

HOUSE BILL No. 4564

March 24, 2005, Introduced by Rep. Garfield and referred to the Committee on Transportation.

A bill to amend 1969 PA 296, entitled

"An act to provide for the transfer of jurisdiction over highways; to provide for the final determination of disputes involving transfers of highway jurisdiction; and to supersede certain acts and parts of acts,"

by amending sections 1 and 5 (MCL 247.851 and 247.855), section 5 as amended by 1980 PA 12, and by adding section 3a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Highway authority" means the state highway commission, a
3 board of county road commissioners, or the governing body of a city
4 or village.

5 (b) "Highway" means a highway, road, or street.

6 (c) "Board" means the highway jurisdiction determination

1 board.

2 (D) "COUNTY ROAD COMMISSION" MEANS THE BOARD OF COUNTY ROAD
3 COMMISSIONERS ELECTED OR APPOINTED PURSUANT TO SECTION 6 OF CHAPTER
4 IV OF 1909 PA 283, MCL 224.6, OR, IN THE CASE OF A CHARTER COUNTY
5 WITH A POPULATION OF 2,000,000 OR MORE WITH AN ELECTED COUNTY
6 EXECUTIVE THAT DOES NOT HAVE A BOARD OF COUNTY ROAD COMMISSIONERS,
7 THE COUNTY EXECUTIVE FOR MINISTERIAL FUNCTIONS AND THE COUNTY
8 COMMISSION PROVIDED FOR IN SECTION 14(1)(D) OF 1966 PA 293, MCL
9 45.514, FOR LEGISLATIVE FUNCTIONS.

10 SEC. 3A. (1) IN A COUNTY WITH A POPULATION OVER 1,000,000, THE
11 COUNTY BOARD OF COMMISSIONERS MAY REQUEST THAT THE GOVERNING BODY
12 OF A CITY OR VILLAGE WITHIN THAT COUNTY TRANSFER JURISDICTION OF A
13 ROAD THAT WAS ONCE UNDER THE JURISDICTION OF THE BOARD OF COUNTY
14 ROAD COMMISSIONERS BACK TO THE BOARD OF COUNTY ROAD COMMISSIONERS
15 IF THE COUNTY BOARD OF COMMISSIONERS MAKES ALL OF THE FOLLOWING
16 FINDINGS:

17 (A) THE ROAD HAS BEEN BLOCKED OR CLOSED FOR MORE THAN 6 MONTHS
18 AND THE CITY OR VILLAGE CANNOT DEMONSTRATE A COMPELLING NEED FOR
19 BLOCKING OR CLOSING THE ROAD. THE FACT THAT A CITY OR VILLAGE HAS
20 JURISDICTION OVER THE ROAD AT THE TIME OF THE REQUEST OF THE COUNTY
21 BOARD OF COMMISSIONERS DOES NOT DEMONSTRATE A COMPELLING NEED FOR
22 BLOCKING OR CLOSING THE ROAD.

23 (B) FOR PURPOSES OF HEALTH, SAFETY, AND WELFARE, THE ROAD
24 SHOULD NOT BE BLOCKED.

25 (C) THE ROAD IS USED TO SERVE MORE THAN 1 CITY OR VILLAGE
26 WITHIN THE COUNTY.

27 (2) THE REQUEST OF THE COUNTY BOARD OF COMMISSIONERS FOR A

1 TRANSFER OF JURISDICTION UNDER SUBSECTION (1) SHALL BE MADE IN
2 WRITING AND ADDRESSED TO THE GOVERNING BODY OF THE CITY OR VILLAGE
3 THAT HAS JURISDICTION OVER THE ROAD.

4 (3) IF WITHIN 30 DAYS AFTER A WRITTEN REQUEST IS RECEIVED BY A
5 GOVERNING BODY OF THE CITY OR VILLAGE UNDER SUBSECTION (1) THE
6 GOVERNING BODY OF A CITY OR VILLAGE DOES NOT CONSENT TO TRANSFER
7 JURISDICTION OF THE ROAD OR DOES NOT DEMONSTRATE A COMPELLING NEED
8 FOR BLOCKING THE ROAD, THE COUNTY BOARD OF COMMISSIONERS MAY
9 INITIATE PROCEEDINGS TO TRANSFER JURISDICTION OF THE ROAD BACK TO
10 THE COUNTY BOARD OF ROAD COMMISSIONERS UNDER THIS ACT.

11 Sec. 5. (1) The business ~~which~~ **THAT** the board may perform
12 shall be conducted at a public meeting of the board held in
13 compliance with ~~Act No. 267 of the Public Acts of 1976, as~~
14 ~~amended, being sections 15.261 to 15.275 of the Michigan Compiled~~
15 ~~Laws~~ **THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.**
16 Public notice of the time, date, and place of the meeting shall be
17 given in the manner required by ~~Act No. 267 of the Public Acts of~~
18 ~~1976, as amended~~ **THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO**
19 **15.275.** The chairperson of the board shall immediately fix a date
20 and place for convening the board to hear the testimony of the
21 parties to the proposed transfer of highway jurisdiction and shall
22 notify the parties. The date selected shall be not more than 30
23 days after selection of the chairperson.

24 (2) The board shall convene on the date and at the place fixed
25 by the chairperson and shall hear testimony and receive evidence
26 from the parties to the proposed transfer of highway jurisdiction,
27 from local and regional planning bodies if appropriate and from

1 other sources who desire to appear or present testimony. The board
2 may reconvene at times and places as determined by the chairperson,
3 in compliance with ~~Act No. 267 of the Public Acts of 1976, as~~
4 ~~amended~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.
5 IN A PROCEEDING INITIATED UNDER SECTION 3A, IF THE PARTY REQUESTING
6 TRANSFER DEMONSTRATES TO THE BOARD'S SATISFACTION THE FINDING
7 REQUIRED UNDER SECTION 3A(1)(A), THEN THE PARTY OPPOSING TRANSFER
8 MAY REBUT THE DEMONSTRATION BY REBUTTING THE DEMONSTRATION OF THE
9 PARTY REQUESTING TRANSFER CONCERNING THE FINDING REQUIRED UNDER
10 SECTION 3A(1)(A) AND BY DEMONSTRATING TO THE BOARD'S SATISFACTION
11 THAT THE FINDINGS REQUIRED UNDER SECTION 3A(1)(B) AND (C) HAVE NOT
12 BEEN SATISFIED. THE BOARD SHALL RENDER A DECISION IN FAVOR OF THE
13 PARTY REQUESTING TRANSFER IF THE PARTY OPPOSING TRANSFER IS UNABLE
14 TO REBUT THE DEMONSTRATION OF THE PARTY REQUESTING TRANSFER UNDER
15 SECTION 3A(1)(A) OR IS UNABLE TO DEMONSTRATE THAT THE FINDINGS
16 REQUIRED UNDER SECTION 3A(1)(B) AND (C) HAVE NOT BEEN SATISFIED.
17 Two members ~~shall~~ constitute a quorum and the affirmative vote of
18 2 members is necessary for a final determination of the dispute. If
19 a member of the board becomes unable to perform the member's duties
20 as a board member, a new member shall be selected as prescribed in
21 this act.