

HOUSE BILL No. 4718

June 8, 2017, Introduced by Rep. Marino and referred to the Committee on Transportation and Infrastructure.

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 of chapter IV (MCL 224.18), as amended by 2000 PA 342.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IV

Sec. 18. (1) ~~If~~ **TO APPLY FOR A** state reward, ~~is to be applied for,~~ the board of county road commissioners shall file with the state transportation commission, for its approval, a map of the county showing the location of the proposed system of county roads.

1 This proposed system may be changed if approved by the state
 2 transportation commission. ~~All state rewarded~~ **THE BOARD OF COUNTY**
 3 **ROAD COMMISSIONERS SHALL TAKE OVER ALL STATE-REWARDED** roads
 4 composing a part of this system ~~shall be taken over as~~ county roads
 5 ~~by the board of county road commissioners and any road or part of a~~
 6 road previously laid out shall become a county road if the board of
 7 county road commissioners ~~shall at any time so determine,~~
 8 **DETERMINES**, and in passing through or on the line between townships
 9 or villages or cities, **THE BOARD OF COUNTY ROAD COMMISSIONERS MAY**
 10 **ADOPT** any streets or parts of streets ~~may be adopted as a county~~
 11 road, with the consent of the proper authorities of ~~that~~ **EACH**
 12 **AFFECTED** city or ~~cities,~~ village. ~~or villages.~~ If a street is taken
 13 over and improved as a county road, city and village authorities
 14 may further improve the road by surfacing it outside the portion
 15 constructed by the county and by ~~the addition of~~ **ADDING** gutters,
 16 curbs, sidewalks, ~~and~~ **OR** other improvements, may provide for the
 17 care and maintenance of the improvements, and may levy and collect
 18 taxes for the improvements. The vote of the county road
 19 commissioners in respect to the determination shall be taken by
 20 yeas and nays, and shall be entered at large on the records of the
 21 board of county road commissioners. ~~Notice~~ **THE CLERK SHALL**
 22 **IMMEDIATELY GIVE NOTICE** of the determination ~~shall be immediately~~
 23 ~~given by the clerk to the highway authorities of each city or~~
 24 village in which the road or any part of the road is situated, and
 25 published in a newspaper of general circulation in the county, once
 26 ~~in~~ each week for 3 successive weeks. Proof of service and
 27 publication may be made by affidavit by any person knowing the

1 facts and filed with the clerk. The affidavit or the record thereof
2 or certified copy of the affidavit or record shall be prima facie
3 evidence of its contents. After service and publication of the
4 notice, the board of county road commissioners ~~shall have~~ **HAS**
5 exclusive jurisdiction and control of the road embraced within the
6 determination, and the municipality within which the road is
7 situated ~~shall be~~ **IS** relieved from all responsibility for the road.
8 Immediately after laying out or taking control of a road the board
9 shall ~~give~~ **NAME** the road. ~~a name.~~ The board may change the name of
10 the road if it determines that a name change is necessary in order
11 to conform to a general plan or avoid confusion or duplication. The
12 name given by the board to any road under its jurisdiction, either
13 originally or in case of a change as provided for in this section,
14 is the official name by which the road shall be known.

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

22 (3) ~~The~~ **AT ANY TIME, THE** board of county road commissioners of
23 any county that has adopted the county road system ~~, at any time,~~
24 may either relinquish jurisdiction of or absolutely abandon and
25 discontinue any county road, or any part of a county road, by a
26 resolution adopted by a majority vote. The vote of the county road
27 commissioners in respect to either relinquishment of jurisdiction

1 or absolute abandonment and discontinuance shall be taken and
 2 entered, and notice given, in the same manner as required in this
 3 section in cases in which county roads are adopted. After
 4 proceedings to relinquish jurisdiction have been had, the
 5 jurisdiction and control of the road, or part of the road, except
 6 as otherwise provided in this section, shall revert to the
 7 municipality within which the road is situated, and the county
 8 shall be relieved of the responsibility for the road. After
 9 proceedings to abandon absolutely and discontinue, the road or part
 10 of the road shall cease to exist as a public highway unless the
 11 unit of government that acquires the property or control of the
 12 property permits use as a public highway. Subject to subsection
 13 (8), the board, at the time of the passage of a resolution to
 14 abandon absolutely and discontinue any portion of a highway under
 15 its jurisdiction, shall determine in the resolution that it is in
 16 the best interests of the public that the highway or portion of the
 17 highway be absolutely abandoned and discontinued. The board shall
 18 cause a true copy of every resolution or other proceeding
 19 containing an accurate description of the lands comprising the
 20 highway or portion of the highway that has been absolutely
 21 abandoned and discontinued to be recorded in the office of the
 22 register of deeds for the county where the lands are situated.

