

**ROADS AND RIGHT-OF-WAY REGULATIONS**

**ACQUISITION OF PROPERTY FOR PUBLIC HIGHWAYS  
Act 295 of 1966**

AN ACT to provide for the purchase and condemnation of property for public purposes by cities, villages, townships, drainage districts, counties, boards of county road commissions, and the state highway commission.

**History:** 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967 ;-- Am. 1971, Act 220, Imd. Eff. Dec. 30, 1971 ;-- Am. 1978, Act 188, Imd. Eff. June 4, 1978

*The People of the State of Michigan enact:*

**213.361 Securing fee simple or lesser estate in real property and other property; conditions.**

Sec. 1. Cities, villages, townships, drainage districts, counties, boards of county road commissioners, and the state highway commission, referred to in this act as the petitioner, are authorized and empowered to secure the fee simple or lesser estate in real property and other property from the owners under the following conditions:

- (a) Property for the right of way for limited access highways and other highways to be laid out, altered, or widened, or for changing the direction or line of those highways.
- (b) Gravel, rock, sand, dirt, and all other materials that may be needed for the proper construction, improvement, or maintenance of a highway.
- (c) Property the petitioner determines is necessary to give persons using a highway a clear view of approaching persons and vehicles, cars, trains, and other instruments of travel at an intersection of a highway with another highway or with a railroad track.

- (d) Property the petitioner determines is necessary to change the channel of a watercourse, natural or artificial, in order to maintain a proper alignment of a highway without crossing the watercourse and the riparian rights of a person, firm, or corporation in or pertaining to the watercourse.
- (e) Property abutting on a highway right of way that the petitioner determines is necessary for the storage of road machinery, equipment, or materials.
- (f) Property the petitioner determines is necessary for the location, development, and construction of offstreet parking places for vehicles, or to facilitate the flow of traffic on sections of the highways forming bypasses around and connections into and through municipalities and metropolitan areas, upon which sections parking is permanently prohibited.
- (g) Property the petitioner determines is necessary for the construction, adjacent to the highways, of flight strips for the landing and takeoff of aircraft or for clear zones or aviation easements in connection with those flight strips, or a combination, in order to insure greater safety for traffic. For the purpose of uniformity, the size, location, layout, lighting, and markings of the flight strips shall be in conformity with rules to be prescribed by the board or commission.
- (h) All other property and property rights the board or commission having jurisdiction over a highway determines to be necessary for the proper construction, improvement, landscaping, or maintenance of the highway including the development, construction, and maintenance, adjacent to those highways, of roadside parks, parking spaces, rest areas, scenic areas, scenic lookouts, information lodges, and other purpose authorized by law in the interest of the beneficial use of the highways by the traveling public.
- (i) Nonresidential property cities and villages determine to be necessary for redevelopment or rehabilitation projects as authorized by Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to

125.84 of the Michigan Compiled Laws. Nonresidential property means property either zoned or used as commercial, industrial, or professional property.

(j) Property the petitioner determines is necessary for the location, development, and construction of a county water supply system, solid waste disposal system, or county sewage disposal system as authorized by Act No. 185 of the Public Acts of 1957, as amended, being sections 123.731 to 123.786 of the Michigan Compiled Laws or by Act No. 342 of the Public Acts of 1939, as amended, being sections 46.171 to 46.188 of the Michigan Compiled Laws.

(k) Property the petitioner determines is necessary for the location, establishment, construction, improvement, or relief of a drain as authorized by Act No. 40 of the Public Acts of 1956, as amended, being sections 280.1 to 280.630 of the Michigan Compiled Laws.

**History:** 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967 ;-- Am. 1971, Act 220, Imd. Eff. Dec. 30, 1971 ;-- Am. 1978, Act 188, Imd. Eff. June 4, 1978

**213.362 Property in city or village; designation and consent prior to acquisition for street or highway.**

Sec. 2. Before any proceedings are taken under this act by boards of county road commissioners or the state highway commission involving the taking of property or property rights in a city or village for the changing, altering, opening or widening of a street or highway, the street or highway shall be taken over as a county road or designated as a state trunk line or federal aid highway, and the consent of the village or city council by resolution so to take over or designate the street or highway as a county road or state trunk line or federal aid highway shall be first obtained.

**History:** 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1969, Act 154, Imd. Eff. July 31, 1969

**213.363 Name in which property taken; acquisition by and execution of appropriation instrument; fluid mineral and gas rights; recordation of instruments.**

Sec. 3. Property for county roads shall be secured by the board of county road commissioners and shall be taken in the name of the board.

Property for trunk line highway purposes shall be secured by the state highway commission and shall be taken in the name of the state or commission. Property secured by a city or village shall be taken in the name of the city or village. Property secured by a county shall be taken in the name of the county. Property secured by a township shall be taken in the name of the township. Property secured by a drainage district shall be taken in the name of the drainage district. Property not acquired by condemnation shall be acquired by appropriation instrument duly executed by the owner or owners of the lands and acknowledged and witnessed in the manner provided by law for the acknowledging and witnessing of deeds. Fluid mineral and gas rights shall be considered excluded from those instruments unless specifically included. The exercise of fluid mineral and gas rights, as permitted by law, shall not interfere with the use of the property for highway purposes, including limited access highway purposes. The instruments shall be recorded in the office of the register of deeds of the county in which the land is situated.

**History:** 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967 ;-- Am. 1971, Act 220, Imd. Eff. Dec. 30, 1971 ;-- Am. 1978, Act 188, Imd. Eff. June 4, 1978

**213.364 Property; payments; source, warrants.**

Sec. 4. Property acquired shall be paid for by the petitioner out of any funds under its control and available for that purpose. Any payment or deposit of money under this act may be made in the form of a warrant drawn on the city, village, county or state treasury.

**History:** 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967

**213.365 Property; adjacent land, cemeteries, exchanges, parcels of property.**

Sec. 5. This act extends to and includes:

(a) The right to acquire and take property adjacent to that required for public purposes for the purpose of exchanging it for property required or of replatting or rearranging the property abutting on the public improvement after the taking so as to conform with the plan or arrangement in effect before the taking.

(b) The right to acquire and take property and property rights held, reserved, owned, used or occupied by any cemetery association, or by any person, firm, society, association or corporation for cemetery purposes.

(c) The right to acquire and take property which is to be exchanged for public property needed for highway purposes pursuant to an agreement in writing with the owner or owners of such public property for such exchange.

(d) The right and duty to acquire and take the fee to a whole of a particular parcel of land whenever the acquisition of the portion thereof actually needed would destroy the practical value or utility of the remainder of such parcel. The question as to whether or not the practical value or utility of the remainder is in fact destroyed shall be determined by the court or jury and incorporated in its verdict.

**History:** 1966, Act 295, Imd. Eff. July 14, 1966 ;-- Am. 1967, Act 206, Imd. Eff. July 10, 1967

**213.366-213.390 Repealed. 1980, Act 87, Eff. Apr. 1, 1983.**

**Compiler's Notes:** The repealed sections pertained to petitions for acquisition of property, claims of fraud or abuse of discretion, surrender of possession of property, appointment of guardian ad litem, hearings, juries, evidence, notice, and compensation.

**213.391 Effect on other condemnation acts.**

Sec. 31. This act does not directly or by implication repeal or amend any other condemnation act or part thereof.

**History:** 1966, Act 295, Imd. Eff. July 14, 1966

**PUBLIC HIGHWAYS AND PRIVATE ROADS (EXCERPT)  
Act 283 of 1909**

**225.2 Ridesharing programs; administration; duties; appropriation.**

Sec. 2. (1) The department of state highways and transportation shall administer ridesharing programs in the state and shall do all of the following:

- (a) Develop a comprehensive state ridesharing program. The program shall examine and recommend application of various ridesharing methods, including carpooling, vanpooling, buspooling, park-and-ride lots, and public transportation.
- (b) Provide technical assistance to local transportation and planning agencies.
- (c) Develop and maintain computer or manual matching systems for ridesharing programs.
- (d) Contract with public and private organizations to perform ridesharing matching programs.
- (e) Develop and undertake ridesharing promotional programs.
- (f) Coordinate the development of a statewide program of park-and-ride lots.
- (g) Coordinate and encourage the development of highway facilities which give preferential treatment to ridesharing vehicles.
- (h) Develop and manage state ridesharing programs.

(2) The legislature shall annually appropriate sufficient funds to implement this section.

**History:** Add. 1978, Act 557, Imd. Eff. Dec. 22, 1978

**Compiler's Notes:** Former MCL 225.2, pertaining to office of state highway commissioner, was repealed by Act 286 of 1964.

