

SUBSTITUTE FOR  
SENATE BILL NO. 472

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 18 (MCL 224.18), as amended by 2000 PA 342.

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

1       Sec. 18. (1) If state reward is to be applied for, the  
2 board of county road commissioners shall file with the state  
3 transportation commission, for its approval, a map of the county  
4 showing the location of the proposed system of county roads.  
5 This proposed system may be changed if approved by the state  
6 transportation commission. All state rewarded roads ~~composing~~

1 ~~a- that are~~ part of this system shall be taken over as county  
2 roads by the board of county road commissioners. ~~and any~~ **A** road  
3 or part of a road previously laid out shall become a county road  
4 if the board of county road commissioners shall at any time ~~se~~  
5 ~~determine, and~~ **make a determination**, in passing through or on  
6 the line between townships or villages or cities any streets or  
7 parts of streets may be adopted as a county road, with the  
8 consent of the proper authorities of that city or cities, village  
9 or villages. If a street is taken over and improved as a county  
10 road, city and village authorities may further improve the road  
11 by surfacing it outside the portion constructed by the county,  
12 ~~and~~ by the addition of gutters, curbs, sidewalks, and other  
13 improvements, may provide for the care and maintenance of the  
14 improvements, and may levy and collect taxes for the  
15 improvements. The vote of the county road commissioners in  
16 respect to the determination shall be taken by yeas and nays, and  
17 shall be entered at large on the records of the board of county  
18 road commissioners. Notice of the determination shall be  
19 immediately given by the clerk to the highway authorities of each  
20 city or village in which the road or any part of the road is  
21 situated, and published in a newspaper of general circulation in  
22 the county, once in each week for 3 successive weeks. Proof of  
23 service and publication may be made by affidavit by any person  
24 knowing the facts and filed with the clerk. The affidavit, ~~or~~  
25 the record ~~thereof~~ **of the affidavit**, or a certified copy of the  
26 affidavit or record shall be prima facie evidence of its  
27 contents. After service and publication of the notice, the board

1 of county road commissioners shall have exclusive jurisdiction  
2 and control of the road embraced within the determination, and  
3 the municipality within which the road is situated shall be  
4 relieved from all responsibility for the road. Immediately after  
5 laying out or taking control of a road the board shall give the  
6 road a name. The board may change the name of the road if it  
7 determines that a name change is necessary in order to conform to  
8 a general plan or avoid confusion or duplication. The name given  
9 by the board to any road under its jurisdiction, either  
10 originally or in case of a change as provided for in this  
11 section, is the official name by which the road shall be known.

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

19 (3) The board of county road commissioners of any county that  
20 has adopted the county road system, at any time, may either  
21 relinquish jurisdiction of or absolutely abandon and discontinue  
22 any county road, or any part of a county road, by a resolution  
23 adopted by a majority vote. **The procedure for abandonment of a**  
24 **county road provided in this section is the exclusive procedure**  
25 **by which a road under the jurisdiction of a board of county road**  
26 **commissioners may be absolutely abandoned and discontinued. A**  
27 **board of county road commissioners has the exclusive jurisdiction**

1 to decide whether a road under its jurisdiction shall be  
2 absolutely abandoned and discontinued. This section abrogates  
3 application of the doctrine of common law abandonment that  
4 permits a road under the jurisdiction of a county road commission  
5 to be declared abandoned by reason of nonuse. The vote of the  
6 county road commissioners in respect to either relinquishment of  
7 jurisdiction or absolute abandonment and discontinuance shall be  
8 taken and entered, and notice given, in the same manner as  
9 required in this section in cases in which county roads are  
10 adopted. After proceedings to relinquish jurisdiction have been  
11 had, the jurisdiction and control of the road, or part of the  
12 road, except as otherwise provided in this section, shall revert  
13 to the municipality within which the road is situated, and the  
14 county shall be relieved of the responsibility for the road.  
15 After proceedings to abandon absolutely and discontinue, the road  
16 or part of the road shall cease to exist as a public highway  
17 unless the unit of government that acquires the property or  
18 control of the property permits use as a public highway. Subject  
19 to subsection (8), the board, at the time of the passage of a  
20 resolution to abandon absolutely and discontinue any portion of a  
21 highway under its jurisdiction, shall determine in the resolution  
22 that it is in the best interests of the public that the highway  
23 or portion of the highway be absolutely abandoned and  
24 discontinued. The board shall cause a true copy of every  
25 resolution or other proceeding containing an accurate description  
26 of the lands comprising the highway or portion of the highway  
27 that has been absolutely abandoned and discontinued to be

1 recorded in the office of the register of deeds for the county  
2 where the lands are situated.

