TRANSFER OF JURISDICTION OVER HIGHWAYS
Act 296 of 1969

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.

History: 1969, Act 296, Eff. Mar. 20, 1970.

The People of the State of Michigan enact:

247.851 Transfer of jurisdiction over highways; definitions.

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.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.852 Transfer of jurisdiction; consent required; agreement, contents; effective date.

Sec. 2. The provisions of any law to the contrary notwithstanding, a highway may not not [sic] be transferred from the jurisdiction of the state to a county, city or village or from a county to a city or village without the consent of both parties, except as provided by this act. The consent shall be evidenced by a written agreement entered into after approval by resolution of each highway authority that is party to the agreement. The agreement shall identify the effective date of the transfer of jurisdiction, the limits and general description of the highway involved, the extent of improvements and other terms and conditions mutually agreed to. The agreement may be amended, superseded or voided by consent of both parties. If the proposed transfer of jurisdiction is dependent on the future opening of a new, relocated highway and a definite effective date cannot be ascertained and agreed to at the time the agreement is entered into, the transfer shall be effective upon the opening of the new highway unless otherwise provided in the agreement.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.853 Transfer of jurisdiction; non-consent, proceedings to determine question; time for granting.

Sec. 3. (1) If a highway authority does not consent to accept jurisdiction over a highway proposed for transfer, within 90 days after its consent is requested in writing, unless an extension of time is agreed to by both parties, the state or county highway authority proposing the transfer may initiate proceedings for final determination of the question of the transfer of highway jurisdiction in accordance with the provisions of this act.

(2) If the proposed transfer of jurisdiction is dependent upon the future opening of a new, relocated highway and approval of the new highway by both parties is required by law and the parties have not agreed to the transfer of jurisdiction as a condition of approval of the new highway, then the 90-day period shall not begin to run until the date that both parties approve the new highway.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.854 Determination board; membership appointment.

Sec. 4. (1) The highway authority proposing the transfer of highway jurisdiction shall appoint 1 member of the highway jurisdiction determination board and shall notify the nonconsenting highway authority of its selection in writing. The written notification shall be by certified mail and shall include, or have attached, a proposed date for transfer of jurisdiction and a description or map showing the highway in question and the reasons why the transfer is proposed.

(2) Within 30 days after receiving the notice, the nonconsenting highway authority shall appoint 1 member of the board and shall so notify by certified mail the other highway authority and both appointed board members. If the nonconsenting highway authority fails to appoint and notify, the transfer of jurisdiction over the highway shall be without consent and shall become effective on the proposed date as provided in the notice required by subsection (1).

(3) Within 10 days after receipt of the notice provided in subsection (2), the 2 appointed board members shall request the American arbitration association, or its successor in function, to furnish a list of 3 members of such association who are residents of this state from which the third member shall be selected. The member first appointed shall eliminate 1 name from the list within 5 days after publication of the list, and the other

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appointed member shall then eliminate 1 name from the list within 5 days thereafter. The person whose name remains on the list shall be the third member and shall serve as chairman of the board. The 2 appointed members jointly shall so notify the chairman.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.855 Board; conducting business at public meeting; notice of meeting; date and place of hearing; notice to parties; hearing testimony and receiving evidence; reconvening of board; quorum; vote required for final determination; inability of member to perform duties.

Sec. 5. (1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. 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 Act No. 267 of the Public Acts of 1976, as amended. Two members shall 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.

History: 1969, Act 296, Eff. Mar. 20, 1970;—Am. 1980, Act 12, Imd. Eff. Feb. 14, 1980.

247.856 Determination of board; factors.

Sec. 6. (1) In making its determination, the board shall take into consideration the level and character of service provided by the highway before transfer and that reasonably expected to be provided if the transfer were approved with the objective of assuring that the proper level and character of service shall be provided the affected community, the traveling public and the area served by the highway.

(2) The board shall take into consideration the latest standards and criteria on functional classification of highways available from the United States bureau of public roads, the latest standards and criteria for functional classification used in the continuing study of highway needs in this state, and other accepted and recognized criteria appropriate for use in determining the level and character of service, classification and jurisdiction of highways.

(3) The board shall also take into consideration appropriate state, regional and local transportation plans, development plans, master plans or other plans developed by official agencies.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.857 Final determination of board; time; notice; effect of denial; effective date.

Sec. 7. (1) Within 90 days after the first convening, the board shall make a final determination in writing on the transfer of jurisdiction of the highway and shall prescribe the terms and conditions for the transfer in accordance with section 8. The board shall so notify highway authorities that are parties to the dispute.