**PUBLIC HIGHWAYS AND PRIVATE ROADS (EXCERPT)  
Act 283 of 1909**

Chapter XV  
DRAINS

**235.1 Drain in public highway; release of right-of-way, damages.**

Sec. 1. Drains may be laid along and within the limits of or across any public highway: Provided, That when it is proposed to construct a drain in whole or in part along a public highway, the owners of the land abutting on the side of the highway along which such drain is proposed to be laid, shall be considered as still owning the fee of such land, and it shall be necessary for the county drain commissioner to obtain from them severally a release of their rights to so much of said highway as is necessary and proposed to be taken for the right of way of said drain, and for all damages on account thereof. In case such release is not executed within the time (a) prescribed in section 4 of chapter 3, such release (b) shall be obtained in the same manner as is provided in this act for obtaining private lands.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- CL 1915, 4510 ;-- CL 1929, 4139 ;-- CL 1948, 235.1

**Compiler's Notes:** Section 4 of Chapter 3, referred to in this section, evidently derives from Act 254 of 1897, the provisions of which were superseded by Act 316 of 1923, which in turn was repealed by Act 247 of 1949, Act 40 of 1953, and Act 40 of 1956.

**235.2 Drain in public highways; bridges and culverts; construction strength, apportionment and payment of cost, maintenance by property owner.**

Sec. 2. When any drain crosses a highway, the necessary bridge or culvert shall be constructed on the center line of the highway as located by survey, and in accordance with plans and specifications which shall

be approved by the county, township or district highway commissioner having jurisdiction, or by the state highway commissioner if such road is a trunk line road, and such bridge or culvert shall be of a permanent nature and of sufficient strength to safely carry a 15 ton moving load. The cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of construction of such drain after which such bridge or culvert shall be maintained as a part of the highway: Provided, however, That if such highway is a trunk line road, or is a county road, the state highway commissioner, or the board of county road commissioners, as the case may be, may assume and bear such proportion of the cost as may be agreed on between the drain commissioner and state highway commissioner or board. In such case however the contract for the construction of the bridge shall not be let by the drain commissioner without the written consent of the state highway commissioner or the board of county road commissioners. Any such expense assumed by the state shall be met out of any funds appropriated for the state highway department that may be available therefor; and the proportion of the cost of any bridge to be borne by the board of county road commissioners shall be paid out of moneys in the county road fund not otherwise appropriated. When a drain passes along a highway, there shall be constructed at least 1 bridge or passageway across such drain connecting the highway with each enclosed field and with each farm entrance, which bridge or passageway shall also be charged in the first instance as a part of the construction of such drain, after which such bridge or passageway shall be maintained by the owner of the land.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- Am. 1915, Act 75, Eff. Aug. 24, 1915 ;-- CL 1915, 4511 ;-- Am. 1921, Act 367, Eff. Aug. 18, 1921 ;-- CL 1929, 4140 ;-- CL 1948, 235.2

**235.3 Open drain in highways; consent of commissioner, location, disposition of earth.**

Sec. 3. Before an open drain shall be laid along a public highway, the highway commissioner of the township in which the drain is located shall be consulted and his consent as to the proposed location of the drain shall be obtained in writing, stipulating that no excavation may be made nearer than 1 rod to the center line of the highway and stating what disposition shall be made of all material excavated. It shall be the duty of

the drain commissioner to level down all materials placed in the roadway.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- Am. 1915, Act 75, Eff. Aug. 24, 1915 ;-- CL 1915, 4512 ;-- Am. 1917, Act 121, Eff. Aug. 10, 1917 ;-- CL 1929, 4141 ;-- CL 1948, 235.3

**235.4 Open drain in highway; drain commissioner to apportion costs.**

Sec. 4. The county drain commissioner shall apportion the per centum of the cost of construction of such drain which any township traversed or benefited thereby shall be liable to pay by reason of the benefit to the public health, convenience or welfare, or as the means of improving any highway, and he shall also apportion the per centum of benefits to accrue to any piece or parcel of land by reason of the construction of such drain, over and above the per centum assessed against such township as aforesaid, which per centum of benefits shall be apportioned upon and assessed against the lands benefited according to such assessment of benefits and which apportionments he shall announce at the time and place of letting, as provided in chapter 4. Such assessment of per centum for benefits shall thereupon be subject to review and correction, and may be appealed from in the manner hereinafter provided.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- CL 1915, 4513 ;-- CL 1929, 4142 ;-- CL 1948, 235.4

**Compiler's Notes:** The provisions of chapter 4, referred to in this section, evidently derive from Act 254 of 1897, which was superseded by Act 316 of 1923. Act 316 of 1923 was in turn repealed by Act 247 of 1949, Act 40 of 1953, and Act 40 of 1956. See now MCL 280.1 et seq.

**235.5 Drain across adjacent land; acquisition of right-of-way, approval of board, deed.**

Sec. 5. Whenever it is necessary or more convenient for the proper drainage of any highway in this state that the surplus water be taken onto or across the land adjacent thereto, the highway commissioner of the township in which said highway is situated, may secure the right of way and may open such drain or outlet for the water, and for these purposes may use any highway moneys of the township not otherwise appropriated, and such sums as may be voted for that use by the electors

of the township. The highway commissioner shall secure the right of way for any such drain by gift or purchase from the owners of the land to be crossed by such drain; but in case of purchase the purchase price must be approved by the township board before any money be paid thereon. Such right of way shall be acquired by deed duly executed by the owner or owners of the lands sought to be crossed by the said drain, and shall be taken in the name of the township wherein the same is located, and filed in the office of the register of deeds of the county before any highway money shall be expended in opening such drain outside the highway limits.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- CL 1915, 4514 ;-- CL 1929, 4143 ;-- CL 1948, 235.5

**235.6 Report to township electors; contents; highway drain fund, use of surplus.**

Sec. 6. The highway commissioner shall report to the electors of the township at their annual meeting the amount of money expended by him during the year for such highway drainage, specifying the amount expended on each drain. He shall also recommend the raising of such sums as he may deem necessary for opening drains from the highway during the coming year, specifying each proposed drain and the probable amount needed for securing the right of way and opening the same. The money voted for this purpose by the electors of the township shall constitute a special highway drain fund, and shall be used for no other purpose. In case any money be left in the fund, after opening the drain for which it was raised, it may be used in opening any other highway drain in the township, or in cleaning out, when necessary, those already opened.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- CL 1915, 4515 ;-- CL 1929, 4144 ;-- CL 1948, 235.6

**235.7 Report on construction; contents, filing; powers limited to highway drainage.**

Sec. 7. On the completion by the highway commissioner of any drain constructed under the provisions of this act, it shall be the duty of said highway commissioner to file in the office of the county drain

commissioner a detailed report of the construction of such drain, giving the date of construction, the termini and general course thereof, together with a copy of the deed by which the right of way therefor was secured. Nothing in the provisions of the preceding sections shall be construed as giving to highway commissioners power to lay out and construct drains having any other purpose than the drainage of highways.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- CL 1915, 4516 ;-- CL 1929, 4145 ;-- CL 1948, 235.7

**235.8 Failure to secure right-of-way; application to drain commissioner, procedure; jurisdiction.**

Sec. 8. In case the highway commissioner cannot secure the right of way across adjacent lands for the construction of any drain by agreement with the owner or owners of the land through which it will pass, he may make under his name of office an application to the drain commissioner of the county in which the proposed drain is situated, to lay out and establish the said drain. Such application shall conform to the law regulating applications for the construction of drains, and shall require no other signature than his own as highway commissioner. Such application shall have the same force and effect and be subject in other respects to the same laws and regulations that govern other applications for the establishment of drains, and shall confer jurisdiction and authority on the county drain commissioner to lay out and establish such drain under and by virtue and in pursuance of the law governing the location and establishment of other drains. It shall not be necessary to submit to the township board or boards of the township or townships crossed or affected by such drain the question of the necessity thereof or whether the same shall be conducive to health, convenience and welfare.

**History:** 1909, Act 283, Eff. Sept. 1, 1909 ;-- CL 1915, 4517 ;-- Am. 1921, Act 354, Eff. Aug. 18, 1921 ;-- CL 1929, 4146 ;-- CL 1948, 235.8

**235.8a Detour roads; expense.**

Sec. 8a. In case it shall be deemed necessary by the state highway commissioner or by the county road commissioners of any county where such drain or other public improvement is under construction to lay out and maintain a detour road for the safety and convenience of public

travel, it shall be lawful, except in cities, that the full cost therefor shall be borne as part of the main project whether it be a drain, a road or a highway project.

**History:** Add. 1921, Act 354, Eff. Aug. 18, 1921 ;-- CL 1929, 4147 ;-- CL 1948, 235.8a

**NOXIOUS WEEDS**  
**Act 359 of 1941**

AN ACT for controlling and eradicating certain noxious weeds within the state; to permit townships, villages, and cities to have a lien for expenses incurred in controlling and eradicating such weeds; to permit officials of counties and municipalities to appoint commissioners of noxious weeds; to define the powers, duties, and compensation of commissioners; to provide for sanctions; and to repeal certain acts and parts of acts.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1956, Act 81, Eff. Aug. 11, 1956 ;-- Am. 1994, Act 26, Eff. May 1, 1994

*The People of the State of Michigan enact:*

**247.61 Commissioner of noxious weeds; appointment, term, removal, report.**

Sec. 1. The governing body of any city, village or township may appoint a competent person to be the commissioner of noxious weeds who shall take the oath required of township, city or village officers, and shall hold office for the term of 2 years and until a successor is appointed and qualified, and he shall receive for his compensation such sum as may be fixed by the appointing body. The body so appointing may, at any time, for good cause remove such commissioner from office and appoint his successor to serve the remaining portion of his term. The appointing body shall report the name and address of the person so appointed to the state department of agriculture within 10 days after making such appointment.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.61 ;-- Am. 1962, Act 10, Eff. Mar. 28, 1963

**247.62 Noxious weeds; definition.**

Sec. 2. For the purpose of this act, “noxious weeds” shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*ambrosia elatior* L.) and poison ivy (*rhus toxicodendron*), poison sumac (*toxicodendron vernix*) or other plant which in the opinion of the governing body of any county, city, or village, coming under the provisions of this act is regarded as a common nuisance.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 114, Eff. Oct. 11, 1947 ;-- CL 1948, 247.62

**247.63 Noxious weeds; eradication; duty of commissioner.**

Sec. 3. The commissioner of noxious weeds shall diligently inquire concerning the introduction and existence of noxious weeds in his township, city or village and if any are found growing therein, he shall take charge of all such growing and take care that they do not go to seed or otherwise spread, or become a detriment to the public health, and he shall carefully seek and learn, so far as practicable, the best methods of their destruction, and he shall persistently apply in proper time such remedy or treatment as shall be best calculated to prevent their spread and to eradicate the same.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 114, Eff. Oct. 11, 1947 ;-- CL 1948, 247.63

**247.64 Destruction of noxious weeds; duty of owner, commissioner, agent, and department of natural resources; notice; ordinance; resolution; expenses; lien; penalty; exceptions; action in court of claims.**

Sec. 4. (1) The owner of land on which noxious weeds are found growing shall destroy the weeds before they reach a seed bearing stage

and prevent their regrowth, or shall prevent them from becoming a detriment to public health. The commissioner shall notify by certified mail with return receipt requested the owner, agent, or occupant of land on which noxious weeds are found growing. The notice shall describe methods of treating and eradicating the noxious weeds and a summary of the provisions of this section. Failure of the commissioner to give the notice does not, however, constitute a defense to an action to enforce the payment of a fine provided for or debt created under this act. If the owner, agent, or occupant refuses to destroy the noxious weeds, the commissioner shall enter upon the land and destroy the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the land, and the township, city, or village of which the commissioner is an officer shall have a lien against the land for the amount of the expense. The lien shall be enforced in the manner provided by law for the enforcement of construction liens.

(2) A village or city, or a township having a population of more than 5,000, may, whether or not provided in its charter, provide by ordinance enacted for the purpose of controlling and eradicating noxious weeds in subdivided land that if the owner, agent, or occupant of subdivided land in a subdivision in which buildings have been erected on 60% of the lots, or the owner, agent, or occupant of a lot along an improved street in common usage, has failed, after 10 days' notice as provided in this section, to destroy the weeds, for a depth of 10 rods or the depth of the lot, whichever is less, then an agent authorized by the governing body of the township, village, or city may enter upon the lot and destroy noxious weeds by cutting. Mechanical equipment that will not damage the property or the adjacent sidewalk, may be used to cut the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the lot. The township, village, or city shall have a lien upon the lot for the amount of the expense. The lien shall be enforced in the manner prescribed by charter, by the laws of the state providing for the enforcement of tax liens, or by ordinance passed by the governing body of the township, village, or city.

(3) An owner who refuses to destroy noxious weeds as provided in this section is subject to a fine of not more than \$100.00. When collected, the

fine shall become a part of the “noxious weed control fund” of the township, village, or city. By ordinance, the township, city, or village may designate the refusal to destroy noxious weeds as provided in this section as a municipal civil infraction, in which case the fine shall be a civil fine. If the city establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations, the city by ordinance may designate the refusal to destroy noxious weeds as provided in this section as a blight violation and any fine imposed shall be a civil fine.

(4) This act does not apply to weeds in fields devoted to growing any small grain crop such as wheat, oats, barley, or rye. In the case of an easement, property such as an abandoned subdivision, strip mine, or gravel pit, public property such as a forest preserve, and all other land as to which definite ownership is not known to the commissioner and cannot be established, the county board of commissioners shall cause the destruction of noxious weeds in accordance with this act.

(5) If the county board of commissioners of a county passes a resolution to participate under this act, the commissioner of noxious weeds shall notify the department of natural resources, which shall determine whether there is land in the county belonging to this state under the jurisdiction of the department. The department of natural resources shall cut noxious weeds growing on that land within 10 rods of any privately owned improved property, upon receipt of the notification. If the department of natural resources fails to cut the weeds, the commissioner of noxious weeds shall enter upon the land and destroy the weeds. The expense shall be a charge against the department of natural resources and may be recovered in an action in the court of claims.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- Am. 1947, Act 114, Eff. Oct. 11, 1947 ;-- CL 1948, 247.64 ;-- Am. 1956, Act 81, Eff. Aug. 11, 1956 ;-- Am. 1962, Act 29, Eff. Mar. 28, 1963 ;-- Am. 1984, Act 58, Imd. Eff. Apr. 12, 1984 ;-- Am. 1994, Act 26, Eff. May 1, 1994 ;-- Am. 2003, Act 321, Imd. Eff. Jan. 12, 2004

**247.64a Cutting of weeds by township, city, or village; publication of notice; charging cost to owner; provisions inapplicable to railroads.**

Sec. 4a. (1) Instead of the notice required by section 4, the township, city, or village may publish a notice in a newspaper of general circulation in the county during the month of March that weeds not cut by May 1 of that year may be cut by the township, village, or city and the owner of the property charged with the cost under the provisions of section 4. The publication shall also contain all other information required of the notice provided for in section 4. The township, city, or village may cut weeds as many times as is necessary and charge the cost to the property owner.

(2) The provisions of this act relative to entering on property for the cutting of weeds shall not apply to railroads which shall continue to be subject to the provisions of section 11.

**History:** Add. 1969, Act 172, Eff. Mar. 20, 1970 ;-- Am. 1987, Act 210, Imd. Eff. Dec. 22, 1987

**247.65 Noxious weeds; means of eradication; limitation of expense.**

Sec. 5. The commissioner shall apply the best known means, and use the utmost diligence, in eradicating noxious weeds; but he shall not have power to expend in work or materials more than \$25.00 on any 1 infested tract, without the advice and consent, in writing, of the supervisor of the township.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.65

**247.66 Noxious weeds; prosecution of violators of act.**

Sec. 6. It shall be the duty of the commissioner to prosecute or complain to the proper authorities of any person or corporation who may violate any law now existing, or which may hereafter be passed, on the subject of noxious weeds.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.66

**247.67 Commissioner; annual report, contents.**

Sec. 7. The commissioner shall, annually, before the first day of December, make a written report to the department of agriculture and to the body by whom he was appointed, as the case may be. Said report

shall be made out upon blank forms furnished by the department of agriculture and shall contain such information with reference to the existence and growth of noxious weeds as said department may require.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.67

**247.68 Department of agriculture; duty to enforce law; cooperation with commissioners.**

Sec. 8. The department of agriculture is authorized and it shall be its duty to assist in the enforcement of this law. The department shall cooperate with the various commissioners of noxious weeds in carrying out the provisions of this act and shall advise them from time to time of the most effective methods of treating and eradicating noxious weeds.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.68

**247.69 Board of supervisors; auditing accounts of commissioner; payment.**

Sec. 9. The board of supervisors or other official body appointing any commissioner shall audit the accounts of the commissioner, both for his services and for the money expended or labor employed by him; and they shall provide for their payment as they now do for other county or municipal expenses.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.69

**247.70 County board of commissioners; appropriation; powers; penalties; jurisdiction.**

Sec. 10. (1) The county board of commissioners may make an appropriation from the county treasury to aid in destroying the noxious weeds in a town or precinct of the county. The board of commissioners may assume control over the noxious weeds in all or part of the county. The county board of commissioners may adopt a noxious weed ordinance that it considers necessary. For each violation of the ordinance, the ordinance may do either of the following:

(a) Impose as a penalty for the violation a fine not exceeding \$100.00.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(2) The action for imposition of the fine shall be commenced in the name and for the use of the proper county, before the district or municipal court of the judicial district or municipality in which the weeds are located. If the board of commissioners assumes control, its jurisdiction is superior to that of the commissioner of noxious weeds so long as the board of commissioners exercises that control.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.70 ;-- Am. 1990, Act 218, Imd. Eff. Oct. 8, 1990 ;-- Am. 1994, Act 26, Eff. May 1, 1994

**247.71 Railroads; failure to comply, penalty.**

Sec. 11. If any company, association or person owning, controlling or operating a railroad shall refuse or neglect to dig up and destroy, or take other certain means of exterminating noxious weeds that may at any time be growing upon the right of way or other lands of such roads, or appertaining thereto, they shall be fined for each offense not less than \$50.00 nor more than \$200.00.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.71

**247.72 Highways; noxious weeds; duty of officials to prevent growth.**

Sec. 12. It shall be the duty of the state highway commissioner to prevent all noxious weeds as defined in this act from growing within the right of way of any highways under his jurisdiction. It shall be the duty of each county road commission to prevent all noxious weeds as defined in this act from growing within the right of way of any highways under their jurisdiction.

