

SENATE BILL No. 860

April 28, 1992, Introduced by Senator CHERRY and referred to the Committee on Transportation and Tourism.

A bill to amend the title and section 18 of chapter IV of Act No. 283 of the Public Acts of 1909, entitled as amended

"An act to revise, consolidate and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, improvement, maintenance and use of the public highways and private roads, the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; setting and protecting shade trees, drainage, cutting weeds and brush within this state, and providing for the election or appointment and defining the powers, duties and compensation of state, county, township and district highway officials,"

being section 224.18 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 18 of chapter IV of Act
2 No. 283 of the Public Acts of 1909, being section 224.18 of the
3 Michigan Compiled Laws, are amended to read as follows:

1 TITLE

2 An act to revise, consolidate, and add to the laws relating
3 to the establishment, opening, discontinuing, vacating, closing,
4 altering, improvement, maintenance, and use of the public high-
5 ways and private roads, the condemnation of property and gravel
6 therefor; the building, repairing and preservation of bridges;
7 MAINTAINING PUBLIC ACCESS TO WATERWAYS UNDER CERTAIN CONDITIONS;
8 setting and protecting shade trees, drainage, cutting weeds and
9 brush within this state, and providing for the election or
10 appointment and defining the powers, duties, and compensation of
11 state, county, township, and district highway officials.

12 CHAPTER IV

13 Sec. 18. (1) In case state reward is to be applied for,
14 the board of county road commissioners shall file with the state
15 ~~highway commissioner~~ TRANSPORTATION COMMISSION, for ~~his~~ ITS
16 approval, a map of the county showing the location of the pro-
17 posed system of county roads. ~~Provided, however, That this~~
18 THIS proposed system may be changed if approved by the state
19 ~~highway commissioner~~ TRANSPORTATION COMMISSION. All state
20 rewarded roads composing a part of this system shall be taken
21 over as county roads by the board of county road commissioners
22 and any road ~~heretofore~~ OR PART OF A ROAD PREVIOUSLY laid out
23 ~~, or any part thereof,~~ shall become A county ~~roads~~ ROAD if
24 the board of county road commissioners shall at any time so
25 determine, and in passing through or on the line between town-
26 ships or incorporated villages or cities any streets or parts of
27 streets of such village or city may be adopted as a county road,

1 with the consent of the proper authorities of ~~such~~ THAT city or
2 cities, village or villages. ~~:- Provided further, That where any~~
3 ~~such~~ IF A street ~~shall be~~ IS taken over as a county road and
4 is improved as such, city and village authorities ~~shall have the~~
5 ~~right to~~ MAY further improve ~~such~~ THAT road by surfacing ~~the~~
6 ~~same~~ IT outside the portion ~~thereof~~ constructed by the county
7 and by the addition of gutters, curbs, sidewalks, and other
8 improvements, ~~and to~~ MAY provide for the care and maintenance
9 of such improvements, and ~~to~~ MAY levy and collect taxes for the
10 same. The vote of the county road commissioners in respect to
11 ~~such~~ THE determination shall be taken by yeas and nays, and
12 shall be entered at large on the records of the ~~said~~ board of
13 county road commissioners. Notice of determination shall be
14 ~~forthwith~~ IMMEDIATELY given by the clerk to the highway commis-
15 sioner of each township and the highway authorities of each city
16 or village in which ~~said~~ THE road or any part ~~thereof~~ OF THE
17 ROAD is situated, and published in some newspaper printed and
18 circulated in the county, once in each week for 3 successive
19 weeks. ~~:- Provided further, In case~~ IF there is ~~no~~ NOT AN
20 established printing office within the county, the ~~said~~ clerk
21 ~~/~~ or the highway commissioner may advertise in a newspaper pub-
22 lished in an adjoining county. Proof of ~~such~~ service and pub-
23 lication may be made by affidavit by any person knowing the facts
24 ~~/~~ and ~~be~~ filed with the clerk. ~~Such~~ THE affidavit or the
25 record thereof or certified copy of ~~such~~ THE affidavit or
26 record shall be prima facie evidence of its contents. After
27 service and publication of ~~such~~ THE notice, the board of county

1 road commissioners shall have sole and exclusive jurisdiction and
 2 control of ~~such~~ THE road ~~so~~ embraced within ~~such~~ THE deter-
 3 mination, and the township or municipality within which the
 4 ~~same~~ ROAD is situated shall be relieved from all responsibility
 5 therefor. Immediately after laying out or taking control of a
 6 road ~~said~~ THE board shall give the ~~same~~ ROAD a name and the
 7 board may thereafter change the name of ~~said~~ THE road if
 8 ~~deemed~~ CONSIDERED necessary by ~~said~~ THE board in order to
 9 conform to a general plan or avoid confusion or duplication. The
 10 name ~~so~~ given by ~~said~~ THE board to any road under its juris-
 11 diction, either originally or in case of a change as provided for
 12 in this section, shall thereafter be the official name by which
 13 ~~said~~ THE road shall be known. ~~Said~~