(2) If the transfer is denied, final determination proceedings shall not again be initiated with regard to the same highway for a period of 5 years from the date of the board's determination except that if the proposed transfer is related to the opening of a new relocated highway, final determination proceedings may be initiated again 1 year after the date of the board's determination.

(3) If the transfer is affirmed, the transfer shall be without consent and shall become effective at a time determined by the board in accordance with the following, unless another effective date is agreed to by both highway authorities:

(a) If the transfer is not related to the opening of a new, relocated highway, the transfer shall be effective not less than 1 year from the July 1 next following the date of the board's final determination or not less than 30 days following the completion of required improvements or payment of the cost of improvements, whichever is later.

(b) If the transfer is related to the opening of a new, relocated highway, the transfer shall be effective upon the opening of the new highway or following the completion of the improvements or payment of the cost of improvements on the highway being transferred, whichever is later, unless otherwise provided by agreement.

(4) The determination, terms and conditions as prescribed by the board shall be binding upon both highway

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authorities.

(5) At any time the parties, by written agreement, may amend or modify the determination, terms and conditions prescribed by the board.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.858 Determination of board; contents; transferor's duties; renovation, costs.

Sec. 8. (1) If the board's decision is to transfer jurisdiction of a highway, the board shall include in its determination a description of the renovation, repair or reconstruction work and the estimated cost necessary to bring the highway up to reasonable acceptable standards as determined in accordance with subsection (2).

(2) The highway authority from whose jurisdiction a highway is to be transferred shall be responsible for the renovation, repair or reconstruction of the transferred highway, where necessary, subject to the following conditions:

(a) If the transfer is not related to the opening of a new relocated highway, reasonable acceptable standards based upon existing traffic shall govern, except that a maximum of 5 lanes shall be provided unless the existing width is greater and if right-of-way is available. Lanes used exclusively for parking shall not be considered eligible as part of the renovation, repair or reconstruction.

(b) If the transfer is related to the opening of a new relocated highway, the renovation, repair or reconstruction, if necessary, shall provide a facility that will be relatively free of extraordinary maintenance for 5 years. Reasonable acceptable standards based upon traffic volumes estimated to exist at the time of the transfer shall be used to the extent practical and feasible. Lanes used exclusively for parking shall not be considered eligible as part of the rehabilitation work.

(c) The board shall determine the reasonable acceptable standards for the renovation, repair and reconstruction of the highway on the basis of the functional classification of the highway after transfer, the level of service and the rating of physical features applied to highways of similar classification retained by the transferring agency, or on the basis of other recognized functional classification rating methods.

(3) In lieu of undertaking the renovation, repair or reconstruction of a highway to be transferred pursuant to this act, the transferring highway authority may do 1 of the following, with the concurrence of the receiving highway authority:

(a) Pay the estimated cost of such work to the receiving highway authority in order that the work may be undertaken by it.

(b) Enter into a contract with the receiving highway authority for the receiving highway authority to perform the work and be reimbursed by the transferring highway authority. The contracts shall include such terms and conditions as agreed to and shall be subject to such approvals as may be required for other contracts of the highway authorities.

(4) The cost of renovation, repair or reconstruction of the highway shall be paid by the highway authority relinquishing jurisdiction except to the extent that the highway authority gaining jurisdiction is required to participate in such cost in accordance with the provisions of Act No. 51 of the Public Acts of 1951, as amended, being sections 247.651 to 247.673 of the Compiled Laws of 1948.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.859 Compensation and expenses of board; payment.

Sec. 9. The compensation and expenses of the board member appointed by the nonconsenting highway authority shall be paid by it. The compensation and expenses, if any, of the other board member and the chairman, and all stenographic and other expenses incurred by the board in connection with the determination proceedings, shall be paid by the highway authority that initiates the final determination proceedings.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.860 Transfers not subject to act.

Sec. 10. The provisions of this act shall not apply to the transfer of jurisdiction over county roads in unincorporated areas which become incorporated through annexation, incorporation or consolidation after the effective date of this act and which are transferred to the city or village jurisdiction within 1 year after the date of the annexation, incorporation or consolidation.

History: 1969, Act 296, Eff. Mar. 20, 1970.

247.861 Laws superseded; exception.

Sec. 11. The provisions for relinquishment of jurisdiction of a county road in section 18 of chapter 4 of Act No. 283 of the Public Acts of 1909, as amended, being section 224.18 of the Compiled Laws of 1948, and for abandonment of a state trunk line highway in section 4 of Act No. 12 of the Public Acts of 1925, being

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section 250.114 of the Compiled Laws of 1948, are superseded except as provided in section 10.

History: 1969, Act 296, Eff. Mar. 20, 1970.

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