

**REPRINT  
SUBSTITUTE FOR  
HOUSE BILL NO. 5940**

(As passed the House, November 28, 2000)

A bill to amend 1909 PA 283, entitled

"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; maintaining public access to waterways under certain conditions; setting and protecting shade trees, drainage, and cutting weeds and brush within this state; providing for the election or appointment and defining the powers, duties, and compensation of state, county, township, and district highway officials; and to prescribe penalties and provide remedies,"

by amending section 18 (MCL 224.18), as amended by 1996 PA 218.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 18. (1) If state reward is to be applied for, the  
2 board of county road commissioners shall file with the state  
3 transportation commission, for its approval, a map of the county  
4 showing the location of the proposed system of county roads.  
5 This proposed system may be changed if approved by the state  
6 transportation commission. All state rewarded roads composing a

**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

2

1 part of this system shall be taken over as county roads by the  
2 board of county road commissioners and any road or part of a road  
3 previously laid out shall become a county road if the board of  
4 county road commissioners shall at any time so determine, and in  
5 passing through or on the line between townships or villages or  
6 cities any streets or parts of streets ~~of such village or city~~  
7 may be adopted as a county road, with the consent of the proper  
8 authorities of that city or cities, village or villages. If a  
9 street is taken over AND IMPROVED as a county road, ~~and is~~  
10 ~~improved as such,~~ city and village authorities may further  
11 improve the road by surfacing it outside the portion constructed  
12 by the county and by the addition of gutters, curbs, sidewalks,  
13 and other improvements, may provide for the care and maintenance  
14 of the improvements, and may levy and collect taxes for the  
15 improvements. The vote of the county road commissioners in  
16 respect to the determination shall be taken by yeas and nays, and  
17 shall be entered at large on the records of the board of county  
18 road commissioners. Notice of the determination shall be immedi-  
19 ately given by the clerk to the highway authorities of each city  
20 or village in which the road or any part of the road is situated,  
21 and published in ~~some newspaper printed and circulated~~ A NEWS-  
22 PAPER OF GENERAL CIRCULATION in the county, once in each week for  
23 3 successive weeks. ~~If there is not an established printing~~  
24 ~~office within the county, the clerk may advertise in a newspaper~~  
25 ~~published in an adjoining county.~~ Proof of service and publica-  
26 tion may be made by affidavit by any person knowing the facts and  
27 filed with the clerk. The affidavit or the record thereof or

1 certified copy of the affidavit or record shall be prima facie  
2 evidence of its contents. After service and publication of the  
3 notice, the board of county road commissioners shall have exclu-  
4 sive jurisdiction and control of the road embraced within the  
5 determination, and the municipality within which the road is sit-  
6 uated shall be relieved from all responsibility ~~therefor~~ FOR  
7 THE ROAD. Immediately after laying out or taking control of a  
8 road the board shall give the road a name. ~~and the board may~~  
9 ~~thereafter change the name of the road if considered necessary by~~  
10 ~~the board~~ THE BOARD MAY CHANGE THE NAME OF THE ROAD IF IT DETER-  
11 MINES THAT A NAME CHANGE IS NECESSARY in order to conform to a  
12 general plan or avoid confusion or duplication. The name given  
13 by the board to any road under its jurisdiction, either origi-  
14 nally or in case of a change as provided for in this section,  
15 ~~shall thereafter be~~ IS the official name by which the road  
16 shall be known.

17 (2) The board also may enter into agreements with the board  
18 of county road commissioners in any adjoining county with refer-  
19 ence to the laying out, maintenance, construction, and improve-  
20 ment of inter-county roads. The decision of each board to become  
21 a party to ~~such~~ an agreement is limited to the construction,  
22 improvement, or maintenance of the portion of the road subject to  
23 the jurisdiction of that board.

