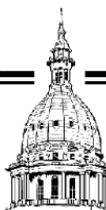




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 715, 716, and 717

Sponsor: Senator Doug Carl (Senate Bill 715)

Senator John D. Cherry, Jr. (Senate Bills 716 and 717)

Committee: Transportation and Tourism

Date Completed: 11-8-95

SUMMARY OF SENATE BILLS 715, 716, and 717 as introduced 10-3-95:

The bills would provide for the conveyance or relinquishment of control to the State of public roads that serve as access sites to lakes and streams and that are proposed for discontinuation, alteration, abandonment, or vacation. The Department of Natural Resources (DNR) would have to determine whether the property should be retained as a public access site. Property relinquished or conveyed to the State would have to be under the jurisdiction of the DNR. The State could retain title to the property, transfer title to a local unit of government, or deed the property to the adjacent property owners. If the property were purchased by the State from restricted fund revenue, money obtained from the sale of the property would have to be returned to that restricted fund.

The bills also would change the application, notification, and hearing requirements concerning public roads that are access sites to lakes and streams and that are proposed for abandonment or alteration.

Senate Bill 715 would amend Public Act 341 of 1927, which regulates the abandonment, discontinuation, and alteration of public highways bordering lakes and streams. Senate Bill 716 would amend the county road law, and Senate Bill 717 would amend the Subdivision Control Act.

Following is a more detailed description of the bills.

Senate Bill 715

Public Act 341 of 1927 prohibits the discontinuation of a public highway, or portion of it, that borders on or is adjacent to any lake, or the general course of a stream, or crosses any stream, by the order or action of any township, city, or village official, until an order authorizing the discontinuation is made by the circuit court of the county in which the highway is situated. Before an order is issued, however, an application for the discontinuation must be made to the circuit court. The application must specify the reasons for the proposed discontinuation and must be signed by seven freeholders of the municipality in which the highway is located and verified by one or more of the signatories.

The bill would apply the prohibition to the abandonment, discontinuation, vacation, or alteration of the course of a public highway that would result in a loss of public access. The bill also would require 21 landowners to sign the application; would require the application to be substantiated by oath by five or more of the signatories; and would delete reference to a township.

The Act also requires that a hearing be held on the application not less than 30 days from the date the application is filed and that a copy of the notice of the hearing be served personally on the township supervisor or the mayor, president, or chief executive officer of the township, city, or village in which the highway is situated and on the State highway commissioner at least 20 days before the date of the hearing. The bill would:

- Require the hearing to be not later than 60 days, rather than not less than 30 days, after the application was filed.
- Require a copy of the hearing notice to be sent by first-class mail at least 30 days before the hearing to the owners of record title of each parcel of land located within 300 feet of the highway described in the application and to those persons of record claiming under those owners at their local address and the address appearing on the assessment roll, if different.
- Delete the mayor, president, and State highway commissioner from the list of persons to receive a copy of the hearing notice and add instead the State Transportation Department and the DNR.
- Require the DNR to review the application to determine whether the property should be retained as a public access site.
- Delete reference to a township.

The bill also specifies that if a circuit court determined that an official or officials of any city or village in this State could discontinue, abandon, alter the course of, or vacate a public highway or portion of a public highway, and the DNR decided to maintain the property as a public access site, the court would have to order the official either to relinquish control to the State, if the interest were nontransferable, or to convey by quitclaim deed to the State whatever interest in the property was held by the local unit of government.

The bill would define "highway" as including, where applicable, local roads or streets.

Senate Bill 716

The county road law allows the board of county road commissioners of any county that has adopted the county road system to relinquish jurisdiction of, or absolutely abandon and discontinue, any county road. The law specifies that after proceedings to abandon or discontinue the road have been held, the jurisdiction and control of the road revert to the township or municipality where it is situated and the road ceases to exist as a public highway. The bill provides that the road would cease to be a public highway *unless* the unit of government that acquired or controlled the property permitted such a use.

