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NATURAL BEAUTY STREETS

House Bill 4390 with committee
amendments
First Analysis (5-18-93)

Sponsor: Rep. Dale Shugars
Committee: Transportation

THE APPARENT PROBLEM:

Public Act 150 of 1970 allows a county road commission board, by resolution, to declare certain roads as natural beauty roads, after the commission holds a hearing on the subject as provided in the act. The purpose of the act generally is to provide communities a means to ensure that the native vegetation that lies along a natural beauty road is protected from destruction or damage that could be caused by certain human activities (cutting, spraying, dusting, salting, mowing and the like). The act provides a process for a majority of landowners along a road to petition the county road commission board to have a road designated a natural beauty road, or permits the board to vote to make the designation. In addition, once a road has been so designated either a majority of landowners along the road can petition the board to withdraw the designation, or the board can vote to revoke it. However, under the act only roads under the jurisdiction of counties may be so designated. Apparently, at least one city would like to be able to designate streets under its jurisdiction as natural beauty streets, and some people believe this authority should be granted to villages, too.

THE CONTENT OF THE BILL:

The bill would amend Public Act 150 of 1970, which provides for the designation of certain roads as natural beauty roads, to permit a street located within a city or village to be designated as a "natural beauty street." Under the bill, 25 or more freeholders of a city or village could petition the city's or village's legislative body in order to designate a city or village street, or a portion of one, as a natural beauty street. Within six months after it received the petition, the respective legislative body would have to hold a public hearing (and notify the public of this meeting before it took place) to consider making the designation, where persons could express their support or objections to the proposal. The body would have 30 days to

consider making the designation; if it decided to do so, it would have to file a true copy of its resolution making the designation to the city or village clerk. The bill also would provide a process for property owners along a street designated a natural beauty street to petition the respective legislative body to withdraw the designation and for the body to act upon such a petition; and the legislative body, itself, could vote to revoke the designation.

Under the bill, the Department of Natural Resources would have to develop uniform guidelines that could be adopted by a city or village legislative body to preserve "native vegetation"--that is, plants, trees, shrubs and the like that are original or indigenous to the state--in a natural beauty street right-of-way from destruction or damage "by cutting, spraying, dusting, mowing or other means." (The act currently includes "salting" as one of the activities along natural beauty roads that could be prohibited by a county road commission board; the bill would delete "salting" from this list of activities.) Any guidelines developed, however, could not prohibit the application of "accepted principles of sound forest management" in a natural beauty street right-of-way.

A legislative body would have to provide a public hearing before an act was permitted that would result in substantial damage to native vegetation in a natural beauty street right-of-way. Also, the bill would not affect the right of a public utility to control vegetation in connection with the maintenance, repair or replacement of public utility facilities that crossed a natural beauty street or a street that was to be designated as one.

The bill establishes a process for freeholders of a city or village to file a complaint against a person who violated the guidelines or procedures adopted by the respective legislative body relative to a natural beauty street with the city or village

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attorney, or with the attorney general. Any of these, on behalf of the respective legislative body or the DNR, could commence a civil action seeking either 1) a temporary or permanent injunction to enjoin the violation, or 2) a civil fine of not more than \$400 for the violation. A default in paying the fine or costs ordered under the act could be remedied by any means authorized by the Revised Judicature Act.

MCL 247.381 et al.

FISCAL IMPLICATIONS:

The Department of Transportation says the bill would not affect state budget expenditures. Local governments that chose to designate a natural beauty street could have increased costs for work related to maintaining a street so designated, but probably would save money that otherwise might be spent on upgrading the street. (5-14-93)

ARGUMENTS:

For:

The bill simply would extend to the legislative bodies of cities and villages the same authority to designate a street a "natural beauty street" as county road commission boards currently have to designate roads under their jurisdiction as "natural beauty roads." The bill is permissive, so that if a city or village wanted to designate a street under its jurisdiction as a natural beauty street it could do so either by a vote of the respective legislative body or by a petition process involving a majority of landowners along the street in question. In either case, before a street could be so designated a public hearing would have to be held on the matter to solicit input from area residents. Once a street was so designated, a city or village legislative body could adopt guidelines developed by the DNR to preserve native vegetation along the street from certain potentially harmful human activities. And just as is the case now for natural beauty roads, under the bill a majority of landowners could petition to have a designation withdrawn or a respective legislative body could vote to revoke the designation. The City of Portage apparently would like to designate some streets under its jurisdiction that have unique natural settings as natural beauty streets to ensure that native vegetation lying along them can be preserved.

Against:

The House Transportation Committee adopted an amendment to the bill that would delete "salting" as an activity that could be prohibited by a local government in order to help preserve either a natural beauty road or street. Salting done to de-ice roads or streets can be harmful to the vegetation that lies along them.

Response:

The provision in the act as it applies to natural beauty roads (and would apply to natural beauty streets) regarding the type of activities that may be prohibited along such roads is merely a guideline for local governments to follow. As specified in the act, the DNR "shall develop uniform guidelines and procedures that may be adopted" [emphasis added] by a county road commission board (or, under the bill, by a city's or village's legislative body) to preserve native vegetation from certain human activities. A local government with jurisdiction over a natural beauty road/street could still choose not to use salt along either one; removing the "salting" provision simply clarifies that keeping a natural beauty road/street clear of snow and ice for traffic should take precedence over protecting vegetation that lies along it from the potentially harmful effects of salt.

POSITIONS:

The City of Portage supports the bill. (5-13-93)

The Michigan Municipal League has not yet taken a position on the bill. (5-13-93)

The Department of Transportation has no position on the bill. (5-14-93)

The Department of Natural Resources has no position on the bill. (5-13-93)