



SENATE BILL No. 626

May 6, 1993, Introduced by Senators CHERRY, O'BRIEN and KOIVISTO and referred to the Committee on Transportation and Tourism.

A bill to amend the title and sections 1, 2, 3, 4, 5, and 6 of Act No. 341 of the Public Acts of 1927, entitled

"An act to prevent the abandonment, discontinuation or alteration of the course of any public highway which borders upon, or is adjacent to any lake, or to the general course of any stream, or the course of any portion of such a highway, or bordering upon a lake or general course of any stream, by the public authorities of any township, village or city, until after the approval thereof by the circuit court of the county in which said highway is situated; and to provide for a notice of application therefor, and a method of hearing in such court, and the method for review of orders made thereon,"

being sections 247.41, 247.42, 247.43, 247.44, 247.45, and 247.46 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Section 1. The title and sections 1, 2, 3, 4, 5, and 6 of
- 2 Act No. 341 of the Public Acts of 1927, being sections 247.41,
- 3 247.42, 247.43, 247.44, 247.45, and 247.46 of the Michigan
- 4 Compiled Laws, are amended to read as follows:

TITLE

1
2 An act to prevent the abandonment, discontinuation,
3 VACATION, or alteration of the course of any public highway which
4 borders upon, or is adjacent to any lake, or to the general
5 course of any stream, or the course of any portion of such a
6 highway, or bordering upon a lake or general course of any
7 stream, by the public authorities of any township, village, ~~or~~
8 city, OR COUNTY, until after the approval thereof by the circuit
9 court of the county in which said highway is situated; and to
10 provide for a notice of application ~~therefor~~ FOR THAT PURPOSE,
11 and a method of hearing in such court, and the method for review
12 of orders made thereon; AND TO PRESCRIBE THE POWERS AND DUTIES OF
13 CERTAIN STATE AGENCIES.

14 Sec. 1. ~~No~~ A public highway ~~which~~ THAT borders upon, or
15 THAT is adjacent to ~~any~~ A lake, or the general course of ~~any~~
16 A stream, or THAT crosses ~~any~~ A stream, ~~nor any~~ OR A portion
17 of ~~such~~ A highway ~~so~~ bordering upon a lake or general course
18 of ~~any~~ A stream, shall NOT be ABANDONED, discontinued, VACATED,
19 OR HAVE ITS COURSE ALTERED by the order or action of ~~any~~ AN
20 official or officials of ~~any~~ A township, city, ~~or~~ incorpo-
21 rated village, OR COUNTY in this state, until an order authoriz-
22 ing the ~~same shall have been~~ ABANDONMENT, DISCONTINUATION,
23 ALTERATION, OR VACATION IS made by the circuit court ~~of~~ FOR the
24 county in which ~~such~~ THE highway is situated in the manner ~~as~~
25 ~~hereinafter~~ provided IN THIS ACT. IF A CIRCUIT COURT DETERMINES
26 PURSUANT TO THIS ACT THAT AN OFFICIAL OR OFFICIALS OF ANY COUNTY,
27 TOWNSHIP, CITY, OR INCORPORATED VILLAGE IN THIS STATE MAY

1 DISCONTINUE, ABANDON, ALTER THE COURSE, OR VACATE ANY PUBLIC
 2 HIGHWAY OR PORTION OF A PUBLIC HIGHWAY, IT SHALL ORDER THE OFFI-
 3 CIAL OR OFFICIALS TO CONVEY BY QUITCLAIM DEED WHATEVER INTEREST
 4 IN THE PROPERTY WHICH IS HELD BY THE LOCAL UNIT OF GOVERNMENT TO
 5 THE STATE. THE PROPERTY SHALL BE UNDER THE JURISDICTION OF THE
 6 DEPARTMENT OF NATURAL RESOURCES. THE STATE MAY RETAIN TITLE TO
 7 THE PROPERTY, TRANSFER TITLE TO A LOCAL UNIT OF GOVERNMENT, OR
 8 DEED THE PROPERTY TO THE ADJACENT PROPERTY OWNERS.

9 Sec. 2. ~~Whenever~~ IF the official or officials having
 10 jurisdiction over the highways of ~~any~~ A township, village, ~~or~~
 11 city, OR COUNTY in this state ~~shall~~ desire to abandon,
 12 discontinue, VACATE, or alter the course of ~~any~~ A public high-
 13 way ~~mentioned in the preceding~~ REFERRED TO IN section 1, before
 14 any action ~~shall be~~ IS taken by the ~~said public authority or~~
 15 ~~authorities of any~~ PUBLIC OFFICIAL OR OFFICIALS OF A township,
 16 village, ~~or~~ city, OR COUNTY, an application signed by not less
 17 than ~~7 freeholders~~ 21 LANDOWNERS of the township, village, ~~or~~
 18 city, OR COUNTY in which ~~such~~ THE highway is situated, shall be
 19 made to the circuit court for the county in which ~~such~~ THE
 20 highway is located, setting forth the particular circumstances of
 21 the case, an accurate description of the highway proposed to be
 22 abandoned, discontinued, VACATED, or altered, together with the
 23 reasons ~~therefor, which~~ FOR THE PROPOSED ABANDONMENT, DISCON-
 24 TINUATION, VACATION, OR ALTERATION. THE application shall be
 25 ~~verified by 1~~ SUBSTANTIATED BY OATH BY 5 or more of the persons
 26 ~~so~~ signing THE APPLICATION.