**History:** 1941, Act 359, Eff. Jan. 10, 1942 ;-- CL 1948, 247.72

**PRIVATE ROADS  
Act 393 of 1913**

AN ACT to permit passage ways to lands adjoining at a single point.

**History:** 1913, Act 393, Eff. Aug. 14, 1913

*The People of the State of Michigan enact:*

**247.201 Private roads; ingress and egress, application.**

Sec. 1. When lands owned in different descriptions by the same person, copartnership or corporation, and are contiguous at the corners or as more fully described at the points of intersection of description lines projected, a private road may be secured across the adjacent lands, not to exceed 12 feet on each side of the point of intersection, or a passage way of 24 feet permitting ingress and egress. Application for such easement shall be made by the owner of such land contiguous at the corners, in writing to the highway commissioner of the township who shall act on such application in the manner prescribed in chapter 9 of Act No. 283 of the Public Acts of 1909, entitled "An act to revise, consolidate and add to the laws relating to the establishment, opening, improvement, maintenance and use of the public highways and private roads, the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; setting and protecting shade trees, drainage, cutting weeds and brush within this state, and providing for the election and defining the powers, duties and compensation of state, county, township and district highway officials."

**History:** 1913, Act 393, Eff. Aug. 14, 1913 ;-- CL 1915, 4860 ;-- CL 1929, 4073 ;-- CL 1948, 247.201

**Compiler's Notes:** For provisions of chapter 9 of Act 283 of 1909, referred to in this section, see MCL 229.1 et seq.

**DRIVEWAYS, BANNERS, AND PARADES  
Act 200 of 1969**

AN ACT to regulate driveways, banners, events, and parades upon and over highways; to provide for the promulgation of rules; to prescribe

requirements for the issuance of permits; and to provide for the issuance of those permits.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

*The People of the State of Michigan enact:*

**247.321 Driveways, banners and parades on highways; definitions.**

Sec. 1. As used in this act:

(a) "Driveway" means a driveway, lane, road or any other way providing vehicular access to or from the highway from or to property adjoining the highway but does not mean a city or village street or other highway covered by the provisions of Act No. 288 of the Public Acts of 1967, being sections 560.101 to 560.293 of the Compiled Laws of 1948.

(b) "Highway" means a state trunk line highway or a county road including the entire right of way.

(c) "Highway authority" means the department of state highways in the case of state trunk line highways, and the board of county road commissioners in the case of county roads.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

**247.322 Permit; requirement, local ordinances.**

Sec. 2. No driveway, banner or parade is lawful except pursuant to a permit issued in accordance with this act unless otherwise provided. Nothing in this act shall be construed to prevent the application of the provisions of any other statute of this state or any local ordinance which is more restrictive than this act nor to preclude any city or village from requiring city or village permits with respect to any street or highway within its corporate limits. No permit shall be issued pursuant to this act unless there is compliance with other provisions of law or ordinances.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

**247.323 Permits to temporarily close highway and for banners, decorations, or similar objects; issuance; requests; arrangements for handling highway traffic; section inapplicable to racing event.**

Sec. 3. A permit to temporarily close a highway, or a portion of the highway, for a parade, celebration, festival, or similar activity, and a permit for banners, decorations, or similar objects to overhang the traveled way of a highway, may be issued by the highway authority only if requested by an authorized official designated by resolution of the governing body of a city, incorporated village, or township. Requests for temporary closing of highways shall indicate the time and date the highway is to be closed to traffic, the date and time the highway is to be reopened to traffic, and other information as the highway authority may require. A permit shall not be issued for the partial or complete closing of a highway unless the highway authority is satisfied that adequate arrangements have been made for the handling of highway traffic during such closure. Permits for banners, decorations, or similar objects over the traveled way of a highway shall require that they be securely fastened and be at least 18 feet above the surface of the traveled way. This section does not apply to a racing event for which a permit has been issued under the city motor vehicle racing act of 1981.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

**247.324 Permit; driveways; rules.**

Sec. 4. Permits for driveways shall be granted in conformity with rules promulgated by the highway authority which shall be consistent with the public safety and based upon the traffic volumes, drainage requirements and the character of the use of land adjoining the highway and other requirements in the public interest. Rules shall prescribe reasonable standards for the design and the location of driveways and may require that driveways shall be hard-surfaced. The provisions of this section shall not be deemed to deny reasonable access to a nonlimited access highway.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

**247.325 Rules; local adoption.**

Sec. 5. The department of state highways shall make rules necessary for the administration of this act in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948. The boards of county road commissioners may adopt by reference the rules, in whole or in part, of the department of state highways or may adopt its own rules after a public hearing of which notice has been given by publication at least twice in a newspaper circulated in the county not more than 30 days nor less than 7 days prior to the hearing.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

**Admin Rule:** R 247.201 et seq. of the Michigan Administrative Code.

**247.326 Permit; issuance requirements; revocation.**

Sec. 6. A permit shall not be issued unless all the requirements of this act, and of rules made pursuant to section 5, are met. A permit may be revoked by the highway authority issuing it if at any time the permitted object, use, or activity fails to meet the requirements of this act or rules made in accordance with section 5. This section does not apply to a permit issued by a city under the city motor vehicle racing act of 1981.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

**247.327 Existing driveways; correction of driveway in violation of rules; notice; failure to correct; reimbursement.**

Sec. 7. This act shall not apply to driveways in existence on August 6, 1969, except that if the use of the land served by the driveway is changed or expanded, and the change or expansion causes the existing driveway to be a safety hazard, the driveway shall be considered a new driveway subject to this act. A driveway which is constructed or reconstructed after the effective date of the rules issued pursuant to this act and which is in violation of the rules shall be corrected by the owner within a period of time, not less than 30 days, specified in the notice of violation sent by certified mail to the owner. If not corrected within the period required by

the notice, the highway authority or its agents may perform the necessary correction and the owner shall reimburse the highway authority for the reasonable cost of correction.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1978, Act 83, Imd. Eff. Mar. 29, 1978

**247.328 Construction of act.**

Sec. 8. Nothing in this act shall limit the right of the highway authority in the exercise of its authority to acquire property for highway purposes or to widen, relocate, reconstruct, improve or maintain any highways.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969

**247.329 Authorization of city or village to issue permits with respect to state trunk line highways; conditions; permit issued by city pursuant to MCL 257.1701 et seq.**

Sec. 9. (1) Except as provided in subsection (2), the state transportation commission by resolution may authorize any city or village to issue on behalf of the state the permits required by this act with respect to state trunk line highways within the corporate limits of the city or village provided the permits are issued pursuant to this act and rules promulgated under this act, subject to conditions as the commission may prescribe and subject to acceptance of that authority by the governing body of the city or village.

(2) A permit issued by a city under the city motor vehicle racing act of 1981 shall be considered to be a permit issued for all purposes under this act regarding any highway located within the limits of the city.

