

# HOUSE BILL NO. 6418

November 12, 2020, Introduced by Reps. Coleman and Steven Johnson and referred to the Committee on Government Operations.

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 sections 3, 6, 11, 18, and 19b of chapter IV (MCL 224.3, 224.6, 224.11, 224.18, and 224.19b), section 6 as amended by 2020 PA 2, section 18 as amended by 2000 PA 342, and section 19b as amended by 2018 PA 97.

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

CHAPTER IV

Sec. 3. **(1)** ~~Said~~ **Before January 1, 2022, the** clerk shall cause ~~such~~ notice, printed in the form of a handbill, to be posted in 3 or more public places in each township and ward of ~~such~~ **the** county, at least 2 weeks before the time of ~~such~~ **the** election, and also to be published in such newspaper or newspapers published and circulated in ~~said~~ **the** county as the board of ~~supervisors~~ **commissioners** may direct, once in each week for at least 2 weeks before ~~said~~ **the** election. Proof of the posting and publication of ~~such~~ **the** notice may be made by affidavit of any person or persons knowing the facts and be filed in the office of ~~said~~ **the** clerk and ~~shall~~ **must** be recorded in the records of the proceedings of the board of ~~supervisors~~ **commissioners**. ~~The~~ affidavit or the record thereof, or a certified copy of ~~such~~ **the** affidavit or the record thereof, ~~shall be~~ **is** prima facie evidence of the facts stated therein.

**(2)** Beginning January 1, 2022, notice of the election must be given in the same manner required by section 653a of the Michigan election law, 1954 PA 116, MCL 168.653a.

**(3)** Ballots ~~shall~~ **must** be prepared and distributed by the same officers prescribed by law for general elections. The questions ~~shall~~ **must** be stated on ~~such~~ **the** ballots as follows: ~~, viz.:~~ "Shall the county road system be adopted by the county of

1 .....?" and immediately below and on different  
2 lines ~~shall~~**must** be printed the word "yes" and the word "no." At  
3 the time mentioned in ~~such~~**the** resolution, ~~such~~**the** election ~~shall~~  
4 **must** be held and the vote taken accordingly.

5       Sec. 6. (1) Except as otherwise provided by law and under  
6 subsection (4), (5), (7), or (8), in a county where the county road  
7 system is adopted, a board of county road commissioners consisting  
8 of not less than 3 members or more than 5 members must be elected  
9 by the people of the county. The initial road commissioners must be  
10 appointed by the county board of commissioners or elected at a  
11 general or special election called for that purpose, as determined  
12 by the county board of commissioners. The county board of  
13 commissioners may by resolution provide for staggered terms of  
14 office for the road commissioners under this subsection so that not  
15 more than 2 road commissioners' terms of office expire in the same  
16 year.

17       (2) If the road commissioners are appointed, they shall hold  
18 office only until January 1 of the first odd numbered year  
19 following the date of appointment. If the road commissioners are to  
20 be elected at a general or special election, notice of the  
21 election, embodying a copy of the resolutions of the county board  
22 of commissioners, giving the number and terms of the office of the  
23 road commissioners to be elected, must be published **or posted** by  
24 the clerk as required by section 3 of this chapter.

25       (3) The regular election of county road commissioners must be  
26 held at the general election on the first Tuesday after the first  
27 Monday in November. The term of office of an elected county road  
28 commissioner commences on January 1 in the year following his or  
29 her election. The notice of the election must be given at the time

1 notice is given of the general election of county officers.

2 (4) The election of county road commissioners is not mandatory  
3 in any county that contains all or part of 12 surveyed townships as  
4 determined by the government survey of the county. Except as  
5 provided under subsection (5), in a county under this subsection  
6 the county board of commissioners, by a majority of its members  
7 elect, may appoint the county road commissioners. A county road  
8 commissioner appointed under this subsection must not be removed  
9 from office before the expiration of his or her term of office  
10 without being given written notice of the charges made against him  
11 or her and an opportunity to appear before the county board of  
12 commissioners for a hearing on the charges. A county board of  
13 commissioners in a county under this subsection with an elected  
14 board of county road commissioners shall not transfer the powers,  
15 duties, and functions of the elected board of county road  
16 commissioners to an appointed board of county road commissioners  
17 unless both of the following occur:

18 (a) The county board of commissioners submits that question to  
19 the qualified and registered electors of the county at the next  
20 regular election to be held in the county.

21 (b) A majority of the qualified and registered electors of the  
22 county voting on the question vote in favor of transferring the  
23 powers, duties, and functions of the elected board of county road  
24 commissioners to an appointed board of county road commissioners.

25 (5) In a county having a population of 750,000 or more that  
26 has adopted a charter under 1966 PA 293, MCL 45.501 to 45.521, the  
27 powers and duties that are otherwise provided by law for a board of  
28 county road commissioners may be reorganized by amendment to the  
29 charter. In a county having a population of 750,000 or more with a

1 charter commission proposing a charter under 1966 PA 293, MCL  
2 45.501 to 45.521, the powers and duties that are otherwise provided  
3 by law for a board of county road commissioners may be reorganized  
4 under the charter if, at the election considering the approval of  
5 the charter, the voters approve both the charter and a separate  
6 ballot question presented by the charter commission to reorganize  
7 the board of county road commissioners. Funds provided to the  
8 county under 1951 PA 51, MCL 247.651 to 247.675, must only be  
9 expended for the purposes provided under 1951 PA 51, MCL 247.651 to  
10 247.675.

11 (6) If the county board of commissioners proposes to alter the  
12 number of county road commissioners as allowed under this act, the  
13 county board of commissioners shall hold not less than 1 public  
14 hearing on the proposed change to the road commission. The county  
15 board of commissioners shall give notice as required under the open  
16 meetings act, 1976 PA 267, MCL 15.261 to 15.275, of the time and  
17 place of the public hearing not less than 28 days before the  
18 hearing. The county board of commissioners shall also provide  
19 written notice of the hearing to the county road commission and, if  
20 available, by posting the notice on the county's website. The  
21 county board of commissioners may vote on whether to alter the  
22 number of county road commissioners at the meeting noticed under  
23 this subsection.

24 (7) Except as otherwise provided under subsection (5) and  
25 subject to the requirement provided in subsection (9), the powers,  
26 duties, and functions that are otherwise provided by law for an  
27 appointed board of county road commissioners may be transferred to  
28 the county board of commissioners by a resolution as allowed under  
29 section 11 of 1851 PA 156, MCL 46.11. The appointed board of county

1 road commissioners of that county is dissolved on the date  
2 specified in the resolution adopted under this subsection, and the  
3 county board of commissioners is authorized to receive and expend  
4 funds as allowed under 1951 PA 51, MCL 247.651 to 247.675.

5 (8) Except as otherwise provided in subsection (5) and subject  
6 to the requirement provided in subsection (9), the county board of  
7 commissioners in a county with an elected board of county road  
8 commissioners may, by a resolution as allowed under section 11 of  
9 1851 PA 156, MCL 46.11, submit to the qualified and registered  
10 electors of the county at the next regular election to be held in  
11 the county the question of transferring the powers, duties, and  
12 functions of the elected board of county road commissioners of that  
13 county to the county board of commissioners. If a majority of the  
14 qualified and registered electors of the county voting on the  
15 question vote in favor of transferring the powers, duties, and  
16 functions of the elected board of county road commissioners of that  
17 county to the county board of commissioners, the elected board of  
18 county road commissioners of that county is dissolved and the  
19 county board of commissioners is authorized to receive and expend  
20 funds as allowed under 1951 PA 51, MCL 247.651 to 247.675.

21 (9) Before adopting a resolution under subsection (7) or (8),  
22 the county board of commissioners shall conduct, at a minimum, 2  
23 public hearings on whether to transfer the powers, duties, and  
24 functions of the board of county road commissioners to the county  
25 board of commissioners.

26 Sec. 11. (1) The board of county road commissioners may lay  
27 out new roads within the county as ~~they consider~~ **the board**  
28 **considers** necessary. The roads ~~shall~~ **must** be not less than 4 rods  
29 wide. The board may also change the width or the location or

1 straighten the line of a road over which it takes jurisdiction.