24 (3) The board of county road commissioners of any county  
25 ~~which~~ THAT has adopted the county road system, at any time, may  
26 either relinquish jurisdiction of or absolutely abandon and  
27 discontinue any county road, or any part of a county road, by a

**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

4

1 resolution adopted by a majority vote. The vote of the county  
2 road commissioners in respect to either relinquishment of juris-  
3 diction or absolute abandonment and discontinuance shall be taken  
4 and entered, and notice given, in the same manner as required in  
5 this section in cases in which county roads are adopted. After  
6 proceedings to relinquish jurisdiction have been had, the juris-  
7 diction and control of the road, or part of the road, except as  
8 otherwise provided in this section, shall revert to the ~~township~~  
9 ~~or~~ municipality within which the road is situated, and the  
10 county shall be relieved of the responsibility for the road.  
11 After proceedings to ~~absolutely~~ abandon ABSOLUTELY and discon-  
12 tinue, the road or part of the road shall cease to exist as a  
13 public highway unless the unit of government that acquires the  
14 property or control of the property permits ~~such a~~ use AS A  
15 PUBLIC HIGHWAY. Subject to subsection (8), the board, at the  
16 time of the passage of a resolution to ~~absolutely~~ abandon  
17 ABSOLUTELY and discontinue any portion of a highway under its  
18 jurisdiction, shall determine in the resolution that it is ~~to~~  
19 IN the best interests of the public that the highway or portion  
20 of the highway be absolutely abandoned and discontinued. The  
21 board shall cause a true copy of every resolution or other pro-  
22 ceeding containing an accurate description of the lands compris-  
23 ing the highway or portion of the highway that has been abso-  
24 lutely abandoned and discontinued to be recorded in the office of  
25 the register of deeds for the county where the lands are  
26 situated.

**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

5

1       (4) The board of county road commissioners shall not  
2 absolutely abandon and discontinue any highway, or part of a  
3 highway, except as ~~hereinafter~~ provided IN THIS SECTION, upon  
4 the written petition of 7 or more freeholders of the township in  
5 which the road is sought to be absolutely abandoned and  
6 discontinued. The petition for absolutely abandoning and discon-  
7 tinuing a highway shall describe the road in general terms or by  
8 any name by which it is known, and if the absolute abandonment  
9 and discontinuance of only a portion of a road is asked for, that  
10 portion shall be specified. The petition shall be accompanied by  
11 a true and correct list of the names and mailing addresses of the  
12 occupants of each parcel of land abutting the highway, or portion  
13 of the highway, sought to be absolutely abandoned and discontin-  
14 ued, which list shall be certified to under oath by 1 of the per-  
15 sons making or presenting the petition.

16       (5) If a petition for absolute abandonment and discontinu-  
17 ance of a road or portion of a road contains the signatures of  
18 all of the owners of record and occupants of land abutting  
19 ~~thereon~~ THE ROAD, as ascertained from the records in the office  
20 of the register of deeds and the certified list provided for in  
21 subsection (4), the board of county road commissioners shall,  
22 within 20 days after receiving the petition, subject to  
23 subsection (8), determine the advisability of the abandonment and  
24 discontinuance and either grant or deny the petition without fur-  
25 ther proceedings. In all other cases the board shall, within  
26 20 days after receiving a petition, issue a written notice  
27 stating the object of the petition and appointing a time and

**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

6

1 place of hearing, which notice shall be served on the TOWNSHIP  
2 BOARD OF THE TOWNSHIP IN WHICH THE ROAD IS SITUATED AND ON THE  
3 owners of record and occupants of lands through or adjoining  
4 which it is proposed to absolutely abandon and discontinue the  
5 road, by mailing a copy of the notice by first-class mail to the  
6 TOWNSHIP BOARD OF THE TOWNSHIP IN WHICH THE ROAD IS SITUATED AND  
7 TO THE residence of each owner of record or occupant at his or  
8 her last known address at least 30 days before the time of  
9 hearing. THE TOWNSHIP BOARD OF THE TOWNSHIP IN WHICH THE ROAD IS  
10 SITUATED SHALL HAVE FIRST PRIORITY TO RETAIN THE PROPERTY OR POR-  
11 TION OF THE PROPERTY. The board shall also notify the township or  
12 municipality within which the road is situated, the state trans-  
13 portation department, and the department of natural resources if  
14 the action concerns any county road or portion of a county road  
15 that borders on, crosses, is adjacent to, or ends at a lake or  
16 the general course of a stream and the proposed action would  
17 result in the loss of public access. If the owner does not  
18 reside upon the land or the owner of record or occupant cannot be  
19 found within the county in which the land is situated, the notice  
20 to the owner of record or occupant of the land shall be served by  
21 posting in 3 public places in the township in which the road is  
22 situated, and by publication in a newspaper circulated within the  
23 county, 30 days before the time of hearing. Notice shall be  
24 served upon railroad companies by leaving a copy with the agent  
25 in charge of any ticket or freight office of the company operat-  
26 ing the railroad, on the RAILROAD line. ~~thereof.~~ The department  
27 of natural resources and the township or municipality within

