

**CONSTRUCTION ACTIVITIES ALONG
NATURAL BEAUTY ROADS**

**House Bill 4051 (Substitute H-1)
First Analysis (10-24-95)**

**Sponsor: Rep. Penny Crissman
Committee: Transportation**

THE APPARENT PROBLEM:

Public Act 150 of 1970 allows a county road commission by resolution to declare certain roads as natural beauty roads after the commission holds a public hearing on the issue. A hearing also must be held before activity that would result in "substantial damage to native vegetation" along a natural beauty road's right-of-way could be permitted. An incident that occurred along a natural beauty road located in Orion Township, however--in which a subdivision developer apparently removed trees along the road in order to put in another road to gain access to the development--has raised questions about exactly what kind of activity is prohibited. Reportedly, no public hearing was held to consider the matter because the Oakland County Road Commission determined that the activity in question would not harm the environment along the road, despite the fact that many were opposed to the activity. Some people feel legislation is needed to require the local municipality in which a natural beauty road is located to be notified before a road commission may approve certain proposed activities along it, to allow the municipality to hold its own public hearing on the matter, and to require a road commission to consider testimony taken at that hearing before deciding whether or not to approve such activities.

THE CONTENT OF THE BILL:

The bill would amend Public Act 150 of 1970 to specify that, before approving any construction project or tree cutting that would significantly impact native vegetation within the right-of-way of a natural beauty road, a county road commission would have to notify the clerk of the city, village, or township where the road lay of the proposed activity. If the municipality wished to hold a public hearing on the proposed activity, the municipal clerk would have to notify the commission within seven days after its initial notice to the municipality had been transmitted. The notice to the road commission would have to include the hearing's date, time, and place. In addition, the hearing would have to occur within 14 days of the transmittal of notice to the road commission, and a member or representative of the commission would have to attend.

Within 10 days of the hearing, the municipal clerk would have to give a written report to the road commission of the testimony taken there. A commission could not approve any construction or tree cutting until 12 days after notice of the proposed activity had been sent to the municipal clerk, or if a commission was notified of a hearing in a timely manner, until 12 days after the hearing was held. The commission would have to consider testimony taken at the hearing in deciding whether or not to approve the activity.

However, if construction or tree cutting were needed due to emergency conditions, provisions pertaining to notification and the holding of a hearing would not apply. Also, these provisions would not affect or restrict maintenance activities of a governmental agency or municipality with jurisdiction over a natural beauty road.

MCL 247.384

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would not affect state or local budget expenditures. (10-19-95)

ARGUMENTS:

For:

The bill would require a county road commission, before approving any construction or tree-cutting along a natural beauty road or street, to notify the municipality where the road was located about the proposed activity so that it could hold a public hearing on the matter. Under the bill, the commission would have to consider testimony taken at the hearing before deciding whether or not to approve the activity. Even though the act currently requires a public hearing to be held before action can be taken that "would result in substantial damage to native vegetation" along a designated roadway, the act fails to define what this means. In addition, the act does not delineate a clear process for both a road commission and its respective

municipalities to follow in communicating with each other and soliciting input from local citizens once some type of construction is proposed along a designated roadway. The act's silence on these matters apparently gives a road commission leeway to decide whether or not an activity will disrupt the environment lying along such a road or street. The bill would both provide a timely process for notification and public airing of any such proposed activity that would apply to both of these government bodies, and require citizen input into the process before a road commission could decide whether or not to approve the activity.

Response:

A resolution adopted by Orion Township also calls for substantially increasing the penalties that apply to persons who violate the provisions of the act, including requiring them to restore any vegetation destroyed due to a violation. Fines and jail terms should be set at levels that would make developers carefully consider the consequences of these actions.

Against:

The act now allows municipalities to adopt guidelines intended to preserve native vegetation along these roadways from "destruction or substantial damage by cutting, spraying, dusting, mowing, or other means." By specifically requiring the notification and public hearing process to be followed only for proposed activity involving "any construction project or tree cutting," the bill actually could expand the scope of activities that could occur without public input. The bill should replace references to "any construction project or tree cutting that would significantly impact native vegetation" with language referring to "any activity that would result in substantial damage to native vegetation." Thus, a community could influence its road commission's decision to approve or deny any activities that could be harmful to the environment along such roadways.

POSITIONS:

The Department of Transportation supports the bill.
(10-19-95)

The County Road Association of Michigan supports the bill. (10-19-95)

The Michigan Townships Association supports the bill.
(10-19-95)