2 (2) Before the board approves a project for the construction  
3 of a new road or improvement of an existing road not part of the  
4 federal-aid systems, as defined in ~~section 103 of Public Law 85-~~  
5 ~~767, 23 U.S.C. 103,~~ **23 USC 103**, which improvement consists of  
6 widening or straightening the line of a road, the board of county  
7 road commissioners shall conduct a public hearing pursuant to the  
8 following procedure:

9 (a) ~~Notice~~ **Before January 1, 2022, notice** of the public  
10 hearing ~~shall~~ **must** be given at least twice in a newspaper having  
11 general circulation in the vicinity of the proposed undertaking.  
12 ~~The~~ **Before January 1, 2022, the** first notice ~~shall~~ **must** appear 30  
13 to 40 days before the scheduled hearing with the second notice  
14 appearing 5 to 12 days before the hearing.

15 (b) **Beginning January 1, 2022, not more than 30 days or less**  
16 **than 14 days before the scheduled hearing, notice of the public**  
17 **hearing must be posted as set forth in the local government public**  
18 **notice act.**

19 (c) ~~(b)~~ The required ~~notices shall~~ **notice must** contain the  
20 date, time, and place of the hearing and ~~shall~~ **must** include a  
21 description of the proposed action. The notice ~~shall~~ **must** also  
22 contain a map or drawing of the proposed action. The map or drawing  
23 ~~shall~~ **must** be made available to the public. The notice ~~shall~~ **must**  
24 set forth the tentative schedule for the right of way acquisition,  
25 if necessary for the proposed action, and for the beginning of the  
26 construction or improvement.

27 (d) ~~(e)~~ A copy of the notice ~~shall~~ **must** be delivered to the  
28 local news media and to the executive official of each affected  
29 municipality.

(3) If the record owners of 100% of the property adjacent to a local road which is 1/4 mile or less in length and ~~which-that~~ has only 1 outlet ~~—~~oppose the construction or improvement of the local road, the board of county road commissioners ~~shall—must~~ not approve the project.

(4) If in the laying out, widening, changing, or straightening of a road it becomes necessary to take private property, the board shall cause a survey of the proposed road to be made, together with an accurate description of the lands required for the road. ~~It—The~~ **board** shall endeavor to agree with each owner, who is a resident of the county, for the purchase of a right of way over the owner's land included within the description. If ~~it—the board~~ is able to agree with the owner of the property, ~~it—the board~~ may purchase the property and pay for the property out of the funds under ~~its—the~~ **board's** control. The land ~~shall—must~~ be conveyed to the county for the use and purpose of a road.

Sec. 18. (1) If 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. This proposed system may be changed if approved by the state transportation commission. All state rewarded roads composing a part of this system ~~shall—must~~ be taken over as county roads by the board of county road commissioners and any road or part of a road previously laid out ~~shall—become—~~**becomes** a county road if the board of county road commissioners shall at any time so determine, and in passing through or on the line between townships or villages or cities any streets or parts of streets may be adopted as a county road, with the consent of the proper authorities of that city or



1 cities, village or villages. If a street is taken over and improved  
 2 as a county road, city and village authorities may further improve  
 3 the road by surfacing it outside the portion constructed by the  
 4 county and by the addition of gutters, curbs, sidewalks, and other  
 5 improvements, may provide for the care and maintenance of the  
 6 improvements, and may levy and collect taxes for the improvements.  
 7 The vote of the county road commissioners in respect to the  
 8 determination ~~shall~~**must** be taken by yeas and nays, and ~~shall~~**must**  
 9 be entered at large on the records of the board of county road  
 10 commissioners. Notice of the determination ~~shall~~**must** be  
 11 immediately given by the clerk to the highway authorities of each  
 12 city or village in which the road or any part of the road is  
 13 situated. ~~and~~ **Before January 1, 2022, notice of the determination**  
 14 **must be** published in a newspaper of general circulation in the  
 15 county, once in each week for 3 successive weeks. **Beginning January**  
 16 **1, 2022, the clerk shall post public notice of the determination as**  
 17 **set forth in the local government public notice act.** Proof of  
 18 service and publication **or posting** may be made by affidavit by any  
 19 person knowing the facts and filed with the clerk. The affidavit or  
 20 the record thereof or certified copy of the affidavit or record  
 21 ~~shall be~~**is** prima facie evidence of its contents. After service and  
 22 publication **or posting** of the notice, the board of county road  
 23 commissioners ~~shall have~~**has** exclusive jurisdiction and control of  
 24 the road embraced within the determination, and the municipality  
 25 within which the road is situated ~~shall be~~**is** relieved from all  
 26 responsibility for the road. Immediately after laying out or taking  
 27 control of a road the board shall give the road a name. The board  
 28 may change the name of the road if it determines that a name change  
 29 is necessary in order to conform to a general plan or avoid