14 (2) THE board ~~is~~ also ~~empowered to~~ MAY enter into agree-
 15 ments with the board of county road commissioners in any adjoin-
 16 ing county with reference to the laying out, maintenance,
 17 construction, and improvement of inter-county roads. ~~the~~
 18 ~~undertaking~~ THE DECISION of each ~~such~~ board ~~becoming~~ TO
 19 BECOME a party to ~~any~~ such AN agreement ~~being~~ IS limited to
 20 the construction, improvement, or maintenance of the portion of
 21 the road subject to the jurisdiction of ~~such~~ THAT board.

22 (3) The board of county road commissioners of any county
 23 which has adopted the county road system, ~~is hereby authorized~~
 24 ~~and empowered to,~~ at any time, MAY either relinquish jurisdic-
 25 tion of or absolutely abandon and discontinue any county road, or
 26 any part ~~thereof~~ OF A COUNTY ROAD, by a resolution adopted by a
 27 majority vote. The vote of the county road commissioners in

1 respect to either ~~such~~ relinquishment of jurisdiction or
2 absolute abandonment and discontinuance shall be taken and
3 entered, and notice thereof be given, in the same manner as
4 required in this section, in cases in which county roads are
5 adopted. After proceedings to relinquish jurisdiction have been
6 had, the jurisdiction and control of ~~such~~ THE road, or part
7 ~~thereof~~ OF THE ROAD, EXCEPT AS OTHERWISE PROVIDED IN THIS
8 SECTION, shall revert to the township or municipality within
9 which the ~~same~~ ROAD is situated, and the county shall be
10 relieved of the responsibility ~~therefor~~ FOR THE ROAD. After
11 proceedings to absolutely abandon and discontinue have been had,
12 ~~such~~ THE road or part ~~thereof~~ OF THE ROAD shall cease to
13 exist as a public highway UNLESS THE UNIT OF GOVERNMENT THAT
14 ACQUIRES THE PROPERTY PERMITS SUCH A USE. ~~Said~~ THE board,
15 ~~shall,~~ at the time of the passage of ~~any~~ A resolution to
16 absolutely abandon and discontinue any portion of ~~any~~ A highway
17 under its jurisdiction, SHALL determine in ~~said~~ THE resolution
18 that it is to the best interests of the public that ~~said~~ THE
19 highway or portion ~~thereof~~ OF THE HIGHWAY shall be absolutely
20 abandoned and discontinued. ~~Said~~ THE board shall cause a true
21 copy of every resolution or other proceeding ~~—~~ containing an
22 accurate description of the lands comprising the highway or por-
23 tion ~~thereof which~~ OF THE HIGHWAY THAT has been absolutely
24 abandoned and discontinued ~~thereby,~~ to be recorded in the
25 office of the register of deeds for the county wherein the lands
26 are situated. ~~—: Provided, That the said~~

1 (4) THE board of county road commissioners shall not
2 absolutely abandon and discontinue any highway, or part of
3 highway, ~~upon or along which there shall be any building of any~~
4 ~~character,~~ except as hereinafter provided, upon the written
5 petition of 7 or more freeholders of the township in which ~~said~~
6 THE road is sought to be absolutely abandoned and discontinued.
7 ~~said~~ THE petition for absolutely abandoning and discontinuing
8 ~~said~~ A highway shall describe ~~said~~ THE road in general terms
9 or by any name by which it is known, and if the absolute abandon-
10 ment and discontinuance of only a portion of ~~any~~ A road is
11 asked for, ~~such~~ THAT portion shall be specified. ~~Such~~ THE
12 petition shall be accompanied by a true and correct list of the
13 names and mailing addresses of the occupants of each parcel of
14 land abutting the highway, or portion ~~thereof~~ OF THE HIGHWAY,
15 sought to be absolutely abandoned and discontinued, which list
16 shall be certified to under oath by 1 of the persons making or
17 presenting ~~such~~ THE petition.