**History:** 1969, Act 200, Imd. Eff. Aug. 6, 1969 ;-- Am. 1981, Act 177, Imd. Eff. Dec. 14, 1981

**MAINTENANCE OF PRIVATE ROADS  
Act 139 of 1972**

AN ACT authorizing township boards to provide for the maintenance and improvement of private roads by contract and to provide payments

by special assessment districts; and to repeal certain acts and parts of acts.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

*The People of the State of Michigan enact:*

**247.391 Contract for maintenance of private roads; special assessment district; petition.**

Sec. 1. In any township, the township board may contract for the maintenance or improvement of any private roads within the township by the creation of a special assessment district. Fifty-one percent of the property owners owning the frontage along a private road shall be required to request the improvement or maintenance by petition to the township board.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.392 Allocation of costs; notice of public hearings.**

Sec. 2. Upon receipt of a petition the township board of any township may enter into a contract or make such maintenance or improvement with the allocation of cost to be spread against all of the owners in the district benefiting on a pro rata frontage basis. Such improvement and assessment of cost shall not be completed until the township board has created the special assessment district and assessed the properties with proper notice of public hearings to all of the owners of property within the special assessment district to be benefited thereby.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.393 Procedures and requirements.**

Sec. 3. The making of improvements or the maintenance of private roads and the creation of a special assessment district and the assessments levied to be placed upon the tax roll of the township shall all be in accordance with the procedures and requirements of Act No. 188 of the Public Acts of 1954, as amended, being sections 41.721 to 41.737 of the Compiled Laws of 1948.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.394 Annual program; duration of program; assessment period.**

Sec. 4. The maintenance or improvement approved by the township board may be an annual maintenance or improvement program not to exceed 5 years in scope and the assessment district shall not be assessed for a period longer than 5 years unless a new district with a new assessment is created to continue the program.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.395 “Maintenance” defined.**

Sec. 5. Maintenance, as used in this act, is defined as that word applies and has been adopted by the department of state highways manual to cities and villages.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.396 Contract with board of county road commissioners.**

Sec. 6. The township board may enter into contracts with the board of county road commissioners to provide maintenance or make improvement but such contracts shall include specific terms holding and saving the county free from damages resulting from the maintenance or improvement of private roads.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**247.397 Repealed. 1978, Act 108, Imd. Eff. Apr. 13, 1978.**

**Compiler's Notes:** The repealed section pertained to applicability of act to platted private roads.

**247.398 Repeal of MCL 247.371 to 247.375.**

Sec. 8. Act No. 234 of the Public Acts of 1968, being sections 247.371 to 247.375 of the Compiled Laws of 1948, is repealed.

**History:** 1972, Act 139, Imd. Eff. May 22, 1972

**STATE TRUNK LINE HIGHWAY SYSTEM (EXCERPT)  
Act 51 of 1951**

**247.659a Definitions; transportation asset management council; creation; charge; membership; appointments; staff and technical assistance; requirements and procedures; technical advisory panel; report including multiyear program; funding; records on road and bridge work performed and funds expended; report.**

Sec. 9a. (1) As used in this section:

(a) "Asset management" means an ongoing process of maintaining, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment.

(b) "Bridge" means a structure including supports erected over a depression or an obstruction, such as water, a highway, or a railway, for the purposes of carrying traffic or other moving loads, and having an opening measuring along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes where the clear distance between openings is less than 1/2 of the smaller contiguous opening.

(c) "Central storage data agency" means that agency or office chosen by the council where the data collected is stored and maintained.

(d) "Council" means the transportation asset management council created by this section.

(e) "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.

(f) "Department" means the state transportation department.

(g) "Federal-aid eligible" means any public road or bridge that is eligible for federal aid to be spent for the construction, repair, or maintenance of that road or bridge.

(h) "Local road agency" means a county road commission or designated county road agency or city or village that is responsible for the construction or maintenance of public roads within the state under this act.

(i) "Multiyear program" means a compilation of road and bridge projects anticipated to be contracted for by the department or a local road agency during a 3-year period. The multiyear program shall include a listing of each project to be funded in whole or in part with state or federal funds.

(j) "State planning and development regions" means those agencies required by section 134(b) of title 23 of the United States Code, 23 USC 134, and those agencies established by Executive Directive 1968-1.

(2) In order to provide a coordinated, unified effort by the various roadway agencies within the state, the transportation asset management council is hereby created within the state transportation commission and is charged with advising the commission on a statewide asset management strategy and the processes and necessary tools needed to implement such a strategy beginning with the federal-aid eligible highway system, and once completed, continuing on with the county road and municipal systems, in a cost-effective, efficient manner. Nothing in this section shall prohibit a local road agency from using an asset management process on its non-federal-aid eligible system. The council shall consist of 10 voting members appointed by the state transportation commission. The council shall include 2 members from the county road association of Michigan, 2 members from the Michigan municipal league, 2 members from the state planning and development regions, 1 member from the Michigan townships association, 1 member from the Michigan association of counties, and 2 members from the department. Nonvoting members shall include 1 person from the agency

or office selected as the location for central data storage. Each agency with voting rights shall submit a list of 2 nominees to the state transportation commission from which the appointments shall be made. The Michigan townships association shall submit 1 name, and the Michigan association of counties shall submit 1 name. Names shall be submitted within 30 days after the effective date of the 2002 amendatory act that amended this section. The state transportation commission shall make the appointments within 30 days after receipt of the lists.

(3) The positions for the department shall be permanent. The position of the central data storage agency shall be nonvoting and shall be for as long as the agency continues to serve as the data storage repository. The member from the Michigan association of counties shall be initially appointed for 2 years. The member from the Michigan townships association shall be initially appointed for 3 years. Of the members first appointed from the county road association of Michigan, the Michigan municipal league, and the state planning and development regions, 1 member of each group shall be appointed for 2 years and 1 member of each group shall be appointed for 3 years. At the end of the initial appointment, all terms shall be for 3 years. The chairperson shall be selected from among the voting members of the council.

(4) The department shall provide qualified administrative staff and the state planning and development regions shall provide qualified technical assistance to the council.

(5) The council shall develop and present to the state transportation commission for approval within 90 days after the date of the first meeting such procedures and requirements as are necessary for the administration of the asset management process. This shall, at a minimum, include the areas of training, data storage and collection, reporting, development of a multiyear program, budgeting and funding, and other issues related to asset management that may arise from time to time. All quality control standards and protocols shall, at a minimum, be consistent with any existing federal requirements and regulations and existing government accounting standards.

(6) The council may appoint a technical advisory panel whose members shall be representatives from the transportation construction associations and related transportation road interests. The asset management council shall select members to the technical advisory panel from names submitted by the transportation construction associations and related transportation road interests. The technical advisory panel members shall be appointed for 3 years. The asset management council shall determine the research issues and assign projects to the technical advisory panel to assist in the development of statewide policies. The technical advisory panel's recommendations shall be advisory only and not binding on the asset management council.

(7) The department, each county road commission, and each city and village of this state shall annually submit a report to the transportation asset management council. This report shall include a multiyear program developed through the asset management process described in this section. Projects contained in the department's annual multiyear program shall be consistent with the department's asset management process and shall be reported consistent with categories established by the transportation asset management council. Projects contained in the annual multiyear program of each local road agency shall be consistent with the asset management process of each local road agency and shall be reported consistent with categories established by the transportation asset management council.

(8) Funding necessary to support the activities described in this section shall be provided by an annual appropriation from the Michigan transportation fund to the state transportation commission.

(9) The department and each local road agency shall keep accurate and uniform records on all road and bridge work performed and funds expended for the purposes of this section, according to the procedures developed by the council. Each local road agency and the department shall annually report to the council the mileage and condition of the road and bridge system under their jurisdiction and the receipts and disbursements of road and street funds in the manner prescribed by the council, which shall be consistent with any current accounting

procedures. An annual report shall be prepared by the staff assigned to the council regarding the results of activities conducted during the preceding year and the expenditure of funds related to the processes and activities identified by the council. The report shall also include an overview of the activities identified for the succeeding year. The council shall submit this report to the state transportation commission, the legislature, and the transportation committees of the house and senate by May 2 of each year.

**History:** Add. 1957, Act 262, Eff. July 1, 1957 ;-- Am. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987 ;-- Am. 1998, Act 308, Imd. Eff. July 29, 1998 ;-- Am. 2002, Act 499, Imd. Eff. July 3, 2002 ;-- Am. 2007, Act 199, Imd. Eff. Dec. 21, 2007

**Compiler's Notes:** For transfer of powers and duties of the transportation needs study committee to the state transportation commission and abolishment of the committee, see E.R.O. No. 1997-6, compiled at MCL 247.691 of the Michigan Compiled Laws. For transfer of powers and duties of the citizens advisory committee to the director of the department of transportation and abolishment of the committee, see E.R.O. No. 1997-6, compiled at MCL 247.691 of the Michigan Compiled Laws.

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**247.660k Nonmotorized transportation services and facilities; expenditures; improvements as qualified nonmotorized facility; meeting requirements of section; 5-year program; establishment of facilities; information and assistance as to planning, design, and construction.**

Sec. 10k. (1) Transportation purposes as provided in this act include provisions for facilities and services for nonmotorized transportation including bicycling.

(2) Of the funds allocated from the Michigan transportation fund to the state trunk line fund and to the counties, cities, and villages, a reasonable amount, but not less than 1% of those funds shall be expended for construction or improvement of nonmotorized transportation services and facilities.

