



SENATE BILL No. 715

October 3, 1995, Introduced by Senators CARL, CHERRY, CISKY, NORTH, HART, BERRYMAN, YOUNG, O'BRIEN and STALLINGS and referred to the Committee on Transportation and Tourism.

A bill to amend the title and sections 1, 2, 3, 4, 5, and 6 of Act No. 341 of the Public Acts of 1927, entitled

"An act to prevent the abandonment, discontinuation or alteration of the course of any public highway which borders upon, or is adjacent to any lake, or to the general course of any stream, or the course of any portion of such a highway, or bordering upon a lake or general course of any stream, by the public authorities of any township, village or city, until after the approval thereof by the circuit court of the county in which said highway is situated; and to provide for a notice of application therefor, and a method of hearing in such court, and the method for review of orders made thereon,"

being sections 247.41, 247.42, 247.43, 247.44, 247.45, and 247.46 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Section 1. The title and sections 1, 2, 3, 4, 5, and 6 of
- 2 Act No. 341 of the Public Acts of 1927, being sections 247.41,
- 3 247.42, 247.43, 247.44, 247.45, and 247.46 of the Michigan
- 4 Compiled Laws, are amended to read as follows:

TITLE

1
 2 An act to prevent the abandonment, discontinuation,
 3 VACATION, or alteration of the course of any public highway which
 4 borders upon, or is adjacent to any lake, or to the general
 5 course of any stream, or the course of any portion of such a
 6 highway, or bordering upon a lake or general course of any
 7 stream, by the public authorities of any ~~township,~~ village or
 8 city, until after the approval thereof by the circuit court of
 9 the county in which said highway is situated; ~~and~~ to provide
 10 for a notice of application ~~therefor~~ FOR THAT PURPOSE, and a
 11 method of hearing in such court, and the method for review of
 12 orders made thereon; AND TO PRESCRIBE POWERS AND DUTIES OF CER-
 13 TAIN STATE AGENCIES.

14 Sec. 1. ~~No~~ A public highway ~~which~~ OR A PORTION OF A
 15 PUBLIC HIGHWAY THAT borders upon, ~~or~~ CROSSES, is adjacent to,
 16 ~~any~~ OR ENDS AT A lake, or the general course of ~~any~~ A stream,
 17 ~~or crosses any stream, nor any portion of such highway so bor-~~
 18 ~~dering upon a lake or general course of any stream,~~ shall NOT be
 19 ABANDONED, discontinued, VACATED, OR HAVE ITS COURSE ALTERED
 20 RESULTING IN A LOSS OF PUBLIC ACCESS by the order or action of
 21 ~~any~~ AN official or officials of ~~any township,~~ A city or
 22 ~~incorporated~~ village in this state, until an order authorizing
 23 the ~~same shall have been~~ ABANDONMENT, DISCONTINUATION, ALTER-
 24 ATION, OR VACATION IS made by the circuit court ~~of~~ FOR the
 25 county in which ~~such~~ THE highway is situated in the manner ~~as~~
 26 ~~hereinafter~~ provided IN THIS ACT.

1 Sec. 2. ~~Whenever~~ IF the official or officials having
2 jurisdiction over the highways of ~~any township,~~ A village or
3 city in this state ~~shall~~ desire to abandon, discontinue,
4 VACATE, or alter the course of ~~any~~ A public highway ~~mentioned~~
5 ~~in the preceding~~ REFERRED TO IN section 1, AND THE ABANDONMENT,
6 DISCONTINUATION, VACATION, OR ALTERATION WILL RESULT IN THE LOSS
7 OF PUBLIC ACCESS, before any action ~~shall be~~ IS taken by the
8 ~~said public authority or authorities of any township,~~ PUBLIC
9 OFFICIAL OR OFFICIALS OF A village or city, an application signed
10 by not less than ~~7 freeholders~~ 21 LANDOWNERS of the ~~township,~~
11 village or city in which ~~such~~ THE highway is situated, shall be
12 made to the circuit court for the county in which ~~such~~ THE
13 highway is located, setting forth the particular circumstances of
14 the case, an accurate description of the highway proposed to be
15 abandoned, discontinued, VACATED, or altered, together with the
16 reasons ~~therefor, which~~ FOR THE PROPOSED ABANDONMENT, DISCON-
17 TINUATION, VACATION, OR ALTERATION. THE application shall be
18 ~~verified by~~ + SUBSTANTIATED BY OATH BY 5 or more of the persons
19 ~~so~~ signing THE APPLICATION.

