

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senators Bishop, Gilbert, Goschka and Jelinek

ENROLLED SENATE BILL No. 145

AN ACT 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:

Sec. 1. As used in this act:

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

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

(c) "Board" means the highway jurisdiction determination board.

(d) "County road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 2,000,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions.

Sec. 3a. (1) In a county with a population over 1,000,000, the county board of commissioners may request that the governing body of a city or village within that county transfer jurisdiction of a road that was once under the jurisdiction of the board of county road commissioners back to the board of county road commissioners if the county board of commissioners makes all of the following findings:

(a) The road has been blocked or closed for more than 6 months and the city or village cannot demonstrate a compelling need for blocking or closing the road. The fact that a city or village has jurisdiction over the road at the time of the request of the county board of commissioners does not demonstrate a compelling need for blocking or closing the road.

(b) For purposes of health, safety, and welfare, the road should not be blocked.

(c) The road is used to serve more than 1 city or village within the county.

(2) The request of the county board of commissioners for a transfer of jurisdiction under subsection (1) shall be made in writing and addressed to the governing body of the city or village that has jurisdiction over the road.

(3) If within 30 days after a written request is received by a governing body of the city or village under subsection (1) the governing body of a city or village does not consent to transfer jurisdiction of the road or does not demonstrate a compelling need for blocking the road, the county board of commissioners may initiate proceedings to transfer jurisdiction of the road back to the county board of road commissioners under this act.

Sec. 5. (1) The business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The chairperson of the board shall immediately fix a date and place for convening the board to hear the testimony of the parties to the proposed transfer of highway jurisdiction and shall notify the parties. The date selected shall be not more than 30 days after selection of the chairperson.

(2) The board shall convene on the date and at the place fixed by the chairperson and shall hear testimony and receive evidence from the parties to the proposed transfer of highway jurisdiction, from local and regional planning bodies if appropriate and from other sources who desire to appear or present testimony. The board may reconvene at times and places as determined by the chairperson, in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. In a proceeding initiated under section 3a, if the party requesting transfer demonstrates to the board's satisfaction the finding required under section 3a(1)(a), then the party opposing transfer may rebut the demonstration by rebutting the demonstration of the party requesting transfer concerning the finding required under section 3a(1)(a) and by demonstrating to the board's satisfaction that the findings required under section 3a(1)(b) and (c) have not been satisfied. The board shall render a decision in favor of the party requesting transfer if the party opposing transfer is unable to rebut the demonstration of the party requesting transfer under section 3a(1)(a) or is unable to demonstrate that the findings required under section 3a(1)(b) and (c) have not been satisfied. Two members constitute a quorum and the affirmative vote of 2 members is necessary for a final determination of the dispute. If a member of the board becomes unable to perform the member's duties as a board member, a new member shall be selected as prescribed in this act.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor