



SENATE BILL No. 716

October 3, 1995, Introduced by Senators CHERRY, CARL, CISKY, NORTH, HART, BERRYMAN, YOUNG, O'BRIEN and STALLINGS and referred to the Committee on Transportation and Tourism.

A bill to amend the title and section 18 of chapter IV of Act No. 283 of the Public Acts of 1909, entitled as amended

"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; setting and protecting shade trees, drainage, cutting weeds and brush within this state, and providing for the election or appointment and defining the powers, duties and compensation of state, county, township and district highway officials,"

being section 224.18 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 18 of chapter IV of Act
2 No. 283 of the Public Acts of 1909, being section 224.18 of the
3 Michigan Compiled Laws, are amended to read as follows:

TITLE

1
2 An act to revise, consolidate, and add to the laws relating
3 to the establishment, opening, discontinuing, vacating, closing,
4 altering, improvement, maintenance, and use of the public high-
5 ways and private roads; ~~the~~ the condemnation of property and
6 gravel therefor; the building, repairing and preservation of
7 bridges; MAINTAINING PUBLIC ACCESS TO WATERWAYS UNDER CERTAIN
8 CONDITIONS; setting and protecting shade trees, drainage, AND
9 cutting weeds and brush within this state; ~~and~~ and providing for
10 the election or appointment and defining the powers, duties, and
11 compensation of state, county, township, and district highway
12 officials.

CHAPTER IV

13.
14 Sec. 18. (1) ~~In case~~ IF state reward is to be applied
15 for, the board of county road commissioners shall file with the
16 state ~~highway commissioner~~ TRANSPORTATION COMMISSION, for ~~his~~
17 ITS approval, a map of the county showing the location of the
18 proposed system of county roads. ~~Provided, however, that~~
19 ~~this~~ THIS proposed system may be changed if approved by the
20 state ~~highway commissioner~~ TRANSPORTATION COMMISSION. All
21 state rewarded roads composing a part of this system shall be
22 taken over as county roads by the board of county road commis-
23 sioners and any road ~~heretofore~~ OR PART OF A ROAD PREVIOUSLY
24 laid out ~~or any part thereof,~~ shall become A county ~~roads~~
25 ROAD if the board of county road commissioners shall at any time
26 so determine, and in passing through or on the line between
27 townships or ~~incorporated~~ villages or cities any streets or

1 parts of streets of such village or city may be adopted as a
 2 county road, with the consent of the proper authorities of ~~such~~
 3 THAT city or cities, village or villages. ~~Provided further,~~
 4 ~~That where any such~~ IF A street ~~shall be~~ IS taken over as a
 5 county road and is improved as such, city and village authorities
 6 ~~shall have the right to~~ MAY further improve ~~such~~ THE road by
 7 surfacing ~~the same~~ IT outside the portion ~~thereof~~ constructed
 8 by the county and by the addition of gutters, curbs, sidewalks,
 9 and other improvements, ~~and to~~ MAY provide for the care and
 10 maintenance of ~~such~~ THE improvements, and ~~to~~ MAY levy and
 11 collect taxes for the ~~same~~ IMPROVEMENTS. The vote of the
 12 county road commissioners in respect to ~~such~~ THE determination
 13 shall be taken by yeas and nays, and shall be entered at large on
 14 the records of the ~~said~~ board of county road commissioners.
 15 Notice of THE determination shall be ~~forthwith~~ IMMEDIATELY
 16 given by the clerk to ~~the highway commissioner of each township~~
 17 ~~and~~ the highway authorities of each city or village in which
 18 ~~said~~ THE road or any part ~~thereof~~ OF THE ROAD is situated,
 19 and published in some newspaper printed and circulated in the
 20 county, once in each week for 3 successive weeks. ~~Provided~~
 21 ~~further, in case~~ IF there is ~~no~~ NOT AN established printing
 22 office within the county, the ~~said~~ clerk ~~, or the highway~~
 23 ~~commissioner~~ may advertise in a newspaper published in an
 24 adjoining county. Proof of ~~such~~ service and publication may be
 25 made by affidavit by any person knowing the facts ~~, and be~~
 26 filed with the clerk. ~~Such~~ THE affidavit or the record thereof
 27 or certified copy of ~~such~~ THE affidavit or record shall be