1 confusion or duplication. The name given by the board to any road  
2 under its jurisdiction, either originally or in case of a change as  
3 provided for in this section, is the official name by which the  
4 road ~~shall~~**must** be known.

5 (2) The board also may enter into agreements with the board of  
6 county road commissioners in any adjoining county with reference to  
7 the laying out, maintenance, construction, and improvement of  
8 inter-county roads. The decision of each board to become a party to  
9 an agreement is limited to the construction, improvement, or  
10 maintenance of the portion of the road subject to the jurisdiction  
11 of that board.

12 (3) The board of county road commissioners of any county that  
13 has adopted the county road system, at any time, may either  
14 relinquish jurisdiction of or absolutely abandon and discontinue  
15 any county road, or any part of a county road, by a resolution  
16 adopted by a majority vote. The vote of the county road  
17 commissioners in respect to either relinquishment of jurisdiction  
18 or absolute abandonment and discontinuance ~~shall~~**must** be taken and  
19 entered, and notice given, in the same manner as required in this  
20 section in cases in which county roads are adopted. After  
21 proceedings to relinquish jurisdiction have been had, the  
22 jurisdiction and control of the road, or part of the road, except  
23 as otherwise provided in this section, ~~shall revert~~**reverts** to the  
24 municipality within which the road is situated, and the county  
25 ~~shall be~~**is** relieved of the responsibility for the road. After  
26 proceedings to abandon absolutely and discontinue, the road or part  
27 of the road ~~shall cease~~**ceases** to exist as a public highway unless  
28 the unit of government that acquires the property or control of the  
29 property permits use as a public highway. Subject to subsection

1 (8), the board, at the time of the passage of a resolution to  
2 abandon absolutely and discontinue any portion of a highway under  
3 its jurisdiction, shall determine in the resolution that it is in  
4 the best interests of the public that the highway or portion of the  
5 highway be absolutely abandoned and discontinued. The board shall  
6 cause a true copy of every resolution or other proceeding  
7 containing an accurate description of the lands comprising the  
8 highway or portion of the highway that has been absolutely  
9 abandoned and discontinued to be recorded in the office of the  
10 register of deeds for the county where the lands are situated.

11 (4) The board of county road commissioners shall not  
12 absolutely abandon and discontinue any highway, or part of a  
13 highway, except as provided in this section, upon the written  
14 petition of 7 or more freeholders of the township in which the road  
15 is sought to be absolutely abandoned and discontinued. The petition  
16 for absolutely abandoning and discontinuing a highway ~~shall~~**must**  
17 describe the road in general terms or by any name by which it is  
18 known, and if the absolute abandonment and discontinuance of only a  
19 portion of a road is asked for, that portion ~~shall~~**must** be  
20 specified. The petition ~~shall~~**must** be accompanied by a true and  
21 correct list of the names and mailing addresses of the occupants of  
22 each parcel of land abutting the highway, or portion of the  
23 highway, sought to be absolutely abandoned and discontinued, which  
24 list ~~shall~~**must** be certified to under oath by 1 of the persons  
25 making or presenting the petition.

