

SENATE BILL No. 145

(As amended, April 27, 2004)

February 4, 2003, Introduced by Senators BISHOP, GILBERT, GOSCHKA and JELINEK
and referred to the Committee on Transportation.

A bill 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.>>

1 Sec. 3a. (1) In a county with a population over 1,000,000,
2 the county board of commissioners may request that the governing
3 body of a city or village within that county transfer
4 jurisdiction of a road that was once under the jurisdiction of

5 the board of county road commissioners back to the board of
6 county road commissioners if the county board of commissioners
7 makes all of the following findings:

8 (a) The road has been blocked or closed for more than 6
9 months and the city or village cannot demonstrate a compelling

1 need for blocking or closing the road. The fact that a city or
2 village has jurisdiction over the road at the time of the request
3 of the county board of commissioners does not demonstrate a
4 compelling need for blocking or closing the road.

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

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

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

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

20 Sec. 5. (1) The business ~~which~~ **that** the board may perform
21 shall be conducted at a public meeting of the board held in
22 compliance with ~~Act No. 267 of the Public Acts of 1976, as~~
23 ~~amended, being sections 15.261 to 15.275 of the Michigan Compiled~~
24 ~~Laws~~ **the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.**
25 Public notice of the time, date, and place of the meeting shall
26 be given in the manner required by ~~Act No. 267 of the Public~~
27 ~~Acts of 1976, as amended~~ **the open meetings act, 1976 PA 267,**

1 MCL 15.261 to 15.275. The chairperson of the board shall
2 immediately fix a date and place for convening the board to hear
3 the testimony of the parties to the proposed transfer of highway
4 jurisdiction and shall notify the parties. The date selected
5 shall be not more than 30 days after selection of the
6 chairperson.

7 (2) The board shall convene on the date and at the place
8 fixed by the chairperson and shall hear testimony and receive
9 evidence from the parties to the proposed transfer of highway
10 jurisdiction, from local and regional planning bodies if
11 appropriate and from other sources who desire to appear or
12 present testimony. The board may reconvene at times and places
13 as determined by the chairperson, in compliance with ~~Act No. 267~~
14 ~~of the Public Acts of 1976, as amended~~ the open meetings act,
15 1976 PA 267, MCL 15.261 to 15.275. In a proceeding initiated
16 under section 3a, if the party requesting transfer demonstrates
17 to the board's satisfaction the finding required under section
18 3a(1)(a), then the party opposing transfer may rebut the
19 demonstration by rebutting the demonstration of the party
20 requesting transfer concerning the finding required under section
21 3a(1)(a) and by demonstrating to the board's satisfaction that
22 the findings required under section 3a(1)(b) and (c) have not
23 been satisfied. The board shall render a decision in favor of
24 the party requesting transfer if the party opposing transfer is
25 unable to rebut the demonstration of the party requesting
26 transfer under section 3a(1)(a) or is unable to demonstrate that
27 the findings required under section 3a(1)(b) and (c) have not

1 **been satisfied.** Two members ~~shall~~ constitute a quorum and the
2 affirmative vote of 2 members is necessary for a final
3 determination of the dispute. If a member of the board becomes
4 unable to perform the member's duties as a board member, a new
5 member shall be selected as prescribed in this act.