1 prima facie evidence of its contents. After service and
 2 publication of ~~such~~ THE notice, the board of county road com-
 3 missioners shall have ~~sole and~~ exclusive jurisdiction and con-
 4 trol of ~~such~~ THE road ~~so~~ embraced within ~~such~~ THE determi-
 5 nation, and the ~~township or~~ municipality within which the
 6 ~~same~~ ROAD is situated shall be relieved from all responsibility
 7 therefor. Immediately after laying out or taking control of a
 8 road ~~said~~ THE board shall give the ~~same~~ ROAD a name and the
 9 board may thereafter change the name of ~~said~~ THE road if
 10 ~~deemed~~ CONSIDERED necessary by ~~said~~ THE board in order to
 11 conform to a general plan or avoid confusion or duplication. The
 12 name ~~so~~ given by ~~said~~ THE board to any road under its juris-
 13 diction, either originally or in case of a change as provided for
 14 in this section, shall thereafter be the official name by which
 15 ~~said~~ THE road shall be known. ~~Said~~

16 (2) THE board ~~is~~ also ~~empowered to~~ MAY enter into agree-
 17 ments with the board of county road commissioners in any adjoin-
 18 ing county with reference to the laying out, maintenance,
 19 construction, and improvement of inter-county roads. ~~the~~
 20 ~~undertaking~~ THE DECISION of each ~~such~~ board ~~becoming~~ TO
 21 BECOME a party to ~~any~~ such AN agreement ~~being~~ IS limited to
 22 the construction, improvement, or maintenance of the portion of
 23 the road subject to the jurisdiction of ~~such~~ THAT board.

24 (3) The board of county road commissioners of any county
 25 which has adopted the county road system, ~~is hereby authorized~~
 26 ~~and empowered to,~~ at any time, MAY either relinquish
 27 jurisdiction of or absolutely abandon and discontinue any county

1 road, or any part ~~thereof~~ OF A COUNTY ROAD, by a resolution
2 adopted by a majority vote. The vote of the county road commis-
3 sioners in respect to either ~~such~~ relinquishment of jurisdic-
4 tion or absolute abandonment and discontinuance shall be taken
5 and entered, and notice ~~thereof be~~ given, in the same manner as
6 required in this section ~~,~~ in cases in which county roads are
7 adopted. After proceedings to relinquish jurisdiction have been
8 had, the jurisdiction and control of ~~such~~ THE road, or part
9 ~~thereof~~ OF THE ROAD, EXCEPT AS OTHERWISE PROVIDED IN THIS
10 SECTION, shall revert to the township or municipality within
11 which the ~~same~~ ROAD is situated, and the county shall be
12 relieved of the responsibility ~~therefor~~ FOR THE ROAD. After
13 proceedings to absolutely abandon and discontinue, ~~have been~~
14 ~~had, such~~ THE road or part ~~thereof~~ 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. ~~Said~~ SUBJECT TO SUBSECTION (8), THE board, ~~shall,~~ at
18 the time of the passage of ~~any~~ A resolution to absolutely aban-
19 don and discontinue any portion of ~~any~~ A highway under its
20 jurisdiction, SHALL determine in ~~said~~ THE resolution that it is
21 to the best interests of the public that ~~said~~ THE highway or
22 portion ~~thereof shall~~ OF THE HIGHWAY be absolutely abandoned
23 and discontinued. ~~Said~~ THE board shall cause a true copy of
24 every resolution or other proceeding ~~,~~ containing an accurate
25 description of the lands comprising the highway or portion
26 ~~thereof which~~ OF THE HIGHWAY THAT has been absolutely abandoned
27 and discontinued ~~thereby,~~ to be recorded in the office of the

1 register of deeds for the county ~~wherein~~ WHERE the lands are
2 situated. ~~Provided, That the said~~