**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

7

1 which the road is situated shall review the petition and  
2 determine within 30 days whether the property should be retained  
3 as an ingress and egress point. If the road is situated in a  
4 township, the township shall have first priority and the depart-  
5 ment of natural resources shall have second priority to retain  
6 the property as an ingress and egress point. If the road is not  
7 situated in a township, the department of natural resources shall  
8 have first priority to retain the property as an ingress and  
9 egress point.

10 (6) Upon the service of the notice required in  
11 subsection (5), and before any further proceedings are held, the  
12 person by whom the service was made shall make and annex to the  
13 notice, or a copy of the notice, an affidavit stating the time  
14 and manner of service, which shall be by first-class mail, and by  
15 posting and advertising. In addition, if service is upon a rail-  
16 road company, the affidavit shall so state and shall specify the  
17 agent upon whom service was made. The notice and affidavit,  
18 together with an affidavit of publication if the notice was pub-  
19 lished, shall be attached to the petition, and the whole shall be  
20 present at the time of the hearing upon the petition. The board  
21 of county road commissioners may designate, as hearing examiner,  
22 an employee to hold the hearing upon the petition. After the  
23 hearing, the examiner shall report all findings of fact to the  
24 board.

25 (7) The board of county road commissioners or the superin-  
26 tendent or engineer employed by the board shall proceed to view  
27 the premises described in the petition and notice, and the board

**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

8

1 shall ascertain the necessity or advisability of absolutely  
2 abandoning and discontinuing the highway pursuant to the  
3 petition.

4       (8) Subject to subsection (5), if the board of county road  
5 commissioners determines pursuant to this section to relinquish  
6 control, discontinue, abandon, or vacate any county road or por-  
7 tion of a county road that borders on, crosses, is adjacent to,  
8 or ends at a lake or the general course of a stream and the town-  
9 ship, if applicable, or the department of natural resources  
10 decides to maintain the road as a public access site, it shall  
11 convey by quitclaim deed or relinquish jurisdiction over the  
12 property if the interest is nontransferable to the township or  
13 THE state. If the township obtains the property or jurisdiction  
14 over the property as an ingress and egress point and later pro-  
15 poses to transfer the property or jurisdiction over the property,  
16 it shall give the department of natural resources first priority  
17 to obtain the property or jurisdiction over the property. If the  
18 state obtains the property or jurisdiction over the property  
19 under this subsection, the property shall be under the jurisdic-  
20 tion of the department of natural resources. The state may  
21 retain title to the property, transfer title to a local unit of  
22 government, or deed the property to the adjacent property  
23 owners. If the state has purchased the property with restricted  
24 fund revenue, money obtained from sale of the property shall be  
25 returned to that restricted fund. The local unit of government  
26 shall either maintain the property as a site of public access or  
27 allow it to revert to the adjoining landowners.



**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

9

1       (9) SUBJECT TO SUBSECTION (5), IF THE BOARD OF COUNTY ROAD  
2 COMMISSIONERS DETERMINES PURSUANT TO THIS SECTION TO ABANDON ANY  
3 COUNTY ROAD OR PORTION OF A COUNTY ROAD TO A TOWNSHIP, IT SHALL  
4 QUITCLAIM DEED THE PROPERTY IF THE INTEREST IS NONTRANSFERABLE TO  
5 THE TOWNSHIP. THE TOWNSHIP SHALL EITHER RETAIN THE PROPERTY OR  
6 ALLOW IT TO REVERT TO THE ADJOINING LANDOWNERS.

7       (10) ~~-(9)-~~ Within 30 days after final determination upon the  
8 petition for absolutely abandoning and discontinuing a highway,  
9 the board of county road commissioners shall file with the state  
10 transportation commission a full record and return of ~~their~~ ITS  
11 proceedings. A determination by the board of county road commis-  
12 sioners under this section is binding for purposes of ~~Act~~  
13 ~~No. 341 of the Public Acts of 1927, being sections 247.41 to~~  
14 ~~247.46 of the Michigan Compiled Laws~~ 1927 PA 341, MCL 247.41 TO  
15 247.46.