18 (5) IF THE BOARD OF COUNTY ROAD COMMISSIONERS DETERMINES
19 PURSUANT TO THIS SECTION TO RELINQUISH CONTROL, DISCONTINUE,
20 ABANDON, OR VACATE ANY COUNTY ROAD OR PORTION OF A COUNTY ROAD
21 THAT BORDERS ON OR IS ADJACENT TO A LAKE OR THE GENERAL COURSE OF
22 A STREAM, IT SHALL CONVEY BY QUITCLAIM DEED WHATEVER INTEREST IN
23 THE PROPERTY THAT IS HELD BY THE COUNTY TO THE STATE. THE PROP-
24 ERTY SHALL BE UNDER THE JURISDICTION OF THE DEPARTMENT OF NATURAL
25 RESOURCES. THE STATE MAY RETAIN TITLE TO THE PROPERTY, TRANSFER
26 TITLE TO A LOCAL UNIT OF GOVERNMENT, OR DEED THE PROPERTY TO THE
27 ADJACENT PROPERTY OWNERS.

1 (6) ~~Whenever such~~ WHEN A petition for absolute abandonment
2 and discontinuance of ~~said~~ A road or portion ~~thereof, shall~~
3 ~~contain~~ OF A ROAD CONTAINS the signatures of all of the owners
4 of record and occupants of land abutting thereon, as ascertained
5 from the records in the office of the register of deeds and the
6 certified list ~~above~~ provided for IN SUBSECTION (4), the board
7 of county road commissioners shall, within 20 days after receiv-
8 ing the ~~same~~ PETITION, determine the advisability of ~~such~~ THE
9 abandonment and discontinuance and either grant or deny ~~said~~
10 THE petition without further proceedings. ~~thereon.~~ In all other
11 cases ~~said~~ THE board shall, within 20 days after receiving
12 ~~such~~ A petition, issue a written notice stating the object of
13 ~~such~~ THE petition and appointing a time and place of hearing,
14 which notice shall be served on the owners of record and occu-
15 pants of lands through or adjoining which it is proposed to abso-
16 lutely abandon and discontinue ~~such~~ THE road, by mailing a copy
17 ~~thereof~~ OF THE NOTICE by first-class mail to the residence of
18 each owner of record or occupant at his OR HER last known
19 address, at least 10 days before the time of hearing. ~~, and if~~
20 IF the owner ~~shall~~ DOES not reside upon ~~such lands and/or~~ THE
21 LAND OR the owner of record or occupant ~~thereof~~ cannot be found
22 within the county in which ~~said lands are~~ THE LAND IS situated,
23 the notice to the owner of record or occupant of ~~such lands~~ THE
24 LAND shall be served by posting ~~up the same~~ in 3 public places
25 in the township in which ~~said~~ THE road is situated, and by
26 ~~publishing the same~~ PUBLICATION in a newspaper circulated
27 within the county, 10 days before the time of hearing. Notice

1 shall be served upon railroad companies by leaving a copy
2 ~~thereof~~ with the agent in charge of any ticket or freight
3 office of the company operating ~~such~~ THE railroad, on the line
4 thereof.

5 (7) Upon the service of the notice required ~~by the last~~
6 ~~preceding paragraph~~ IN SUBSECTION (6), and before any further
7 proceedings ~~shall be had~~ ARE HELD, the person by whom the serv-
8 ice was made shall make and annex to ~~such~~ THE notice, or a copy
9 ~~thereof~~ OF THE NOTICE, an affidavit stating the time and manner
10 of service, which shall be by first-class mail, and by posting
11 and advertising; and if upon a railroad company, the fact of such
12 service and upon whom. ~~, and such~~ THE notice and affidavit,
13 together with an affidavit of publication if ~~such~~ THE notice
14 was published, shall be attached to the petition, and the whole
15 shall be present at the time of the hearing upon the petition.
16 The board of county road commissioners may designate, as hearing
17 examiner, an employee to hold the hearing upon the petition.
18 After the hearing, the examiner shall report all findings of fact
19 to the board.

20 (8) The board of county road commissioners or the superin-
21 tendent or engineer employed by ~~said~~ THE board shall proceed to
22 view the premises described in the petition and notice, and the
23 board shall ascertain the necessity or advisability of absolutely
24 abandoning and discontinuing the highway pursuant to ~~such~~ THE
25 petition.

26 (9) Within 30 days after final determination upon the
27 petition for absolutely abandoning and discontinuing ~~any~~ A

1 highway, ~~as hereinbefore provided,~~ the ~~said~~ board of county
2 road commissioners shall file with the state ~~highway~~
3 ~~commissioner~~ TRANSPORTATION COMMISSION a full record and return
4 of their ~~doings~~ PROCEEDINGS.

5 (10) The board of county road commissioners may reserve an
6 easement for public utility purposes within the right-of-way of
7 any road absolutely abandoned and discontinued under this section
8 and may, by resolution, extinguish any easement so reserved when-
9 ever ~~such~~ THE easement ceases to be used for public utility
10 purposes.