(3) An improvement in a road, street, or highway which facilitates nonmotorized transportation by the paving of unpaved road shoulders, widening of lanes, the addition or improvement of a sidewalk in a city or village, or any other appropriate measure shall be considered to be a qualified nonmotorized facility for the purposes of this section.

(4) Units of government need not meet the provisions of this section annually, provided the requirements are met as an average over a reasonable period of years, beginning with 1978, not to exceed 10.

(5) The state transportation department or a county, city, or village receiving money from the Michigan transportation fund annually shall prepare and submit a 5-year program for the improvement of qualified nonmotorized facilities which when implemented would result in the expenditure of an amount equal to at least 1% of the amount distributed to the state transportation department or the county, city, or village, whichever is appropriate, from the Michigan transportation fund in the previous calendar year multiplied by 10, less the accumulated total expenditures by the state transportation department or the county, city, or village for qualified nonmotorized facilities in the immediately preceding 5 calendar years. A county, city, or village receiving money from the Michigan transportation fund shall consult with the state transportation development region where the county, city, or village is located in its preparation and submittal of the 5-year program under this subsection.

(6) Facilities for nonmotorized transportation may be established in conjunction with or separate from already existing highways, roads, and streets and shall be established when a highway, road, or street is being constructed, reconstructed, or relocated, unless:

(a) The cost of establishing the facilities would be disproportionate to the need or probable use.

(b) The establishment of the facilities would be contrary to public safety.

(c) Adequate facilities for nonmotorized transportation already exist in the area.

(d) Matching funds are not available through the department of natural resources or other state, local, or federal government sources.

(e) The previous expenditures and projected expenditures for nonmotorized transportation facilities for the fiscal year exceed 1% of that unit's share of the Michigan transportation fund, in which case additional expenditures shall be discretionary.

(7) The state transportation department may provide information and assistance to county road commissions, cities, and villages on the planning, design, and construction of nonmotorized transportation facilities and services.

**History:** Add. 1972, Act 327, Imd. Eff. Jan. 3, 1973 ;-- Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978 ;-- Am. 1982, Act 438, Eff. Jan. 1, 1983 ;-- Am. 2006, Act 82, Imd. Eff. Mar. 29, 2006

**Popular Name:** McNitt Act

**247.665a Intergovernmental highway corridor planning preservation committees.**

Sec. 15a. County road commissions and cities and villages shall establish, where applicable, intergovernmental highway corridor planning preservation committees for the purpose of developing corridor plans in order to provide a stable economic environment for businesses in the corridor and to eliminate duplicative services at the local government level.

**History:** Add. 1997, Act 79, Eff. July 28, 1997

**Popular Name:** McNitt Act

**Popular Name:** Michigan Transportation Fund Act

**SURVEYS ON PUBLIC AND PRIVATE PROPERTY (EXCERPT)  
Act 208 of 1959**

**247.751 Highway surveys on public and private property; liability.**

Sec. 1. In preparation for and in connection with the planning, construction and maintenance of state trunk line highways and county roads, it shall be lawful for the appropriate authorities to go upon any

land and waters in this state for the purpose of making necessary surveys, soundings and borings as necessary; and such action shall not be a trespass nor an entry. The authorities shall be liable for any actual damage thereby done to such premises. No fences, fencing, trees or shrubbery shall be removed without the written consent of an owner of such property.

**History:** 1959, Act 208, Eff. Mar. 19, 1960

**TRANSFER OF JURISDICTION OVER HIGHWAYS (EXCERPT)  
Act 296 of 1969**

**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

**INTER-COUNTY HIGHWAYS, SUPER-HIGHWAYS, AND  
LIMITED ACCESS HIGHWAYS  
Act 381 of 1925**

AN ACT to authorize certain counties to combine for the purpose of planning systems of inter-county highways, super-highways and limited access highways; to define the terms "super-highways" and "limited access highways"; to authorize the establishment of inter-county highway commissions; to prescribe their powers and duties; to provide

for the appropriation of funds therefor; and to empower counties to legislate with respect thereto.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

*The People of the State of Michigan enact:*

**252.1 Inter-county highways, super-highways, limited access highways; inter-county contract, renewal, term.**

Sec. 1. Any 2 or more counties may by their boards of supervisors contract for the purpose of planning a system of inter-county highways, super-highways and limited access highways for such counties, and may bind themselves thereto by resolution adopted by a 2/3 vote of the board of supervisors of each county so combining, for a term of not to exceed 5 years; and when the term of any contract made hereunder shall have expired, such contract may be renewed from time to time for additional terms of not to exceed 5 years subject to the other provisions of this act.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4468 ;-- CL 1948, 252.1 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.2 Inter-county, super and limited access highways; definitions.**

Sec. 2. The term "super-highway" shall include any highway of a width ranging from 120 to 204 feet or more and in special instances of a width of not less than 106 feet and when established shall be deemed a public highway. The term "limited access highway" shall include such highways as are especially designed for through traffic, and over, from or to which owners or occupants of abutting land have no easement or right of light, air or access by reason of such abuttal. Super-highways or limited access highways may be parkways, with or without landscaped roadsides, from which trucks, buses and other commercial vehicles may be excluded; or they may be motorways open to use by all common forms of highway traffic.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4469 ;-- CL 1948, 252.2 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.3 Inter-county highway commission; members.**

Sec. 3. When any 2 or more adjoining counties combine under the terms of this act, they shall establish an inter-county highway commission which shall be composed of the state highway commissioner or his deputy, and 6 members from each of the counties participating, as follows: the 3 county road commissioners, the chairman of the county board of supervisors, and 2 members selected by the board of supervisors who shall be members thereof: Provided, however, That if a roads and bridges committee has been established by said county board of supervisors, the chairman of such committee shall be 1 of the 2 members thus selected: Provided further, That if a regional planning commission, created under the provisions of Act No. 281 of the Public Acts of 1945, as amended, being sections 125.11 to 125.23, inclusive, of the Compiled Laws of 1948, has been or shall be formed in any of the counties participating hereunder, the director of such regional planning commission shall be an ex officio member of the inter-county highway commission.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 255, Eff. Sept. 5, 1927 ;-- CL 1929, 4470 ;-- CL 1948, 252.3 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.4 Inter-county highway commission; plan, recording; plats, buildings, rules.**

Sec. 4. It shall be the duty of said commission to prepare an inter-county highway plan for the participating counties and to designate thereon the proposed highways, their width, the counties through or into which they will run, and if these are existing highways, the additional right-of-way requirements therefor necessary to obtain the width desired. After such plan has been approved by the governing body of each incorporated city and village affected thereby, the commission shall record a copy thereof in the office of the register of deeds in each participating county. After the plan has been recorded as aforesaid, no plat of land in said district shall be accepted which is not in conformity with said plan. No structure shall be built on the land within the lines of any proposed highway except on a permit granted by said commission. The counties may in their contract provide rules and regulations governing the procedure of the said commission.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4471 ;-- CL 1948, 252.4 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.5 Inter-county highway commission; expenses.**

Sec. 5. Members of the commission shall receive actual expenses necessarily incurred in the performance of their duties.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4472 ;-- CL 1948, 252.5 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.6 Inter-county highway commission; officers; employees; records; warrants; reports; depositories; interest; secured deposits; limitation on acceptable assets; “financial institution” defined.**

Sec. 6. (1) Within the limits of the funds provided by participating counties, the commission shall name its officers from its membership, except as otherwise provided in this act, and shall appoint engineers, attorneys, officers, agents, and other employees as may be necessary to carry out its duties.

(2) The commission shall keep a record of its proceedings and designate 2 or more of its members to sign and countersign all warrants, drafts, checks, and orders for the payment of money.

(3) The commission shall make an annual report to each county in the district of money received and expended and shall designate a financial institution as the depository of its funds and arrange for interest on daily balances.

(4) Assets acceptable for pledging to secure deposits of commission funds are limited to any of the following:

(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.

(b) Any of the following:

(i) Securities issued by the federal home loan mortgage corporation.

- (ii) Securities issued by the federal national mortgage association.
- (iii) Securities issued by the government national mortgage association.
- (c) Other securities considered acceptable to the commission and the financial institution.