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

18       (5) If a petition for absolute abandonment and discontinuance  
19 of a road or portion of a road contains the signatures of all of  
20 the owners of record and occupants of land abutting the road, as  
21 ascertained from the records in the office of the register of  
22 deeds and the certified list provided for in subsection (4), the  
23 board of county road commissioners shall, within 20 days after  
24 receiving the petition, subject to subsection (8), determine the  
25 advisability of the abandonment and discontinuance and either  
26 grant or deny the petition without further proceedings. In all  
27 other cases the board shall, within 20 days after receiving a

1 petition, issue a written notice stating the object of the  
2 petition and appointing a time and place of hearing, which notice  
3 shall be served on the township board of the township in which  
4 the road is situated and on the owners of record and occupants of  
5 lands through or adjoining which it is proposed to absolutely  
6 abandon and discontinue the road, by mailing a copy of the notice  
7 by first-class mail to the township board of the township in  
8 which the road is situated and to the residence of each owner of  
9 record or occupant at his or her last known address at least  
10 30 days before the time of hearing. The township board of the  
11 township in which the road is situated shall have first priority  
12 to retain the property or portion of the property. The board  
13 shall ~~also~~ notify the township or municipality within which the  
14 road is situated ~~—~~ **and** the state transportation department ~~—~~  
15 ~~and~~ **of the hearing. The board shall also notify** the department  
16 of natural resources if the action concerns any county road or  
17 portion of a county road that borders on, crosses, is adjacent  
18 to, or ends at a lake or the general course of a stream and the  
19 proposed action would result in the loss of public access. If  
20 the owner does not reside upon the land or the owner of record or  
21 occupant cannot be found within the county in which the land is  
22 situated, the notice to the owner of record or occupant of the  
23 land shall be served by posting in 3 public places in the  
24 township in which the road is situated, and by publication in a  
25 newspaper circulated within the county, 30 days before the time  
26 of hearing. Notice shall be served upon railroad companies by  
27 leaving a copy with the agent in charge of any ticket or freight

1 office of the company operating the railroad, on the railroad  
2 line. The department of natural resources and the township or  
3 municipality within which the road is situated shall review the  
4 petition and determine within 30 days whether the property should  
5 be retained as an ingress and egress point. If the road is  
6 situated in a township, the township shall have first priority  
7 and the department of natural resources shall have second  
8 priority to retain the property as an ingress and egress point.  
9 If the road is not situated in a township, the department of  
10 natural resources shall have first priority to retain the  
11 property as an ingress and egress point.

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

27 (7) The board of county road commissioners or the

1 superintendent or engineer employed by the board shall proceed to  
2 view the premises described in the petition and notice, and the  
3 board shall ascertain the necessity or advisability of absolutely  
4 abandoning and discontinuing the highway pursuant to the  
5 petition.

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



1 shall either maintain the property as a site of public access or  
2 allow it to revert to the adjoining landowners.

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

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

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

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

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

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

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

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

27       (17) After a road ending is closed under subsection (16), and

1 unless the property has been conveyed or relinquished to the  
2 adjacent landowners under subsection (18), the local unit or this  
3 state may petition the circuit court to reopen the road ending.  
4 The circuit court may order the road ending reopened if the local  
5 unit or this state presents a management plan to and posts a  
6 performance bond with the circuit court, and the circuit court  
7 finds that the management plan and performance bond are adequate  
8 to ensure compliance with subsection (12).

9       (18) After a road ending is closed by the circuit court under  
10 subsection (16), 1 or more of the adjacent landowners may  
11 petition the circuit court to order the local unit or this state  
12 to convey any interest in the property that the local unit or  
13 this state holds to the adjacent landowners, or, if the interest  
14 is nontransferable, to relinquish control over the property to  
15 the adjacent landowners.

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