



HOUSE BILL No. 5940

September 26, 2000, Introduced by Rep. Stamas and referred to the Committee on Transportation.

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

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

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~~ UPON ADOP-
7 TION OF THE RESOLUTION, the jurisdiction and control of the road,
8 or part of the road, except as otherwise provided in this sec-
9 tion, shall revert to the township or municipality within which
10 the road is situated IF THE TOWNSHIP OR MUNICIPALITY RECEIVES
11 STATE FUNDING FOR THE MAINTENANCE AND REPAIR OF ROADS, OR TO THE
12 STATE, and the county shall be relieved of the responsibility for
13 the road. After proceedings to ~~absolutely~~ abandon ABSOLUTELY
14 and discontinue, the road or part of the road shall cease to
15 exist as a public highway unless the unit of government that
16 acquires the property or control of the property permits ~~such a~~
17 use AS A PUBLIC HIGHWAY. Subject to subsection (8), the board,
18 at the time of the passage of a resolution to ~~absolutely~~ aban-
19 don ABSOLUTELY and discontinue any portion of a highway under its
20 jurisdiction, shall determine in the resolution that it is ~~to~~
21 IN the best interests of the public that the highway or portion
22 of the highway be absolutely abandoned and discontinued. The
23 board shall cause a true copy of every resolution or other pro-
24 ceeding containing an accurate description of the lands compris-
25 ing the highway or portion of the highway that has been abso-
26 lutely abandoned and discontinued to be recorded in the office of

1 the register of deeds for the county where the lands are
2 situated.

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

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

1 after receiving a petition, issue a written notice stating the
2 object of the petition and appointing a time and place of hear-
3 ing, which notice shall be served on the owners of record and
4 occupants of lands through or adjoining which it is proposed to
5 absolutely abandon and discontinue the road, by mailing a copy of
6 the notice by first-class mail to the residence of each owner of
7 record or occupant at his or her last known address at least 30
8 days before the time of hearing. The board shall also notify the
9 township or municipality within which the road is situated, the
10 state transportation department, and the department of natural
11 resources if the action concerns any county road or portion of a
12 county road that borders on, crosses, is adjacent to, or ends at
13 a lake or the general course of a stream and the proposed action
14 would result in the loss of public access. If the owner does not
15 reside upon the land or the owner of record or occupant cannot be
16 found within the county in which the land is situated, the notice
17 to the owner of record or occupant of the land shall be served by
18 posting in 3 public places in the township in which the road is
19 situated, and by publication in a newspaper circulated within the
20 county, 30 days before the time of hearing. Notice shall be
21 served upon railroad companies by leaving a copy with the agent
22 in charge of any ticket or freight office of the company operat-
23 ing the railroad, on the RAILROAD line. ~~thereof.~~ The department
24 of natural resources and the township or municipality within
25 which the road is situated shall review the petition and deter-
26 mine within 30 days whether the property should be retained as an
27 ingress and egress point. If the road is situated in a township,

1 the township shall have first priority and the department of
2 natural resources shall have second priority to retain the prop-
3 erty as an ingress and egress point. If the road is not situated
4 in a township, the department of natural resources shall have
5 first priority to retain the property as an ingress and egress
6 point.

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

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

26 (8) Subject to subsection (5), if the board of county road
27 commissioners determines pursuant to this section to relinquish

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

23 (9) Within 30 days after final determination upon the peti-
24 tion for absolutely abandoning and discontinuing a highway, the
25 board of county road commissioners shall file with the state
26 transportation commission a full record and return of ~~their~~ ITS
27 proceedings. A determination by the board of county road

1 commissioners under this section is binding for purposes of ~~Act~~
2 ~~No. 341 of the Public Acts of 1927, being sections 247.41 to~~
3 ~~247.46 of the Michigan Compiled Laws~~ 1927 PA 341, MCL 247.41 TO
4 247.46.

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 the easement ceases to be used for public utility purposes.

10 (11) If interest in the property is conveyed or control over
11 the property is relinquished to a local unit or this state under
12 subsection (8), the local unit or this state, as applicable,
13 shall operate and maintain the property so as to prevent and
14 eliminate garbage and litter accumulation, unsanitary conditions,
15 undue noise, and congestion as necessary.

16 (12) If a person shows substantial noncompliance with the
17 requirements of subsection (11), the circuit court may order the
18 local unit or this state to close the road ending in a manner to
19 prevent ingress and egress to the body of water for a period of
20 up to 30 days.

21 (13) If a person shows substantial noncompliance with the
22 requirements of subsection (11) and the circuit court has previ-
23 ously closed the road ending for up to 30 days under subsection
24 (12), the circuit court may order the local unit or this state to
25 close the road ending in a manner to prevent ingress and egress
26 to the body of water for 90 days.

1 (14) If a person shows substantial noncompliance with the
2 requirements of subsection (11) and the circuit court has
3 previously closed the road ending for 90 days under subsection
4 (13), the circuit court may order the local unit or this state to
5 close the road ending in a manner to prevent ingress and egress
6 to the body of water for 180 days.

7 (15) If a person shows substantial noncompliance with the
8 requirements of subsection (11) and the circuit court has previ-
9 ously closed the road ending for 180 days under subsection (14),
10 the circuit court shall order the local unit or this state to
11 show cause why the road ending should not be permanently closed
12 in a manner to prevent ingress and egress to the body of water.
13 Subject to subsection (16), the circuit court shall permanently
14 close the road ending unless the local unit or this state shows
15 cause why the road ending should not be closed.

16 (16) After a road ending is closed under subsection (15),
17 and unless the property has been conveyed or relinquished to the
18 adjacent landowners under subsection (17), the local unit or this
19 state may petition the circuit court to reopen the road ending.
20 The circuit court may order the road ending reopened if the local
21 unit or this state presents a management plan to and posts a per-
22 formance bond with the circuit court, and the circuit court finds
23 that the management plan and performance bond are adequate to
24 ensure compliance with subsection (11).

25 (17) After a road ending is closed by the circuit court
26 under subsection (15), 1 or more of the adjacent landowners may
27 petition the circuit court to order the local unit or this state

1 to convey any interest in the property that the local unit or
2 this state holds to the adjacent landowners, or, if the interest
3 is nontransferable, to relinquish control over the property to
4 the adjacent landowners.

5 (18) Proceedings under subsection (12), (13), (14), or (15)
6 shall be initiated by application of 7 owners of record title of
7 land in the local unit who own land within 1 mile of the road
8 ending to the circuit court for the county in which the road
9 ending is located. The applicants in the proceedings under sub-
10 section (12), (13), (14), (15), (16), or (17) shall give the per-
11 sons described in subsection (5) notice of the application by
12 registered mail.