20 Sec. 3. Upon the filing of ~~such~~ AN application ~~it shall~~
21 ~~be the duty of~~ REQUIRED BY SECTION 2, the presiding circuit
22 judge ~~to make an order fixing a day of hearing thereon, which~~
23 ~~shall not be less~~ SHALL SCHEDULE A HEARING ON THE APPLICATION
24 NOT LATER than ~~30~~ 60 days from the date ~~of filing such~~ THE
25 application IS FILED. Notice of the ~~pendency of such~~ applica-
26 tion and the time of hearing ~~thereon shall be given by~~
27 ~~publishing the same once in~~ ON THE APPLICATION SHALL BE

1 PUBLISHED ONCE each week for 3 successive weeks, in a newspaper
2 printed and circulated in ~~said~~ THE county, unless ~~it shall be~~
3 ~~made to appear by~~ AN affidavit IS filed in ~~such~~ THE case that
4 no such newspaper is published in ~~such~~ THE county. ~~, such~~
5 THE notice ~~to~~ SHALL contain an accurate description of the
6 highway described in the application and a brief recital of the
7 reasons for its abandonment, discontinuance, VACATION, or
8 alteration. A copy of ~~such~~ THE notice shall also be posted
9 ~~up~~ in 3 of the most public places in the ~~township,~~ city or
10 village in which ~~such~~ THE highway is situated, at least 20 days
11 before the date of THE hearing ~~fixed thereon, and a~~ ON THE
12 APPLICATION. A copy ~~thereof shall be personally served upon the~~
13 ~~supervisor of the township or the mayor, president or~~ OF THE
14 NOTICE SHALL BE SENT BY FIRST-CLASS MAIL TO THE OWNERS OF RECORD
15 TITLE OF EACH PARCEL OF LAND LOCATED WITHIN 300 FEET OF THE HIGH-
16 WAY DESCRIBED IN THE APPLICATION AND TO THOSE PERSONS OF RECORD
17 CLAIMING UNDER THOSE OWNERS AT THEIR LOCAL ADDRESS AND THE
18 ADDRESS APPEARING ON THE ASSESSMENT ROLL, IF DIFFERENT, AND TO
19 THE chief executive officer of the ~~township,~~ city or village in
20 which ~~such~~ THE highway is situated, ~~and upon the state highway~~
21 ~~commissioner~~ THE STATE TRANSPORTATION DEPARTMENT, AND THE
22 DEPARTMENT OF NATURAL RESOURCES at least ~~20~~ 30 days before the
23 date fixed for THE hearing ~~thereon~~ ON THE APPLICATION. THE
24 DEPARTMENT OF NATURAL RESOURCES SHALL REVIEW THE APPLICATION TO
25 DETERMINE WHETHER THE PROPERTY SHOULD BE RETAINED AS A PUBLIC
26 ACCESS SITE. Proof by affidavit of ~~such~~ THE REQUIRED

1 publication, posting, and ~~service~~ MAILING shall be filed ~~in~~
2 ~~said cause~~ WITH THE COURT before the date of hearing.