(5) As used in this section, “financial institution” means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office located in this state under the laws of this state or the United States.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4473 ;-- CL 1948, 252.6 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955 ;-- Am. 1997, Act 38, Imd. Eff. June 30, 1997

**252.7 Inter-county highway commission; treasurer, compensation, bond; moneys, payments on warrants and orders.**

Sec. 7. The commission shall appoint the county treasurer of 1 of the participating counties in the district as the treasurer of said commission, for all funds of the commission. He shall serve without compensation for this service and shall under his bond be responsible for the safe keeping of said money, and shall pay out said money only on warrants and orders signed and countersigned as said commission under the terms hereof may determine.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4474 ;-- CL 1948, 252.7 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.8 Inter-county highway fund; creation, disbursement.**

Sec. 8. Each participating county shall pay annually into the treasury of said commission such sums as shall have been agreed upon under contract executed pursuant to section 1 hereof, and such additional sums as may from time to time be approved by a majority vote of the members elect of the board of supervisors of each county. The sums of money so

received shall together constitute the inter-county highway fund which shall be disbursed as said commission may determine.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 255, Eff. Sept. 5, 1927 ;-- CL 1929, 4475 ;-- CL 1948, 252.8 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.9 Repealed. 1955, Act 195, Imd. Eff. June 17, 1955.**

**Compiler's Notes:** The repealed section pertained to donations, dedications, purchase and condemnation of property and railroad right of way.

**252.10 Inter-county highway contract; obligations.**

Sec. 10. After contracting to participate for the purposes hereof, no act or happening shall excuse any county from its obligations hereunder.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4477 ;-- CL 1948, 252.10 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.11 Inter-county highway; ordinances; rights-of-way.**

Sec. 11. The board of supervisors of each county participating hereunder, shall have power to pass all ordinances which shall be necessary and proper for carrying into execution the foregoing powers, and may by ordinance regulate and control the rights-of-way established under any inter-county highway developed hereunder until such rights-of-way are acquired as provided by law.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4478 ;-- CL 1948, 252.11 ;-- Am. 1955, Act 195, Imd. Eff. June 17, 1955

**252.12 Jurisdiction retained by state highway department.**

Sec. 12. Nothing herein shall be construed to take from the state highway department any jurisdiction that it may have over any state trunk line highway now or hereafter established.

**History:** 1925, Act 381, Eff. Aug. 27, 1925 ;-- CL 1929, 4479 ;-- CL 1948, 252.12

**THE DRAIN CODE OF 1956 (EXCERPTS)**  
**Act 40 of 1956**

**280.6 Drains; public easements and rights of way; use; release, notice, protest.**

Sec. 6. All established drains regularly located and established in pursuance of law existing at the time of location and establishment and visibly in existence, which were established as drains, and all drains visibly in existence in written drain easements or rights of way on file in the office of the commissioner, shall be deemed public drains located in public easements or rights of way which are valid and binding against any owners of any property interest who became or hereafter become such owners after the location and establishment of the drain or the existence of the drain became visible or the written drain easement or right of way was executed, and the commissioner or drainage board may use, enter upon and preserve such easement or right of way for maintenance of the visible drain and any other lawful activity with respect to the same not requiring a larger or different easement or right of way and may exercise any rights granted in the written easement or right of way on file in the office of the commissioner. Easements or rights of way, or portions of easements or rights of way, no longer necessary for drainage purposes may be conveyed or released to the fee owners by the commissioner or drainage board on behalf of the drainage district. The drain commissioner or drainage board shall give at least 30 days' notice of the intention to release the excess easements by publishing a notice in a newspaper of general circulation in the county or a newspaper of general circulation where the drainage district boundaries are located. This notice shall give a general description of the excess easements to be released and the date any taxpayers may appear to protest said release. After said date if no protests are received, the drain commissioner or drainage board may release said excess easements or portions thereof not necessary for drainage purposes.

**History:** Add. 1968, Act 208, Imd. Eff. June 24, 1968

**Popular Name:** Act 40

**280.11 Easement; right of way; release of damages; recording.**

Sec. 11. Any easement, right of way or release of damages obtained in connection with any proposed drain or drains shall, following the

expiration of 30 days after the day of review, be recorded in the office of the register of deeds: Provided, That in any drain proceeding in which an injunction or a writ of certiorari has been issued but not determined within 30 days after the day of review, the recording shall be within 30 days after a determination sustaining the drain.

All easements, rights of way or releases of damages hereafter obtained in connection with any existing drain shall be recorded in the office of the register of deeds when said drain is being cleaned, relocated, deepened, widened, straightened, extended, tiled or consolidated pursuant to law.

The recording required by this section shall be made by the drain commissioner or the drainage board, as the case may be, and the cost of such recording paid by the drainage district.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

### Chapter 13. HIGHWAYS.

#### **280.321 Drains in public highways; permit; release of right of way.**

Sec. 321. Drains may be laid within or across the right of way of any highway, provided it shall be necessary for the county drain commissioner to obtain first a permit from the highway authority having jurisdiction. If title in fee simple be not in the highway authority, said commissioner shall also obtain a release of right of way for the purposes of such drain from the owner of the land, as provided in sections 73, 74 and 75 of this act.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

#### **280.322 Drains in public highways; cost of construction; contract; maintenance, bridges or culverts to farms.**

Sec. 322. When any drain crosses a highway, the necessary bridge or culvert shall be constructed on the center line of the highway as located by survey, and in accordance with plans and specifications which shall

be approved by the county road commission having jurisdiction, or by the state highway commissioner if such highway is a state trunk line. The cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of construction of such drain. The board of county road commissioners or the state highway commissioner shall assume and bear such portion of the cost of construction, based upon benefits, as may be agreed upon with the drain commissioner. In such case, the contract for the construction of the bridge shall not be let by the drain commissioner without the written consent of the state highway commissioner or the board of county road commissioners. Thereafter such bridge or culvert constructed under the provisions of this act shall be maintained by the county road commission or state highway commissioner. Any such expense charged to the state highway commissioner shall be met out of any funds appropriated for the state highway department that may be available therefor; and any such expense to be borne by the board of county road commissioners shall be paid out of moneys in the county road fund not otherwise appropriated. As part of such drain, there shall be constructed at least 1 bridge or culvert across such drain connecting the highway (except limited access highways established under Act No. 205 of the Public Acts of 1941, as amended, being sections 252.51 to 252.64 of the Compiled Laws of 1948), with each farm entrance, and when a drain crosses a farm or any portion thereof there shall be constructed 1 bridge, culvert or ford across the drain connecting the portions of the farm disconnected by the drain, which bridge, culvert or ford shall also be charged in the first instance as a part of the construction of such drain, after which such bridge, culvert or ford shall be maintained by the owner of the land. If the drain commissioner shall make future improvements such as widening, deepening, straightening or relocating such drain, but not clean out alone, there shall be constructed the necessary bridges, culverts and fords as parts of such improvements.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956 ;-- Am. 1965, Act 107, Imd. Eff. June 30, 1965

**Popular Name:** Act 40

**280.322b Drains; highways, crossing; expenses.**

Sec. 322b. If any person desires during construction or reconstruction of a highway to install a drain for agricultural benefits in lands adjacent to

any highway, and if a satisfactory outlet cannot be secured on the upper side of the highway right of way and the drain must be projected across the right of way to reach an outlet which may be legally utilized as an outlet and is suitable for such purpose, the expense of both material and labor used in installing the drain across the right of way shall be paid from funds available for the highway affected if the highway authority is notified of the necessity of the drain sufficiently in advance of the construction or reconstruction of the highway so that the drain may be installed and the highway constructed or reconstructed in the same operation.

**History:** Add. 1968, Act 283, Imd. Eff. July 1, 1968

**Popular Name:** Act 40

**280.323 Drains along public highways; consent; disposition of materials; apportionment against state trunk line highway; payment of assessment; certificate of amount due; drains constructed prior to 1923.**

Sec. 323. Before a drain is constructed along a public highway, the drain commissioner or drainage board shall consult with and obtain the written consent of the highway authorities having jurisdiction over the highway, as to the proposed location of the drain and the disposition of all material excavated. Whenever an apportionment is made against a state trunk line highway, the amount of the assessment based on the apportionment shall be paid out of any state transportation funds on hand. On or before December 1 of the year when the assessment is made, the drain commissioner or drainage board shall certify to the state treasurer the amount due from the state to the drainage district by reason of the assessment of benefits, and the state treasurer shall, if satisfied of the correctness of such certificate, cause the certificate to be paid within 30 days thereafter.