3 (4) THE board of county road commissioners shall not abso-
4 lutely abandon and discontinue any highway, or part of A highway,
5 ~~upon or along which there shall be any building of any~~
6 ~~character,~~ except as hereinafter provided, upon the written
7 petition of 7 or more freeholders of the township in which ~~said~~
8 THE road is sought to be absolutely abandoned and discontinued.
9 ~~Said~~ THE petition for absolutely abandoning and discontinuing
10 ~~said~~ A highway shall describe ~~said~~ THE road in general terms
11 or by any name by which it is known, and if the absolute abandon-
12 ment and discontinuance of only a portion of ~~any~~ A road is
13 asked for, ~~such~~ THAT portion shall be specified. ~~Such~~ THE
14 petition shall be accompanied by a true and correct list of the
15 names and mailing addresses of the occupants of each parcel of
16 land abutting the highway, or portion ~~thereof~~ OF THE HIGHWAY,
17 sought to be absolutely abandoned and discontinued, which list
18 shall be certified to under oath by 1 of the persons making or
19 presenting ~~such~~ THE petition.

20 (5) ~~Whenever such~~ IF A petition for absolute abandonment
21 and discontinuance of ~~said~~ A road or portion ~~thereof, shall~~
22 ~~contain~~ OF A ROAD CONTAINS the signatures of all of the owners
23 of record and occupants of land abutting thereon, as ascertained
24 from the records in the office of the register of deeds and the
25 certified list ~~above~~ provided for IN SUBSECTION (4), the board
26 of county road commissioners shall, within 20 days after
27 receiving the ~~same~~ PETITION, SUBJECT TO SUBSECTION (8),

1 determine the advisability of ~~such~~ THE abandonment and
2 discontinuance and either grant or deny ~~said~~ THE petition with-
3 out further proceedings. ~~thereon.~~ In all other cases ~~said~~ THE
4 board shall, within 20 days after receiving ~~such~~ A petition,
5 issue a written notice stating the object of ~~such~~ THE petition
6 and appointing a time and place of hearing, which notice shall be
7 served on the owners of record and occupants of lands through or
8 adjoining which it is proposed to absolutely abandon and discon-
9 tinue ~~such~~ THE road, by mailing a copy ~~thereof~~ OF THE NOTICE
10 by first-class mail to the residence of each owner of record or
11 occupant at his OR HER last known address ~~,~~ at least ~~10~~ 30
12 days before the time of hearing. ~~,~~ ~~and if~~ THE BOARD SHALL ALSO
13 NOTIFY THE TOWNSHIP OR MUNICIPALITY WITHIN WHICH THE ROAD IS SIT-
14 UATED, THE STATE TRANSPORTATION DEPARTMENT, AND THE DEPARTMENT OF
15 NATURAL RESOURCES IF THE ACTION CONCERNS ANY COUNTY ROAD OR POR-
16 TION OF A COUNTY ROAD THAT BORDERS ON, CROSSES, IS ADJACENT TO,
17 OR ENDS AT A LAKE OR THE GENERAL COURSE OF A STREAM AND THE PRO-
18 POSED ACTION WOULD RESULT IN THE LOSS OF PUBLIC ACCESS. IF the
19 owner ~~shall~~ DOES not reside upon ~~such lands and/or~~ THE LAND
20 OR the owner of record or occupant ~~thereof~~ cannot be found
21 within the county in which ~~said lands are~~ THE LAND IS situated,
22 the notice to the owner of record or occupant of ~~such lands~~ THE
23 LAND shall be served by posting ~~up the same~~ in 3 public places
24 in the township in which ~~said~~ THE road is situated, and by
25 ~~publishing the same~~ PUBLICATION in a newspaper circulated
26 within the county, ~~10~~ 30 days before the time of hearing.
27 Notice shall be served upon railroad companies by leaving a copy

1 ~~thereof~~ with the agent in charge of any ticket or freight
2 office of the company operating ~~such~~ THE railroad, on the line
3 thereof. THE DEPARTMENT OF NATURAL RESOURCES AND THE TOWNSHIP OR
4 MUNICIPALITY WITHIN WHICH THE ROAD IS SITUATED SHALL REVIEW THE
5 PETITION AND DETERMINE WITHIN 30 DAYS WHETHER THE PROPERTY SHOULD
6 BE RETAINED AS A PUBLIC ACCESS SITE. THE DEPARTMENT OF NATURAL
7 RESOURCES SHALL HAVE FIRST PRIORITY TO RETAIN THE PROPERTY AS A
8 PUBLIC ACCESS SITE.