26 (5) If a petition for absolute abandonment and discontinuance  
27 of a road or portion of a road contains the signatures of all of  
28 the owners of record and occupants of land abutting the road, as  
29 ascertained from the records in the office of the register of deeds

1 and the certified list provided for in subsection (4), the board of  
2 county road commissioners shall, within 20 days after receiving the  
3 petition, subject to subsection (8), determine the advisability of  
4 the abandonment and discontinuance and either grant or deny the  
5 petition without further proceedings. In all other cases the board  
6 shall, within 20 days after receiving a petition, issue a written  
7 notice stating the object of the petition and appointing a time and  
8 place of hearing, which notice ~~shall~~**must** be served on the township  
9 board of the township in which the road is situated and on the  
10 owners of record and occupants of lands through or adjoining which  
11 it is proposed to absolutely abandon and discontinue the road, by  
12 mailing a copy of the notice by first-class mail to the township  
13 board of the township in which the road is situated and to the  
14 residence of each owner of record or occupant at his or her last  
15 known address at least 30 days before the time of hearing. The  
16 township board of the township in which the road is situated ~~shall~~  
17 ~~have~~**has** first priority to retain the property or portion of the  
18 property. The board shall also notify the township or municipality  
19 within which the road is situated, the state transportation  
20 department, and the department of natural resources if the action  
21 concerns any county road or portion of a county road that borders  
22 on, crosses, is adjacent to, or ends at a lake or the general  
23 course of a stream and the proposed action would result in the loss  
24 of public access. ~~If~~**Before January 1, 2022, if** the owner does not  
25 reside upon the land or the owner of record or occupant cannot be  
26 found within the county in which the land is situated, the notice  
27 to the owner of record or occupant of the land ~~shall~~**must** be served  
28 by posting in 3 public places in the township in which the road is  
29 situated, and by publication in a newspaper circulated within the

1 county, 30 days before the time of hearing. **Beginning January 1,**  
 2 **2022, if the owner does not reside upon the land or the owner of**  
 3 **record or occupant cannot be found within the county in which the**  
 4 **land is situated, the notice to the owner of record or occupant of**  
 5 **the land must be served by posting in 3 public places in the**  
 6 **township in which the road is situated, and by having public notice**  
 7 **posted 30 days before the time of the hearing as set forth in the**  
 8 **local government public notice act.** Notice ~~shall~~**must** be served  
 9 upon railroad companies by leaving a copy with the agent in charge  
 10 of any ticket or freight office of the company operating the  
 11 railroad, on the railroad line. The department of natural resources  
 12 and the township or municipality within which the road is situated  
 13 shall review the petition and determine within 30 days whether the  
 14 property should be retained as an ingress and egress point. If the  
 15 road is situated in a township, the township ~~shall have~~**has** first  
 16 priority and the department of natural resources ~~shall have~~**has**  
 17 second priority to retain the property as an ingress and egress  
 18 point. If the road is not situated in a township, the department of  
 19 natural resources ~~shall have~~**has** first priority to retain the  
 20 property as an ingress and egress point.

21 (6) Upon the service of the notice required in subsection (5),  
 22 and before any further proceedings are held, the person by whom the  
 23 service was made shall make and annex to the notice, or a copy of  
 24 the notice, an affidavit stating the time and manner of service,  
 25 ~~which shall~~**that must** be by first-class mail, and by posting and  
 26 advertising. In addition, if service is upon a railroad company,  
 27 the affidavit ~~shall~~**must** so state and ~~shall~~**must** specify the agent  
 28 upon whom service was made. The notice and affidavit, together with  
 29 an affidavit of publication **or posting** if the notice was published

1 ~~, shall or posted, must~~ be attached to the petition, and the whole  
 2 ~~shall must~~ be present at the time of the hearing upon the petition.  
 3 The board of county road commissioners may designate, as hearing  
 4 examiner, an employee to hold the hearing upon the petition. After  
 5 the hearing, the examiner shall report all findings of fact to the  
 6 board.

7 (7) The board of county road commissioners or the  
 8 superintendent or engineer employed by the board shall proceed to  
 9 view the premises described in the petition and notice, and the  
 10 board shall ascertain the necessity or advisability of absolutely  
 11 abandoning and discontinuing the highway pursuant to the petition.

