



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 145 (as passed by the Senate)
Sponsor: Senator Michael D. Bishop
Committee: Transportation

Date Completed: 4-30-04

RATIONALE

Tienken Road connects the Cities of Rochester Hills and Auburn Hills in Oakland County. Approximately 14 years ago, in response to a petition initiated by a resident who lived on the Auburn Hills part of the road, jurisdiction over the road was transferred from Oakland County to the City of Auburn Hills, which blocked the road with a dirt barricade. According to the resident who initiated the petition, he and his neighbors believed that heavy truck traffic on the road posed a safety threat. Over the years, the dirt barricade has become a park along the border between the two cities, but lies entirely in Auburn Hills. Rochester Hills officials claim that the barricade poses an inconvenience to motorists and interferes with law enforcement and emergency response operations; however, they have no control over the road closing. Some people believe the State should establish a process to resolve this and similar disputes.

CONTENT

The bill would amend Public Act 296 of 1969, which governs the transfer of jurisdiction over highways, to allow a county board of commissioners to initiate a process transferring a city or village road, previously under the jurisdiction of the county, back to the county. The road being transferred would have to serve more than one city or village and have been blocked or closed for more than six months.

Under the bill, in a county with a population over 1 million, the county board of commissioners could request that the governing body of a city or village within the

county transfer to the board of county road commissioners jurisdiction of a road that was once under the jurisdiction of that board, if the county board of commissioners made all of the following findings:

- The road had been blocked or closed for more than six months and the city or village could not demonstrate a compelling need for blocking or closing the road. (The bill specifies that the fact that a city or village had jurisdiction over the road at the time of the request would not demonstrate a compelling need.)
- For purposes of health, safety, and welfare, the road should not be blocked.
- The road was used to serve more than one city or village within the county.

The request of the county board of commissioners would have to be made in writing and addressed to the governing body of the city or village that had jurisdiction over the road.

If, within 30 days after receiving the request, the city or village governing body did not consent to transfer jurisdiction of the road or did not demonstrate a compelling need for blocking the road, the county board of commissioners could initiate proceedings under the Act to transfer jurisdiction of the road back to the county board of road commissioners.

Under the Act, if a party does not consent to a transfer of jurisdiction, a highway jurisdiction determination board must convene and hear testimony and receive evidence from the parties to the proposed transfer, from local and regional planning

bodies, if appropriate, and from other sources who desire to appear or present testimony. (The highway authority (the State Highway Commission, a board of county road commissioners, or the governing body of a city or village) proposing the transfer, and the nonconsenting highway authority, each must appoint one member to the determination board. The two appointees then select a third board member from names submitted by the American Arbitration Association.) Under the bill, in a proceeding initiated by a county board of commissioners as described above, if the county demonstrated to the board's satisfaction that the city or village had no compelling need to close or block the road, the city or village could rebut that demonstration, and demonstrate to the board's satisfaction that the other two findings had not been satisfied. The board would have to render a decision in favor of the county if the city or village could not rebut the demonstration that there was no compelling need to block the road, or could not demonstrate that the other required findings had not been satisfied.

(The bill would define "county road commission" as the board of county road commissioners, or, in the case of a charter county with a population of at least 2 million with an elected county executive that did not have a board of county road commissioners (i.e., Wayne County), the county executive for ministerial functions and, for legislative functions, the county commission provided for in Section 14(1)(d) of Public Act 293 of 1966. Under that section, in a charter county with a population of at least 1.5 million, responsibility for the determination of the expenditure of funds for road construction and maintenance, and for carrying out the powers and duties pertaining to a county road system must be vested in a three-member commission, appointed by either the elected county executive or the chief administrative officer.)

MCL 247.855 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Rochester Hills and Auburn Hills have been trying to resolve the Tienken Road issue for the last 14 years. The bill would establish a fair process for resolving this and other longstanding road jurisdiction issues that affect more than one community. Under the bill, the city opposing a county's request to transfer jurisdiction would have the burden of demonstrating that the road closure was not arbitrary, and a neutral board would make the decision.

Currently, the City of Auburn Hills has the right to reject incoming traffic from Rochester Hills without regard to the inconvenience it causes motorists, implications for long-term planning decisions made before the road was closed, or the ability of the police and fire departments to respond to emergencies.

The barricade has a significant impact on the emergency plans for the junior high school and the 2,400-pupil high school located nearby. After the shooting incident at Columbine High School, Public Act 102 of 1999 was enacted to require the development of a Statewide school safety information policy identifying incidents occurring at a school that must be reported to law enforcement agencies; and to require schools, prosecutors, and law enforcement to comply with the policy. Under the Act, a school board must provide detailed and accurate building plans, blueprints, and site plans for each school building to the appropriate local law enforcement agency.

According to a representative of the Oakland County Sheriff's Department, which provides primary police services for Rochester Hills, the Tienken Road barricade is a textbook example of the way a secondary road closure can create a public safety hazard. The barrier eliminates many options in maximizing the deployment of emergency response services, not just in cases of school violence, but also for events such as fires and chemical spills. If injured students needed to be evacuated from either of the schools, the most direct route to the two largest local hospitals would be blocked off.

As once-rural areas become more developed and the borders of municipalities expand outward, the potential for this type of conflict seems greater. The bill would

facilitate cooperation between municipalities, and contribute to a more regional approach to decision-making with regard to traffic issues. If the circumstances described in the bill existed elsewhere, the proposed procedures could be used to resolve similar disputes between different parties.

Opposing Argument

The bill would interfere with local control. Disputes such as the one over the Tienken Road closing should be resolved by the two affected parties. The bill, however, would introduce a third party (the county board of commissioners), which could initiate proceedings to transfer jurisdiction to a fourth party (the county board of road commissioners), essentially forcing cities to act against residents' wishes. In fact, the process under the bill would not be implemented unless the county, rather than either of the interested parties, requested a transfer of jurisdiction.

Reportedly, when the petition to close the road was initiated, Tienken Road residents from both cities signed it. There were only a few farmhouses on the road. Tienken was a dirt road at the time, and traffic consisted mostly of large trucks and buses. Because it offered no access to either I-75 or M-24, two major roadways nearby, it was not used frequently by commuters on their way to work. According to the resident who initiated the petition, the road closing was handled properly--there were two public hearings at which no opposition was expressed. The City of Auburn Hills simply responded to citizens' concerns about the safety and welfare of pedestrians, school children, and motorists. The blockade has grown into a neighborhood park, which residents from both sides of the road appreciate and enjoy.

Municipal planning offices are in the best position to decide what is in the best interest of the affected communities with regard to traffic and long-term planning. Rather than producing a compromise for the Tienken Road situation, the bill could result in one local government forcing another to open the road.

Although opening Tienken could alleviate some concerns about the effectiveness of school emergency plans, it would create other safety concerns by diverting traffic

into a neighborhood where many children walk to school. The minimum six-month closure required in the bill would allow a requesting party to ignore the longer history behind certain local decisions.

Response: Ideally, the Tienken Road dispute *should* have been resolved by the affected cities. After 14 years, however, perhaps the involvement of a third party is necessary. The two cities have been unable to reach a compromise. A hearing process would be a fair, responsible way to break the stalemate.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill could result in the transfer of Michigan Transportation Fund revenue between local units of government. The transfer of highway jurisdiction would have no net State or local fiscal impact. The amount of revenue transferred from one unit to another would be contingent on the Public Act 51 of 1951 formula governing the distribution of Michigan Transportation Fund among local units of government.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.