The law also prohibits the board of county road commissioners from absolutely abandoning and discontinuing any highway or part of it upon or along which there is "any building of any character", except as provided in the law and on the written petition of seven or more freeholders of the township in which the road to be abandoned is located. If a petition for absolute abandonment and discontinuance does not contain the signatures of all of the owners of record and occupants of land abutting the road, the law requires a notice concerning the petition and the schedule for hearings on it to be mailed to each owner of record or occupant at his or her last known address at least 10 days before the hearing. If the owner does not reside on the land or neither the owner nor the occupant can be found within the county in which the land is situated, notice concerning the petition and hearing must be published in a newspaper circulated in the county 10 days before the hearing.

The bill would change the notification deadlines to at least 30 days before the hearing and delete reference to "any building of any character". Further, the bill would require the board to notify the

township or municipality within which the road was situated, the State Transportation Department, and the DNR if the action concerned any county road or portion of a county road that bordered on, crossed, was adjacent to, or ended at a lake or the general course of a stream and the proposed action would result in the loss of public access. The DNR and the township or municipality where the road was situated would have to review the petition and determine within 30 days whether the property should be retained as a public access site. The DNR would have first priority to retain the property as a public access site.

The bill also specifies that if the board of county road commissioners determined to relinquish control, discontinue, abandon, or vacate any county road or portion of it that bordered on, crossed, was adjacent to, or ended at a lake or the general course of a stream, and the DNR decided to maintain the road as a public access site, the board would have to convey by quitclaim deed, or relinquish jurisdiction over the property if the interest were nontransferable to the State. The local unit of government would be required either to maintain the property as a site of public access or to allow it to revert to the adjoining landowners.

The bill also provides that a determination by the board of county road commissioners under these provisions would be binding for purposes of Public Act 341 of 1927.

Senate Bill 717

The Subdivision Control Act specifies that to vacate, correct, or revise a recorded plat or any part of it, a complaint must be filed in the circuit court by the owner of a lot in the subdivision, a person of record claiming under the owner, or the governing body of the municipality in which the subdivision covered by the plat is located. The complaint must describe the part to be vacated and any other correction or revision of the plat sought by the plaintiff and the reasons for the revision, correction, or vacation. The plaintiff is required to join as parties defendant various entities, including the municipality in which the subdivision covered by the plat is located. The bill would include in the list of parties defendant the Director of the DNR if any of the subdivision included or bordered a State highway or Federal aid road. Further, the DNR Director would have to be included if the requested action could result in a public highway or a portion of it that bordered on, crossed, was adjacent to, or ended at a lake or the general course of a stream being vacated or altered in a manner that would result in the loss of public access. The DNR would have to review the application and determine within 30 days whether the property should be retained by the State as a public access site, and would have to convey that decision to the court.

The bill also provides that if a circuit court determined that a recorded plat, or any part of it, that contained a public highway or portion of highway that bordered on, crossed, was adjacent to, or ended at any lake or the general course of any stream, was vacated or altered in a manner that would result in a loss of public access, the court would have to allow the State to decide whether it wanted to maintain the property as a public access site. If the State decided to maintain the property, the court would have to order the official or officials either to relinquish control to the State, if the interest were nontransferable, or to convey by quitclaim deed to the State whatever interest in the property was held by the local unit of government. The bill also states that title to a public highway or portion of a public highway that bordered on, was adjacent to, or ended at a lake or the general course of a stream could vest in the State subject to these provisions.

MCL 247.41-247.46 (S.B. 715)
224.18 (S.B. 716)
560.224a et al. (S.B. 717)

Legislative Analyst: S. Margules

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government dependent upon the amount of land involved, whether the Department of Natural Resources decided to retain the parcel as a public access site, its value, and the potential taxes and maintenance costs to be paid upon it.

Fiscal Analyst: G. Cutler
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.