12 (8) Subject to subsection (5), if the board of county road  
 13 commissioners determines ~~pursuant to~~ **under** this section to  
 14 relinquish control, discontinue, abandon, or vacate any county road  
 15 or portion of a county road that borders on, crosses, is adjacent  
 16 to, or ends at a lake or the general course of a stream and the  
 17 township, if applicable, or the department of natural resources  
 18 decides to maintain the road as a public access site, ~~it the board~~  
 19 shall convey by quitclaim deed or relinquish jurisdiction over the  
 20 property if the interest is nontransferable to the township or the  
 21 state. If the township obtains the property or jurisdiction over  
 22 the property as an ingress and egress point and later proposes to  
 23 transfer the property or jurisdiction over the property, ~~it the~~  
 24 **township** shall give the department of natural resources first  
 25 priority to obtain the property or jurisdiction over the property.  
 26 If the state obtains the property or jurisdiction over the property  
 27 under this subsection, the property ~~shall be~~ **is** under the  
 28 jurisdiction of the department of natural resources. The state may  
 29 retain title to the property, transfer title to a local unit of

1 government, or deed the property to the adjacent property owners.  
2 If the state has purchased the property with restricted fund  
3 revenue, money obtained from sale of the property ~~shall~~**must** be  
4 returned to that restricted fund. The local unit of government  
5 shall either maintain the property as a site of public access or  
6 allow it to revert to the adjoining landowners.

7 (9) Subject to subsection (5), if the board of county road  
8 commissioners determines ~~pursuant to~~**under** this section to abandon  
9 any county road or portion of a county road to a township, ~~it~~**the**  
10 **board** shall quitclaim deed the property if the interest is  
11 nontransferable to the township. The township shall either retain  
12 the property or allow it to revert to the adjoining landowners.

13 (10) Within 30 days after final determination upon the  
14 petition for absolutely abandoning and discontinuing a highway, the  
15 board of county road commissioners shall file with the state  
16 transportation commission a full record and return of its  
17 proceedings. A determination by the board of county road  
18 commissioners under this section is binding for purposes of 1927 PA  
19 341, MCL 247.41 to 247.46.

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

25 (12) If interest in the property is conveyed or control over  
26 the property is relinquished to a local unit or this state under  
27 subsection (8), the local unit or this state, as applicable, shall  
28 operate and maintain the property so as to prevent and eliminate  
29 garbage and litter accumulation, unsanitary conditions, undue

1 noise, and congestion as necessary.

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

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

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

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

28 (17) After a road ending is closed under subsection (16), and  
29 unless the property has been conveyed or relinquished to the



1 adjacent landowners under subsection (18), the local unit or this  
2 state may petition the circuit court to reopen the road ending. The  
3 circuit court may order the road ending reopened if the local unit  
4 or this state presents a management plan to and posts a performance  
5 bond with the circuit court, and the circuit court finds that the  
6 management plan and performance bond are adequate to ensure  
7 compliance with subsection (12).

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

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

23 Sec. 19b. (1) A person, partnership, association, corporation,  
24 or governmental entity shall not construct, operate, maintain, or  
25 remove a facility or perform any other work within the right-of-way  
26 of a county road, except sidewalk installation and repair, without  
27 first obtaining a permit from the county road commission having  
28 jurisdiction over the road and from the township, city, or village  
29 in which the county road is located when a permit is required by

ordinance of the township, city, or village, under the authority conferred by section 29 of article VII of the state constitution of 1963. The adjacent property owner is not required to obtain a permit for work incidental to the maintenance of the right-of-way lying outside of the shoulder and roadway.

(2) ~~A—Before January 1, 2022, a~~ county road commission and a local unit of government may adopt, after a public hearing of which notice has been given by publication at least twice in a newspaper circulated in the county not more than 30 days nor less than 7 days before the hearing, reasonable permit requirements and, subject to subsections (6) and (7), a schedule of fees to be charged sufficient to cover only the necessary and actual costs applied in a reasonable manner for issuing the permit and for review of the proposed activity, inspection, and related expenses. **Beginning January 1, 2022, after a public hearing of which public notice has been posted as set forth in the local government public notice act not more than 30 days or less than 7 days before the hearing, a county road commission and a local unit of government may adopt reasonable permit requirements and, subject to subsections (6) and (7), a schedule of fees to be charged sufficient to cover only the necessary and actual costs applied in a reasonable manner for issuing the permit and for reviewing the proposed activity, inspection, and related expenses.** In addition, a county road commission and a local unit of government may adopt a schedule of civil fines that can be imposed on a provider that performs work in a right-of-way without obtaining a permit as required under this section or that fails to maintain a security bond, right-of-way bond, or irrevocable letter of credit as required under this section during construction work within the right-of-way. The

1 amount of a civil fine imposed on a provider must not exceed  
2 \$5,000.00 per violation, and a civil fine must not be imposed on a  
3 provider if the work is required in a right-of-way on an emergency  
4 basis to restore services impacting public safety. After the work  
5 authorized in the permit has been completed, itemization of all  
6 costs must be supplied upon request of the permit holder.