9 (6) Upon the service of the notice required ~~by the last~~
10 ~~preceding paragraph~~ IN SUBSECTION (5), and before any further
11 proceedings ~~shall be had~~ ARE HELD, the person by whom the serv-
12 ice was made shall make and annex to ~~such~~ THE notice, or a copy
13 ~~thereof~~ OF THE NOTICE, an affidavit stating the time and manner
14 of service, which shall be by first-class mail, and by posting
15 and advertising. ~~, and if~~ IN ADDITION, IF SERVICE IS upon a
16 railroad company, the ~~fact of such service and upon whom, and~~
17 ~~such~~ AFFIDAVIT SHALL SO STATE AND SHALL SPECIFY THE AGENT UPON
18 WHOM SERVICE WAS MADE. THE notice and affidavit, together with
19 an affidavit of publication if ~~such~~ THE notice was published,
20 shall be attached to the petition, and the whole shall be present
21 at the time of the hearing upon the petition. The board of
22 county road commissioners may designate, as hearing examiner, an
23 employee to hold the hearing upon the petition. After the hear-
24 ing, the examiner shall report all findings of fact to the
25 board.

26 (7) The board of county road commissioners or the
27 superintendent or engineer employed by ~~said~~ THE board shall

1 proceed to view the premises described in the petition and
2 notice, and the board shall ascertain the necessity or advisabil-
3 ity of absolutely abandoning and discontinuing the highway pursu-
4 ant to ~~such~~ THE petition.

5 (8) IF THE BOARD OF COUNTY ROAD COMMISSIONERS DETERMINES
6 PURSUANT TO THIS SECTION TO RELINQUISH CONTROL, DISCONTINUE,
7 ABANDON, OR VACATE ANY COUNTY ROAD OR PORTION OF A COUNTY ROAD
8 THAT BORDERS ON, CROSSES, IS ADJACENT TO, OR ENDS AT A LAKE OR
9 THE GENERAL COURSE OF A STREAM AND THE DEPARTMENT OF NATURAL
10 RESOURCES DECIDES TO MAINTAIN THE ROAD AS A PUBLIC ACCESS SITE,
11 IT SHALL CONVEY BY QUITCLAIM DEED OR RELINQUISH JURISDICTION OVER
12 THE PROPERTY IF THE INTEREST IS NONTRANSFERABLE TO THE STATE.
13 THE PROPERTY SHALL BE UNDER THE JURISDICTION OF THE DEPARTMENT OF
14 NATURAL RESOURCES. THE STATE MAY RETAIN TITLE TO THE PROPERTY,
15 TRANSFER TITLE TO A LOCAL UNIT OF GOVERNMENT, OR DEED THE PROP-
16 ERTY TO THE ADJACENT PROPERTY OWNERS. IF THE STATE HAS PURCHASED
17 THE PROPERTY WITH RESTRICTED FUND REVENUE, MONEY OBTAINED FROM
18 SALE OF THE PROPERTY SHALL BE RETURNED TO THAT RESTRICTED FUND.
19 THE LOCAL UNIT OF GOVERNMENT SHALL EITHER MAINTAIN THE PROPERTY
20 AS A SITE OF PUBLIC ACCESS OR ALLOW IT TO REVERT TO THE ADJOINING
21 LANDOWNERS.

22 (9) Within 30 days after final determination upon the peti-
23 tion for absolutely abandoning and discontinuing ~~any~~ A highway,
24 ~~as hereinbefore provided,~~ the ~~said~~ board of county road com-
25 missioners shall file with the state ~~highway commissioner~~
26 TRANSPORTATION COMMISSION a full record and return of their
27 ~~doings~~ PROCEEDINGS. A DETERMINATION BY THE BOARD OF COUNTY

1 ROAD COMMISSIONERS UNDER THIS SECTION IS BINDING FOR PURPOSES OF
2 ACT NO. 341 OF THE PUBLIC ACTS OF 1927, BEING SECTIONS 247.41 TO
3 247.46 OF THE MICHIGAN COMPILED LAWS.

4 (10) The board of county road commissioners may reserve an
5 easement for public utility purposes within the right-of-way of
6 any road absolutely abandoned and discontinued under this section
7 and may, by resolution, extinguish any easement so reserved when-
8 ever ~~such~~ THE easement ceases to be used for public utility
9 purposes.