3 Sec. 4. (1) Upon the day of hearing ~~of such~~ THE applica-
4 tion or any adjournment ~~thereof~~ OF THE HEARING, testimony
5 ~~shall~~ MAY be taken ~~on the part of the petitioner and~~ FROM any
6 person or persons interested in ~~such~~ THE application, and if it
7 ~~shall~~ satisfactorily ~~appear~~ APPEARS to the court that there
8 is no reasonable objection ~~thereto~~ TO THE APPLICATION, and that
9 it is necessary for the best interest and welfare of the public
10 that ~~such~~ THE highway be abandoned, discontinued, VACATED, or
11 altered as to its course, as prayed for in ~~such~~ THE applica-
12 tion, or if it ~~shall appear~~ APPEARS to the court that ~~such~~
13 THE highway or any part ~~thereof~~ OF THE HIGHWAY should remain as
14 then established, an order shall be ~~made and~~ entered in the
15 record of the court in accordance with ~~such~~ THE determination.

16 (2) IF A CIRCUIT COURT DETERMINES PURSUANT TO THIS ACT THAT
17 AN OFFICIAL OR OFFICIALS OF A CITY OR VILLAGE IN THIS STATE MAY
18 DISCONTINUE, ABANDON, ALTER THE COURSE, OR VACATE A PUBLIC HIGH-
19 WAY OR PORTION OF A PUBLIC HIGHWAY, AND THE DEPARTMENT OF NATURAL
20 RESOURCES DECIDES TO MAINTAIN THE PROPERTY AS A PUBLIC ACCESS
21 SITE, THE COURT SHALL ORDER THE OFFICIAL OR OFFICIALS EITHER TO
22 RELINQUISH CONTROL TO THE STATE IF THE INTEREST IS NONTRANSFER-
23 ABLE OR TO CONVEY BY QUITCLAIM DEED WHATEVER INTEREST IN THE
24 PROPERTY IS HELD BY THE LOCAL UNIT OF GOVERNMENT TO THE STATE.
25 THE PROPERTY SHALL BE UNDER THE JURISDICTION OF THE DEPARTMENT OF
26 NATURAL RESOURCES. THE STATE MAY RETAIN TITLE TO THE PROPERTY,
27 TRANSFER TITLE TO A LOCAL UNIT OF GOVERNMENT, OR DEED THE

1 PROPERTY TO THE ADJACENT PROPERTY OWNERS. IF THE PROPERTY WAS
 2 PURCHASED BY THE STATE FROM RESTRICTED FUND REVENUE, MONEY
 3 OBTAINED FROM SALE OF THE PROPERTY SHALL BE RETURNED TO THAT
 4 RESTRICTED FUND.

5 Sec. 5. The proceedings ~~therein shall be~~ REQUIRED BY
 6 SECTION 4 ARE subject to ~~review by certiorari upon application~~
 7 ~~of any~~ APPEAL BY A taxpayer of ~~such township,~~ THE village or
 8 city ~~, as the case may be~~ IN WHICH THE HIGHWAY IS SITUATED.
 9 Notice of ~~such application for review~~ A CLAIM FOR APPEAL shall
 10 be served upon the ~~persons making such application and~~ PARTIES
 11 TO THE ACTION INCLUDING the ~~supervisor of the township or the~~
 12 ~~mayor, president or~~ chief executive officer of the city or vil-
 13 lage in which ~~such~~ THE highway is ~~situate~~ SITUATED, within 10
 14 days ~~from~~ AFTER the date of ~~such~~ THE ENTRY OF THE order. ~~and~~
 15 ~~further~~ FURTHER proceedings ~~thereon~~ ON THE APPEAL shall be in
 16 the same manner AS provided by law for ~~review by certiorari~~
 17 APPEAL of judgments of the circuit court.

18 Sec. 6. ~~The term "adjacent" as used herein, shall be con-~~
 19 ~~strued to include~~ AS USED IN THIS ACT:

20 (A) "ADJACENT" INCLUDES any highway, or portion ~~thereof~~ OF
 21 A HIGHWAY, lying within 5 rods of the shore of any lake or the
 22 general course of any stream.

23 (B) "HIGHWAY" INCLUDES, WHERE APPLICABLE, LOCAL ROADS OR
 24 STREETS.