

OFFICE OF THE ATTORNEY GENERAL



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ATTORNEY GENERAL
STATE OF ALABAMA

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Honorable Robert S. Presto
Attorney, Escambia County Commission
P. O. Box 848
Brewton, AL 36427

Counties - Highways, Roads,
and Bridges - Private Work -
Easements

County may maintain, repair
or replace bridge that
crosses drainage ditch in
which county has an easement
to clear, widen and deepen
the ditch.

Dear Mr. Presto:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

May the county maintain, repair or rebuild
a bridge that crosses the drainage ditch
that serves as the primary drainage system
for a public road?

FACTS AND ANALYSIS

In your letter of request, you stated:

Private property owners have requested the Escambia County Commission to repair and/or rebuild, at county expense, a bridge which serves as an access to a private driveway and which connects the driveway with a public road. There has been an easement previously granted to the county for the purpose of deepening and widening the subject drainage ditch. It is said that the county originally constructed the bridge (or bridges) at issue, but the older county records in question apparently fail to document that fact.

It has been concluded by the Attorney General that where the County owns the right-of-way, it may pave at its expense the unpaved portion thereof in front of the property of an individual and between said property and the paved part of the regular road, made necessary for the convenience and safety of the public. Opinion of the Attorney General to Honorable James A. Dunn, A.G. No. 91-00251, dated May 22, 1991.

As you stated by telephone, the facts presently being considered vary somewhat from the facts considered in the Dunn opinion. The county does not own the right-of-way except to the extent that it has an easement for the purpose of deepening and widening the ditch, as well as for keeping the ditch clear so that it properly drains. This ditch constitutes the primary drainage system for the highway, running adjacent to and parallel to the highway. Having considered this factual distinction, it is the opinion of the Attorney General that the county may maintain, repair or rebuild the bridge or bridges.

CONCLUSION

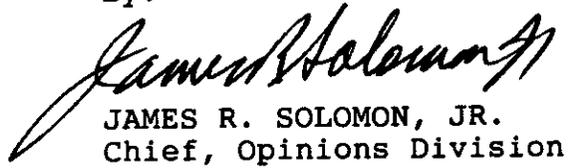
The County may maintain, repair or rebuild bridges that span the drainage ditch of a county road where the county has an easement to deepen and widen the ditch.

Honorable Robert S. Presto
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I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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