

# SENATE BILL NO. 39

January 26, 2021, Introduced by Senator VICTORY 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 21 (MCL 224.21), as amended by 1996 PA 23.

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

1           Sec. 21. (1) A board of county road commissioners shall not  
2 contract indebtedness for an amount in excess of the money credited  
3 to the board and received by the county treasurer. However, the  
4 board may incur liability to complete roads under construction and  
5 upon contracts, after a tax is voted, to an amount not exceeding  
6  $\frac{3}{4}$  of the tax.

7           (2) ~~A-Subject to sections 81131 and 82124 of the natural~~  
8 ~~resources and environmental protection act, 1994 PA 451, MCL~~  
9 ~~324.81131 and 324.82124, a county road commission or, if there is~~  
10 ~~no county road commission for the county, a county shall keep in~~  
11 ~~reasonable repair, so that they are reasonably safe and convenient~~  
12 ~~for public travel, all highways that are within the county roads,~~  
13 ~~bridges, and culverts that are within the road commission's or~~  
14 ~~county's jurisdiction, are under its care and control, and are open~~  
15 ~~to public travel. The provisions of law respecting the liability of~~  
16 ~~townships, cities, villages, and corporations for damages for~~  
17 ~~injuries resulting from a failure in the performance of the same~~  
18 ~~duty respecting roads under their control apply to counties~~  
19 ~~adopting the county road system. This subsection is subject to~~  
20 ~~section 82124 of part 821 (snowmobiles) of the natural resources~~  
21 ~~and environmental protection act, Act No. 451 of the Public Acts of~~  
22 ~~1994, being section 321.82124 of the Michigan Compiled Laws, and~~  
23 ~~section 81131 of part 811 (off-road recreation vehicles) of Act No.~~  
24 ~~451 of the Public Acts of 1994, being section 324.81131 of the~~  
25 ~~Michigan Compiled Laws.~~

26           (3) ~~An action arising under subsection (2) shall be brought~~  
27 ~~against the board of county road commissioners of the county and~~

~~1 service shall be made upon the clerk and upon the chairperson of~~  
~~2 the board. The board shall be named in the process as the "board of~~  
~~3 county road commissioners of the county of~~  
~~4 .....~~". Any judgment obtained against the board  
~~5 of county road commissioners in the action shall be audited and~~  
~~6 paid from the county road fund as are other claims against the~~  
~~7 board of county road commissioners. However, a board of county road~~  
~~8 commissioners is not liable for damages to person or property~~  
~~9 sustained by a person upon a county road because of a defective~~  
~~10 county road, bridge, or culvert under the jurisdiction of the board~~  
~~11 of county road commissioners, unless the person serves or causes to~~  
~~12 be served within 60 days after the occurrence of the injury a~~  
~~13 notice in writing upon the clerk and upon the chairperson of the~~  
~~14 board of county road commissioners. The notice shall set forth~~  
~~15 substantially the time when and place where the injury took place,~~  
~~16 the manner in which it occurred, the known extent of the injury,~~  
~~17 the names of any witnesses to the accident, and that the person~~  
~~18 receiving the injury intends to hold the county liable for damages.~~  
~~19 This section applies to all county roads whether they become county~~  
~~20 roads under this chapter or under Act No. 59 of the Public Acts of~~  
~~21 1915, being sections 247.418 to 247.481 of the Michigan Compiled~~  
~~22 Laws.~~**The liability of a county road commission or a county for**  
~~23 failure to comply with subsection (2) and the procedure and~~  
~~24 remedies in an action against the county road commission or county~~  
~~25 are as provided in 1964 PA 170, MCL 691.1401 to 691.1419.~~

~~26 Enacting section 1. This amendatory act takes effect 90 days~~  
~~27 after the date it is enacted into law.~~

~~28 Enacting section 2. This amendatory act does not take effect~~  
~~29 unless Senate Bill No. 43 of the 101st Legislature is enacted into~~

**1** law.