unpaved street or alley as provided in this
15 subsection, the order shall include a specific finding that
16 the county is divested of all public rights and liabilities in
17 the unpaved street or alley, including any rights which may
18 have been acquired by prescription. The plaintiffs shall be
19 required to post signs along the unpaved street or alley
20 providing notice that the unpaved street or alley is privately
21 owned and is not maintained by the county. Vacation of the
22 unpaved street or alley shall not take effect until and unless
23 the signs are posted.

24 "(e) Notwithstanding the provisions of this section,
25 entities with utility lines, equipment, or facilities in place

1 within or crossing a road at the time of vacation, shall have
2 the right to continue to access, maintain, extend, and enlarge
3 their lines, equipment, and facilities to the same extent as
4 if the vacation had not occurred. The entities may continue to
5 move across and along a vacated road to reach their lines,
6 equipment, and facilities for the above purposes and to the
7 same extent as if the vacation had not occurred."

8 Section 2. All laws or parts of laws which conflict
9 with this act are repealed.

10 Section 3. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 04-FEB-14, as amended.

Greg Pappas
Clerk

Senate	<hr/> 01-APR-14 <hr/>	Amended and Passed
House	<hr/> 01-APR-14 <hr/>	Concurred in Sen- ate Amendment