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Publisher	Commercial Appeal
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Download date	2026-05-15 04:09:40
Link to Item	http://hdl.handle.net/10267/29578

Dunn May Again Request I-40 Route Through Park

April 9,
1974

From The Commercial Appeal Nashville Bureau

NASHVILLE, April 8. — It seemed likely Monday that Gov. Winfield Dunn will seek again to have U.S. Transportation Secretary Claude Brinegar designate the Overton Park link as the most feasible route for Interstate 40 through Memphis.

"I feel certain he (Dunn) will want to pursue the administrative possibilities," said gubernatorial counsel M. Lee Smith.

Smith's comment came during a meeting of state legal and transportation officials at which the options remaining in the Overton Park expressway controversy were discussed.

One of the participants, Atty. Gen. David Pack, said his agency will continue to explore the advisability of appealing to the U.S. Supreme Court last week's ruling in the case by the Sixth Circuit Court of Appeals.

The Sixth Circuit Court said the state, not the federal government, must come up with the next proposed routing and also upheld former Transportation Secretary John Volpe's decision in rejecting the state's park route.

The indication was that the appeal to the highest court—even though Pack and others are certain the Sixth Circuit Court's finding would be upheld—is necessary because Brinegar might be reluctant to move administratively

until all legal remedies are exhausted.

The state has contended all along that the law requires the transportation secretary, if he found the Overton Park route to be unacceptable, to designate another corridor. Volpe did not do that.

"We think the court misunderstood our position," said J. Alan Hanover of Memphis, special counsel to the state Transportation Department.

Under the Volpe approach, which the Sixth Circuit Court affirmed, a decision might never be reached even if the routing of I-40 through Memphis "were invisible," Hanover said.

Asked about the possibility of using state funds to complete the park segment of the expressway, Hanover said he had "no answer in terms of strict legal precedent at this time."

The attorney general said the state has 90 days to file a petition for the Supreme Court to review the Sixth Circuit Court opinion.

Pack said a proposed routing of the highway north of the park would raise as many legal questions as Overton Park, since it would involve condemnation of railroad (Louisville and Nashville) property and displace many residents.

Dunn currently is attending a governors' conference in Japan and will return in about two weeks.

0PE 22-08