16       (11) ~~-(10)-~~ The board of county road commissioners may  
17 reserve an easement for public utility purposes within the  
18 right-of-way of any road absolutely abandoned and discontinued  
19 under this section and may, by resolution, extinguish any ease-  
20 ment so reserved whenever the easement ceases to be used for  
21 public utility purposes.

22       (12) ~~-(11)-~~ If interest in the property is conveyed or con-  
23 trol over the property is relinquished to a local unit or this  
24 state under subsection (8), the local unit or this state, as  
25 applicable, shall operate and maintain the property so as to pre-  
26 vent and eliminate garbage and litter accumulation, unsanitary  
27 conditions, undue noise, and congestion as necessary.

**HB 5940, As Passed Senate, December 6, 2000**

House Bill No. 5940

10

1       (13) ~~-(12)-~~ If a person shows substantial noncompliance with  
2 the requirements of subsection ~~-(11)-~~ (12), the circuit court may  
3 order the local unit or this state to close the road ending in a  
4 manner to prevent ingress and egress to the body of water for a  
5 period of up to 30 days.

6       (14) ~~-(13)-~~ If a person shows substantial noncompliance with  
7 the requirements of subsection ~~-(11)-~~ (12) and the circuit court  
8 has previously closed the road ending for up to 30 days under  
9 subsection ~~-(12)-~~ (13), the circuit court may order the local  
10 unit or this state to close the road ending in a manner to pre-  
11 vent ingress and egress to the body of water for 90 days.

12       (15) ~~-(14)-~~ If a person shows substantial noncompliance with  
13 the requirements of subsection ~~-(11)-~~ (12) and the circuit court  
14 has previously closed the road ending for 90 days under subsec-  
15 tion ~~-(13)-~~ (14), the circuit court may order the local unit or  
16 this state to close the road ending in a manner to prevent  
17 ingress and egress to the body of water for 180 days.

18       (16) ~~-(15)-~~ If a person shows substantial noncompliance with  
19 the requirements of subsection ~~-(11)-~~ (12) and the circuit court  
20 has previously closed the road ending for 180 days under subsec-  
21 tion ~~-(14)-~~ (15), the circuit court shall order the local unit or  
22 this state to show cause why the road ending should not be per-  
23 manently closed in a manner to prevent ingress and egress to the  
24 body of water. Subject to subsection ~~-(16)-~~ (17), the circuit  
25 court shall permanently close the road ending unless the local  
26 unit or this state shows cause why the road ending should not be  
27 closed.

1       (17) ~~-(16)-~~ After a road ending is closed under subsection  
2 ~~-(15)-~~ (16), and unless the property has been conveyed or relin-  
3 quished to the adjacent landowners under subsection ~~-(17)-~~ (18),  
4 the local unit or this state may petition the circuit court to  
5 reopen the road ending. The circuit court may order the road  
6 ending reopened if the local unit or this state presents a man-  
7 agement plan to and posts a performance bond with the circuit  
8 court, and the circuit court finds that the management plan and  
9 performance bond are adequate to ensure compliance with subsec-  
10 tion ~~-(11)-~~ (12).

11       (18) ~~-(17)-~~ After a road ending is closed by the circuit  
12 court under subsection ~~-(15)-~~ (16), 1 or more of the adjacent  
13 landowners may petition the circuit court to order the local unit  
14 or this state to convey any interest in the property that the  
15 local unit or this state holds to the adjacent landowners, or, if  
16 the interest is nontransferable, to relinquish control over the  
17 property to the adjacent landowners.

18       (19) ~~-(18)-~~ Proceedings under subsection ~~-(12), (13), (14)-~~  
19 (13, (14), (15), or ~~-(15)-~~ (16) shall be initiated by application  
20 of 7 owners of record title of land in the local unit who own  
21 land within 1 mile of the road ending to the circuit court for  
22 the county in which the road ending is located. The applicants  
23 in the proceedings under subsection ~~-(12), (13), (14), (15),~~  
24 ~~-(16)-~~ (13), (14), (15), (16), (17), or ~~-(17)-~~ (18) shall give the  
25 persons described in subsection (5) notice of the application by  
26 registered mail.