7 (3) When a road commission adopts procedures for issuing  
8 permits or adopts a schedule of fees as provided in this section,  
9 separate procedures and fee schedules must be adopted for issuing  
10 annual and emergency permits that reflect the minimal  
11 administrative burden of issuing an annual permit for frequent but  
12 routine and unobtrusive work such as surveying and the  
13 extraordinary emergency repairs to municipal or public utilities.

14 (4) A county road commission may not refuse a permit requested  
15 by a government entity for the installation of a facility or  
16 utility owned by that government entity if security is given by the  
17 permittee or its contractor to the county road commission  
18 sufficient to insure restoration of the road and appurtenances to  
19 the road and the adjacent right-of-way to a condition reasonably  
20 equal to or better than that existing before that installation.

21 (5) A county road commission shall not require a provider to  
22 perform or, except as otherwise provided in this section, pay for  
23 any topographic, boundary, environmental, or other kind of survey,  
24 study, or analysis of a right-of-way as a condition of or in  
25 connection with issuing a permit. A county road commission may  
26 require a provider to submit detailed engineering plans directly  
27 related to work in the right-of-way by that provider as a condition  
28 of or in connection with issuing a permit. In addition to any  
29 permit fees, a county road commission may require a provider to pay

1 for any necessary and actual costs for inspections related to work  
2 in a right-of-way by that provider.

3 (6) A county road commission shall not charge a government  
4 entity or, except as otherwise provided in this section, a provider  
5 a permit fee exceeding \$300.00 per permit or, except as otherwise  
6 provided in this section, \$1,000.00 total for all permit fees per  
7 project. In a county with a population of more than 250,000, a  
8 county road commission shall not charge a provider a permit fee  
9 exceeding \$600.00 per permit or, except as otherwise provided in  
10 this section, \$2,000.00 total for all permit fees per project.

11 (7) Except as otherwise provided in this section, a county  
12 road commission shall not require a provider to obtain a permit for  
13 performing routine maintenance or repair work, as defined in the  
14 permit, in a right-of-way more than once a year, and shall not  
15 charge a provider an annual permit fee exceeding \$300.00 for that  
16 permit for performing routine maintenance or repair work in a  
17 right-of-way. In a county with a population of more than 250,000, a  
18 county road commission shall not require a provider to obtain a  
19 permit for performing routine maintenance or repair work, as  
20 defined in the permit, in a right-of-way more than once a year, and  
21 shall not charge a provider an annual permit fee exceeding \$600.00  
22 for that permit for performing routine maintenance or repair work  
23 in a right-of-way. The annual permit fee provided in this  
24 subsection is not included in the permit fee limitation provided in  
25 subsection (6).

26 (8) This section does not authorize a county road commission  
27 to require a permit for a driveway or routine maintenance in  
28 silvicultural operations that are otherwise permissible under the  
29 laws of this state. A county road commission shall not be held

1 liable for the failure of a person performing work for which a  
2 permit is not required on a county road right-of-way to post a sign  
3 that gives advance warning of the work being performed in the  
4 right-of-way. As used in this subsection, "silvicultural  
5 operations" means silvicultural practices as that term is defined  
6 in section 51101 of the natural resources and environmental  
7 protection act, 1994 PA 451, MCL 324.51101.

