

[No. 342]

(HB 5940)

AN ACT 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:

224.18 State reward; map; conversion; determination; notice; official name; intercounty roads; abandonment; discontinuance of jurisdiction; petition; list of occupants on abutting land; hearing; property as site of public access; determination as binding; easement; operation and maintenance of property; effect of noncompliance with subsection (12); reopening road ending; closure; initiation of proceedings. [M.S.A. 9.118]

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 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 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 cities, village or villages. If a street is taken over and improved as a county road, city and village authorities may further improve the road by surfacing it outside the portion constructed by the county and by the addition of gutters, curbs, sidewalks, and other improvements, may provide for the care and maintenance of the improvements, and may levy and collect taxes for the improvements. The vote of the county road commissioners in respect to the determination shall be taken by yeas and nays, and shall be entered at large on the records of the board of county road commissioners. Notice of the determination shall be immediately given by the clerk to the highway authorities of each city or village in which the road or any part of the road is situated, and published in a newspaper of general circulation in the county, once in each week for 3 successive weeks. Proof of service and publication may be made by affidavit by any person knowing the facts and filed with the clerk. The affidavit or the record thereof or certified copy of the affidavit or record shall be prima facie evidence of its contents. After service and publication of the notice, the board of county road commissioners shall have exclusive jurisdiction and control of the road embraced within the determination, and the municipality within which the road is situated shall be relieved from all responsibility for the road. Immediately after laying out or taking control of a road the board shall give the road a name. The board may change the name of the road if it determines that a name change is necessary in order to conform to a general plan or avoid confusion or duplication. The name given by the board to any road under its jurisdiction,

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either originally or in case of a change as provided for in this section, is the official name by which the road shall be known.

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

(3) The board of county road commissioners of any county that has adopted the county road system, at any time, may either relinquish jurisdiction of or absolutely abandon and discontinue any county road, or any part of a county road, by a resolution adopted by a majority vote. The vote of the county road commissioners in respect to either relinquishment of jurisdiction or absolute abandonment and discontinuance shall be taken and entered, and notice given, in the same manner as required in this section in cases in which county roads are adopted. After proceedings to relinquish jurisdiction have been had, the jurisdiction and control of the road, or part of the road, except as otherwise provided in this section, shall revert to the municipality within which the road is situated, and the county shall be relieved of the responsibility for the road. After proceedings to abandon absolutely and discontinue, the road or part of the road shall cease to exist as a public highway unless the unit of government that acquires the property or control of the property permits use as a public highway. Subject to subsection (8), the board, at the time of the passage of a resolution to abandon absolutely and discontinue any portion of a highway under its jurisdiction, shall determine in the resolution that it is in the best interests of the public that the highway or portion of the highway be absolutely abandoned and discontinued. The board shall cause a true copy of every resolution or other proceeding containing an accurate description of the lands comprising the highway or portion of the highway that has been absolutely abandoned and discontinued to be recorded in the office of the register of deeds for the county where the lands are situated.

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

(5) If a petition for absolute abandonment and discontinuance of a road or portion of a road contains the signatures of all of the owners of record and occupants of land abutting the road, as ascertained from the records in the office of the register of deeds and the certified list provided for in subsection (4), the board of county road commissioners shall, within 20 days after receiving the petition, subject to subsection (8), determine the advisability of the abandonment and discontinuance and either grant or deny the petition without further proceedings. In all other cases the board shall, within 20 days after receiving a petition, issue a written notice stating the object of the petition and appointing a time and place of hearing, which notice shall be served on the township board of the township in which the road is situated and on the owners of record and occupants of lands through or adjoining which it is proposed to absolutely abandon and discontinue the road, by mailing a copy of the notice by first-class mail to the township board of the township

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in which the road is situated and to the residence of each owner of record or occupant at his or her last known address at least 30 days before the time of hearing. The township board of the township in which the road is situated shall have first priority to retain the property or portion of the property. The board shall also notify the township or municipality within which the road is situated, the state transportation department, and the department of natural resources if the action concerns any county road or portion of a county road that borders on, crosses, is adjacent to, or ends at a lake or the general course of a stream and the proposed action would result in the loss of public access. If the owner does not reside upon the land or the owner of record or occupant cannot be found within the county in which the land is situated, the notice to the owner of record or occupant of the land shall be served by posting in 3 public places in the township in which the road is situated, and by publication in a newspaper circulated within the county, 30 days before the time of hearing. Notice shall be served upon railroad companies by leaving a copy with the agent in charge of any ticket or freight office of the company operating the railroad, on the railroad line. The department of natural resources and the township or municipality within which the road is situated shall review the petition and determine within 30 days whether the property should be retained as an ingress and egress point. If the road is situated in a township, the township shall have first priority and the department of natural resources shall have second priority to retain the property as an ingress and egress point. If the road is not situated in a township, the department of natural resources shall have first priority to retain the property as an ingress and egress point.

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

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

(8) Subject to subsection (5), if the board of county road commissioners determines pursuant to this section to relinquish control, discontinue, abandon, or vacate any county road or portion of a county road that borders on, crosses, is adjacent to, or ends at a lake or the general course of a stream and the township, if applicable, or the department of natural resources decides to maintain the road as a public access site, it shall convey by quitclaim deed or relinquish jurisdiction over the property if the interest is nontransferable to the township or the state. If the township obtains the property or jurisdiction over the property as an ingress and egress point and later proposes to transfer the property or jurisdiction over the property, it shall give the department of natural resources first priority to obtain the property or jurisdiction over the property. If the state obtains the property or jurisdiction over the property under this subsection, the property shall be under the jurisdiction of the department of natural resources. The state may retain title to the property, transfer title to a local unit of government, or deed the property to the adjacent property owners. If the state has purchased the property with restricted fund revenue, money obtained from sale of the property shall be returned to

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that restricted fund. The local unit of government shall either maintain the property as a site of public access or allow it to revert to the adjoining landowners.

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

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

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

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

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

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

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

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

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

(18) After a road ending is closed by the circuit court under subsection (16), 1 or more of the adjacent landowners may petition the circuit court to order the local unit or this state to convey any interest in the property that the local unit or this state holds to the

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adjacent landowners, or, if the interest is nontransferable, to relinquish control over the property to the adjacent landowners.

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

This act is ordered to take immediate effect.

Approved December 27, 2000.

Filed with Secretary of State December 27, 2000.