1 Sec. 3. Upon the filing of ~~such~~ AN application ~~it shall~~
2 ~~be the duty of~~ REQUIRED BY SECTION 2, the presiding circuit
3 judge ~~to make an order fixing a day of hearing thereon, which~~
4 ~~shall not be less~~ SHALL SCHEDULE A HEARING ON THE APPLICATION
5 NOT LATER than ~~30~~ 60 days from the date ~~of filing such~~ THE
6 application IS FILED. Notice of the ~~pendency of such~~ applica-
7 tion and the time of hearing ~~thereon shall be given by publish-~~
8 ~~ing the same once in~~ ON THE APPLICATION SHALL BE PUBLISHED ONCE
9 each week for 3 successive weeks, in a newspaper printed and cir-
10 culated in ~~said~~ THE county, unless ~~it shall be made to appear~~
11 by AN affidavit IS filed in ~~such~~ THE case that no such newspa-
12 per is published in ~~such~~ THE county. ~~, such~~ THE notice ~~to~~
13 SHALL contain an accurate description of the highway described in
14 the application and a brief recital of the reasons for its aban-
15 donment, discontinuance, VACATION, or alteration. A copy of
16 ~~such~~ THE notice shall also be posted ~~up~~ in 3 of the most
17 public places in the township, city, or village, in which ~~such~~
18 THE highway is situated, at least 20 days before the date of THE
19 hearing ~~fixed thereon, and a~~ ON THE APPLICATION. A copy
20 ~~thereof shall be personally served upon~~ OF THE NOTICE SHALL BE
21 SENT BY FIRST-CLASS MAIL TO THE OWNERS OF RECORD TITLE OF EACH
22 PARCEL OF LAND LOCATED WITHIN 300 FEET OF THE HIGHWAY DESCRIBED
23 IN THE APPLICATION AND TO THOSE PERSONS OF RECORD CLAIMING UNDER
24 THOSE OWNERS AT THEIR LOCAL ADDRESS AND THE ADDRESS APPEARING ON
25 THE ASSESSMENT ROLL, IF DIFFERENT, AND TO the supervisor of the
26 township or the mayor, president, or chief executive officer of
27 the township, city, or village, AND TO THE COUNTY BOARD OF

1 COMMISSIONERS OF THE COUNTY in which ~~such~~ THE highway is
2 situated and ~~upon the state highway commissioner~~ TO THE STATE
3 TRANSPORTATION DEPARTMENT at least 20 days before the date fixed
4 for THE hearing ~~thereon~~ ON THE APPLICATION. Proof by affidavit
5 of ~~such~~ THE REQUIRED publication, posting, and ~~service~~
6 MAILING shall be filed ~~in said cause~~ WITH THE COURT before the
7 date of hearing.

8 Sec. 4. Upon the day of hearing ~~of such~~ THE application
9 or any adjournment ~~thereof~~ OF THE HEARING, testimony ~~shall~~
10 MAY be taken ~~on the part of the petitioner and~~ FROM any person
11 or persons interested in ~~such~~ THE application, and if it
12 ~~shall~~ satisfactorily ~~appear~~ APPEARS to the court that there
13 is no reasonable objection ~~thereto~~ TO THE APPLICATION, and that
14 it is necessary for the best interest and welfare of the public
15 that ~~such~~ THE highway be abandoned, discontinued, VACATED, or
16 altered as to its course, as prayed for in ~~such~~ THE applica-
17 tion, or if it ~~shall appear~~ APPEARS to the court that ~~such~~
18 THE highway or any part ~~thereof~~ OF THE HIGHWAY should remain as
19 then established, an order shall be ~~made and~~ entered in the
20 record of the court in accordance with ~~such~~ THE determination.
21 THE ORDER SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION 1.

22 Sec. 5. The proceedings ~~therein shall be~~ REQUIRED BY
23 SECTION 4 ARE subject to ~~review by certiorari upon application~~
24 ~~of any~~ APPEAL BY A taxpayer of ~~such~~ THE township, village,
25 ~~or~~ city, ~~as the case may be~~ OR COUNTY IN WHICH THE HIGHWAY IS
26 SITUATED. Notice of ~~such application for review~~ A CLAIM FOR
27 APPEAL shall be served upon the ~~persons making such application~~

1 ~~and~~ PARTIES TO THE ACTION INCLUDING the supervisor of the
2 township or the mayor, president, or chief executive officer of
3 the city or village, AND THE COUNTY BOARD OF COMMISSIONERS OF THE
4 COUNTY in which ~~such~~ THE highway is ~~situate~~ SITUATED, within
5 10 days ~~from~~ AFTER the date of ~~such~~ THE ENTRY OF THE order.
6 ~~and further~~ FURTHER proceedings ~~thereon~~ ON THE APPEAL shall
7 be in the same manner AS provided by law for ~~review by~~
8 ~~certiorari~~ APPEAL of judgments of the circuit court.

9 Sec. 6. ~~The term "adjacent" as used herein, shall be con-~~
10 ~~strued to include~~ AS USED IN THIS ACT:

11 (A) "ADJACENT" INCLUDES any highway, or portion ~~thereof~~ OF
12 A HIGHWAY, lying within 5 rods of the shore of any lake or the
13 general course of any stream.

14 (B) "HIGHWAY" INCLUDES, WHERE APPLICABLE, LOCAL ROADS OR
15 STREETS.