8 (9) Except as otherwise provided in this section, a county  
9 road commission shall not require a provider to have more than 1  
10 security bond or right-of-way bond to secure the performance of the  
11 conditions of all permits issued that authorize the provider to  
12 construct, operate, maintain, or remove a facility or perform any  
13 other work anywhere within the right-of-way, as designated in the  
14 permits, of any road under the jurisdiction of the county road  
15 commission. The provider shall determine whether the security bond  
16 or right-of-way bond described in this subsection is an insurance  
17 bond or a cash bond. A county road commission shall not require the  
18 security bond or right-of-way bond to be a cash bond. Except as  
19 otherwise provided in this section, the amount of a security bond  
20 or right-of-way bond described in this subsection must not exceed  
21 \$20,000.00. In a county with a population of more than 250,000, the  
22 amount of a security bond or right-of-way bond described in this  
23 subsection must not exceed \$40,000.00. Upon the request of a  
24 provider, the county road commission shall return a security bond  
25 or right-of-way bond to the provider within 120 days after the  
26 provider completes construction work in the right-of-way. Instead  
27 of providing a security bond or right-of-way bond, a provider may  
28 provide security that consists of an irrevocable letter of credit  
29 issued by a state or federally regulated financial institution

1 licensed to do business in this state to secure the performance of  
2 the conditions of all permits issued that authorize the provider to  
3 construct, operate, maintain, or remove a facility or perform any  
4 other work anywhere within the right-of-way, as designated in the  
5 permits, of any road under the jurisdiction of the county road  
6 commission. Notwithstanding the limitation in this subsection  
7 requiring only 1 security bond or right-of-way bond, if there is a  
8 claim made against the bond, the provider must provide the county  
9 road commission with another security bond or right-of-way bond in  
10 order to continue working in that county. A bond required under  
11 this subsection must be from a state or federally regulated entity  
12 licensed to do business in this state.

13 (10) A provider shall maintain general liability insurance  
14 with minimum policy limits of \$2,000,000.00 per occurrence for  
15 property damage and \$2,000,000.00 per occurrence for bodily injury  
16 that apply to all claims, demands, suits, or causes of action  
17 arising in connection with or as a direct result of the provider's  
18 use and occupancy of a right-of-way under the jurisdiction of a  
19 county road commission.

20 (11) This section does not prohibit a county road commission  
21 and a provider from entering into a voluntary agreement regarding  
22 right-of-way access that includes permits, terms, and conditions  
23 that are different than the requirements or limitations imposed by  
24 this section, including, but not limited to, the amount of permit  
25 fees, terms of insurance, the size or number of security bonds or  
26 right-of-way bonds, or other valuable consideration. A county road  
27 commission that enters a voluntary agreement to access the rights-  
28 of-way with 1 provider shall offer similar terms and conditions  
29 regarding access to the rights-of-way to other providers.

1       (12) Except if work is required in a right-of-way on an  
2 emergency basis to restore services impacting public safety, a  
3 provider that performs work in a right-of-way without obtaining a  
4 permit as required under this section or that fails to maintain a  
5 security bond, right-of-way bond, or irrevocable letter of credit  
6 as required under this section during construction work within the  
7 right-of-way is responsible for a civil fine of not more than  
8 \$5,000.00 per violation as provided in the schedule of civil fines  
9 adopted under subsection (2).

10       (13) As used in this section:

11       (a) "County road commission" means the board of county road  
12 commissioners elected or appointed pursuant to section 6 of this  
13 chapter, or, in the case of a charter county with a population of  
14 750,000 or more with an elected county executive that does not have  
15 a board of county road commissioners, the county executive for  
16 ministerial functions and the county commission provided for in  
17 section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative  
18 functions. In addition, if a board of county road commissioners is  
19 dissolved as provided in section 6 of this chapter, county road  
20 commission includes the county board of commissioners of the  
21 county.

22       (b) "Provider" means either of the following:

23       (i) A telecommunication provider as that term is defined in  
24 section 102 of the Michigan telecommunications act, 1991 PA 179,  
25 MCL 484.2102.

26       (ii) A video service provider as that term is defined in  
27 section 1 of the uniform video services local franchise act, 2006  
28 PA 480, MCL 484.3301.

29       Enacting section 1. This amendatory act does not take effect

- 1 unless Senate Bill No.\_\_\_\_ or House Bill No. 6440 (request no.
- 2 02449'19) of the 100th Legislature is enacted into law.