23 (4) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE**
 24 board of county road commissioners ~~shall not~~ **MAY** absolutely abandon
 25 and discontinue any highway, or part of a highway, ~~except as~~
 26 ~~provided in this section, upon the written petition of 7~~ **UNLESS 10%**
 27 or more ~~freeholders~~ **LANDOWNERS** of the township in which the road is

1 sought to be absolutely abandoned and discontinued **SUBMIT A WRITTEN**
 2 **PETITION TO THE BOARD.** The petition ~~for absolutely abandoning and~~
 3 ~~discontinuing a highway~~ shall describe the road in general terms or
 4 by any name by which it is known, and if the absolute abandonment
 5 and discontinuance of only a portion of a road is asked for, that
 6 portion shall be specified. The petition shall be accompanied by a
 7 true and correct list of the names and mailing addresses of the
 8 occupants of each parcel of land abutting the highway, or portion
 9 of the highway, sought to be absolutely abandoned and discontinued,
 10 which ~~list~~ shall be certified to under oath by 1 of the persons
 11 making or presenting the petition.

12 (5) If a petition ~~for absolute abandonment and discontinuance~~
 13 ~~of a road or portion of a road~~ contains the signatures of all of
 14 ~~the owners of record and occupants of land abutting the road,~~ **10%**
 15 **OR MORE LANDOWNERS OF THE TOWNSHIP IN WHICH THE ROAD IS SOUGHT TO**
 16 **BE ABSOLUTELY ABANDONED AND DISCONTINUED,** as ascertained from the
 17 records in the office of the register of deeds and the certified
 18 list provided for in subsection (4), the board of county road
 19 commissioners shall, within 20 days after receiving the petition ~~7~~
 20 **AND** subject to subsection (8), determine the advisability of the
 21 abandonment and discontinuance and either grant or deny the
 22 petition without further proceedings. In all other cases the board
 23 shall, within 20 days after receiving a petition, issue a written
 24 notice stating the object of the petition and appointing a time and
 25 place of hearing. ~~7, which~~ **THE** notice shall be served on the
 26 township board of the township in which the road is situated and on
 27 the owners of record and occupants of lands through or adjoining

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

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

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

20 (7) The board of county road commissioners or the
21 superintendent or engineer employed by the board shall ~~proceed to~~
22 view the premises described in the petition and notice, and the
23 board shall ascertain the necessity or advisability of absolutely
24 abandoning and discontinuing the highway. ~~pursuant to the petition.~~

25 (8) Subject to subsection (5), if the board of county road
26 commissioners determines ~~pursuant to~~ **UNDER** this section to
27 relinquish control, discontinue, abandon, or vacate any county road

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

22 (9) Subject to subsection (5), if the board of county road
 23 commissioners determines ~~pursuant to~~**UNDER** this section to abandon
 24 any county road or portion of a county road to a township, it shall
 25 quitclaim deed the property if the interest is nontransferable to
 26 the township. The township shall either retain the property or
 27 allow it to revert to the adjoining landowners.

1 (10) Within 30 days after final determination upon the
2 petition for absolutely abandoning and discontinuing a highway, the
3 board of county road commissioners shall file with the state
4 transportation commission a full record and return of its
5 proceedings. A determination by the board of county road
6 commissioners under this section is binding for purposes of 1927 PA
7 341, MCL 247.41 to 247.46.

8 (11) The board of county road commissioners may reserve an
9 easement for public utility purposes within the right-of-way of any
10 road absolutely abandoned and discontinued under this section and
11 may, by resolution, extinguish any easement so reserved whenever
12 the easement ceases to be used for public utility purposes.

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

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

24 (14) If a person shows substantial noncompliance with the
25 requirements of subsection (12) and the circuit court has
26 previously closed the road ending for up to 30 days under
27 subsection (13), the circuit court may order the local unit or this

1 state to close the road ending in a manner to prevent ingress and
2 egress to the body of water for 90 days.

3 (15) If a person shows substantial noncompliance with the
4 requirements of subsection (12) and the circuit court has
5 previously closed the road ending for 90 days under subsection
6 (14), the circuit court may order the local unit or this state to
7 close the road ending in a manner to prevent ingress and egress to
8 the body of water for 180 days.

9 (16) If a person shows substantial noncompliance with the
10 requirements of subsection (12) and the circuit court has
11 previously closed the road ending for 180 days under subsection
12 (15), the circuit court shall order the local unit or this state to
13 show cause why the road ending should not be permanently closed in
14 a manner to prevent ingress and egress to the body of water.
15 Subject to subsection (17), the circuit court shall permanently
16 close the road ending unless the local unit or this state shows
17 cause why the road ending should not be closed.

18 (17) After a road ending is closed under subsection (16), and
19 unless the property has been conveyed or relinquished to the
20 adjacent landowners under subsection (18), the local unit or this
21 state may petition the circuit court to reopen the road ending. The
22 circuit court may order the road ending reopened if the local unit
23 or this state presents a management plan to and posts a performance
24 bond with the circuit court, and the circuit court finds that the
25 management plan and performance bond are adequate to ensure
26 compliance with subsection (12).

27 (18) After a road ending is closed by the circuit court under

1 subsection (16), 1 or more of the adjacent landowners may petition
2 the circuit court to order the local unit or this state to convey
3 any interest in the property that the local unit or this state
4 holds to the adjacent landowners, or, if the interest is
5 nontransferable, to relinquish control over the property to the
6 adjacent landowners.

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

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.