If a ditch or drain was constructed prior to 1923 primarily for drainage of private lands, and was constructed along a public highway, and if the records including the original survey of the drain are not of public record nor turned over to the county drain commissioner, or have not been entered in the records of the county drain commissioner as a county drain, then the actual location of the drain shall be sufficient to make the

drain comply with the provisions of this act with respect to the location thereof, and the drain shall be a county drain upon compliance with the other provisions of this act with respect to county drains. No proceedings shall be instituted for the widening of the drain or the deepening thereof below its original bottom.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956 ;-- Am. 1972, Act 150, Imd. Eff. May 26, 1972 ;-- Am. 2002, Act 353, Imd. Eff. May 23, 2002

**Popular Name:** Act 40

**280.324 Drainage across lands adjacent to highways; right of way; approval of purchase.**

Sec. 324. Whenever it is necessary or more convenient for the proper drainage of any highway in this state that the surplus water be taken onto or across the land adjacent thereto, the county road commission of the county in which said highway is situated may secure the right of way and may open such drain or outlet for the water, and for these purposes may use any highway moneys of the township in which said highway is situated, not otherwise appropriated, and such sums as may be voted for that use by the electors of the townships. The county road commission shall secure the right of way for any such drain by gift or purchase from the owners of the land to be crossed by such drain; but in case of purchase the purchase price must be approved by the township board whenever township funds are involved, before any money be paid thereon. Such right of way shall be acquired by deed duly executed by the owner or owners of the lands sought to be crossed by the said drain, and shall be taken in the name of the township wherein the same is located, and filed in the office of the register of deeds of the county before any highway money shall be expended in opening such drain outside the highway limits.

Before the township board approves the purchase price of any drain right of way under this section, the county road commission shall submit to the board for its approval details of the proposed drain, with specifications that the drain shall be constructed in accordance with good health and sanitation standards and in such a manner as not to constitute a hazard to health or safety and that in construction of the drain the

township board shall approve the use of the land upon which the drain is to be located.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956 ;-- Am. 1962, Act 94, Eff. Mar. 28, 1963

**Popular Name:** Act 40

**280.325 Cost to township for highway drainage; report by county road commission, drain fund.**

Sec. 325. The county road commission shall report to the electors of the township at their annual meeting the amount of money expended by him during the year for such highway drainage, specifying the amount expended on each drain. The commission shall also recommend the raising of such sums as it may deem necessary for opening drains from the highway during the coming year, specifying each proposed drain and the probable amount needed for securing the right of way and opening the same. The money voted for this purpose by the electors of the township shall constitute a special highway drain fund, and shall be used for no other purpose. In case any money be left in the fund, after opening the drain for which it was raised, it may be used in opening any other highway drain in the township, or in cleaning out, when necessary, those already opened.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

**280.326 Construction report; restriction on county road commission.**

Sec. 326. On the completion by the county road commission of any drain constructed under the provisions of this act, it shall be the duty of said county road commission to file in the office of the drain commissioner a detailed report of the construction of such drain, giving the date of construction, the termini and general course thereof, together with a copy of the deed by which the right of way therefor was secured. Nothing in the provisions of the preceding sections shall be construed as giving to the county road commission power to lay out and construct drains having any other purpose than the drainage of highways.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

**280.327 Highway drain; petition, procedure, jurisdiction of commissioner.**

Sec. 327. In case it becomes necessary for the construction or maintenance of any highway to take the surplus water across adjacent lands, the state, county or township highway commissioner or county road commissioners may make under his or their name of office an application or petition to the drain commissioner of the county in which such highway is situated to lay out and designate a drainage district, locate and establish a drain, clean out, widen, deepen, straighten or extend an established drain. Such application or petition shall conform to the law regulating applications or petitions for the laying out and designating a drainage district, locating and establishing of drains, and cleaning out, widening, deepening, straightening and extending established drains, and shall require no other signature than his own as highway commissioner or county road commissioners. Such application or petition shall have the same force and effect, and be subject in other respects to the same laws and regulations that govern other such applications or petitions and shall confer the same jurisdiction and authority on the county drain commissioner to lay out and designate a drainage district, locate and establish a drain, or clean out, widen, deepen, straighten or extend an established drain: Provided, That in cases where the state highway commissioner makes such application or petition he shall serve a copy of such application or petition on the director of agriculture, who shall within 30 days hold a meeting at some place in the drainage district for the purpose of determining the practicability or necessity of such drain, and no board of determination shall be necessary to pass on those questions. Said meeting shall be held, notice given and all persons interested may be heard in the same manner as provided in section 102 or section 122 of this act. The determination of the director of agriculture shall be filed with the drain commissioner.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

**280.328 Forwarding engineering plans to drain commissioner.**

Sec. 328. Before the department of state highways may commence the construction of a state highway, the engineering plans of the state highway relative to county drains shall be forwarded to the drain commissioner of each county where the state highway is to be constructed.

**History:** Add. 1972, Act 298, Imd. Eff. Dec. 14, 1972

**Popular Name:** Act 40

Chapter 14.  
RAILROADS.

**280.341 Drains along railroad; release of right of way; consent.**

Sec. 341. Drains may be laid along the line of any railroad within its right of way: Provided, That such drain shall not be to the injury of the roadbed. Whenever it is proposed to construct a drain along the line, and within the right of way of any railroad, and the company owning or operating such road shall refuse or neglect to permit such drain to be constructed, or release the right of way therefor within the time prescribed in section 75 of this act, such release shall be obtained in the same manner as is provided in this act for obtaining private lands: Provided, That no drain shall be constructed along the line of any railroad without the consent of the company owning or operating such road, if it shall appear to the special commissioners that such drain can equally well be laid on private lands.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

**280.342 Drains across public utility right of way; mandamus to compel opening; costs.**

Sec. 342. Whenever it is necessary to lay out and establish, deepen or widen, or both, or extend or straighten a drain across the right of way or roadbed of any railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company, the same proceedings shall be had throughout in all respects as cases provided in this act for obtaining private lands, except as herein provided. The damages and compensation to be awarded by the special commissioners shall include the legal

damages for the making of the opening required in the drain proceedings. After damages as aforesaid shall have been determined, it shall be the duty of the railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company, when notified by the commissioner so to do, to make and maintain the necessary opening through its roadbed or right of way and to build and maintain a suitable culvert or crossing for such drain. Notice in writing to make such opening and to construct such culvert shall be served upon such company by leaving a copy thereof with the ticket or freight agent or general officer of such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company at least 30 days before such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company shall become liable. In case such railroad, railway, telephone, telegraph, dam, electric, water, oil, gas or other power company shall neglect for 30 days after service of such notice as aforesaid, the commissioner shall have the right to petition the circuit court, in addition to any other remedies which may exist, of the county in which such crossing is located, to compel such company to make such opening forthwith; and such circuit court shall, if it finds there is legal right to such opening, order the same to be forthwith constructed by said company, and issue its writ of mandamus therefor. At least 10 days' notice shall be given such company of such application, and thereafter such proceedings shall follow the practice of circuit courts in mandamus proceedings. Said matter shall be heard and determined as speedily as practicable, and take precedence over all other cases which may be pending in such court. Such costs may be awarded the prevailing party as are awarded in other motions for mandamus.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

**280.343 Violation of act; penalty.**

Sec. 343. In case such railroad company shall refuse or neglect to comply with the provisions of section 342, it shall be liable to a penalty of \$10.00 for each day's refusal or neglect to make such opening and construct such culvert.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956

**Popular Name:** Act 40

**NATURAL RESOURCES AND ENVIRONMENTAL  
PROTECTION ACT (EXCERPT)  
Act 451 of 1994**

**NATURAL BEAUTY ROADS**

**324.35701 Definitions.**

Sec. 35701. As used in this part:

- (a) “Board” means board of county road commissioners.
- (b) “City street” means city major street or city local street as described in section 9 of Act No. 51 of the Public Acts of 1951, being section 247.659 of the Michigan Compiled Laws.
- (c) “County local road” means county local road as described in section 4 of Act No. 51 of the Public Acts of 1951, being section 247.654 of the Michigan Compiled Laws.
- (d) “Native vegetation” means original or indigenous plants of this state including trees, shrubs, vines, wild flowers, aquatic plants, or ground cover.
- (e) “Natural” means in a state provided by nature, without human-made changes, wild, or uncultivated.
- (f) “Street” means city street or village street.
- (g) “Village street” means village major street or village local street as described in section 9 of Act No. 51 of the Public Acts of 1951.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** Natural Beauty Roads

**Popular Name:** NREPA

**324.35702 Petition for designation; hearing; notice; resolution.**

Sec. 35702. (1) Twenty-five or more freeholders of a township may apply by petition to the board for the county in which that township is located for designation of a county local road or portion of a county local road as a natural beauty road. Twenty-five or more freeholders of a city may petition the legislative body of the city for designation of a city street or a portion of a city street as a natural beauty street. Twenty-five or more freeholders of a village may petition the legislative body of the village for designation of a village street or a portion of a village street as a natural beauty street.

(2) Within 6 months after a petition is received, the board or the legislative body of the city or village shall hold a public hearing to consider designating the road or street described in the petition as a natural beauty road or natural beauty street, respectively. The hearing shall be held at a suitable place within the township in which the proposed natural beauty road is located or the city or village in which the proposed natural beauty street is located. At the hearing, a party or interested person may support or object to the proposed designation. The board, the legislative body of the city, or the legislative body of the village shall give notice of the hearing by publication at least once each week for 2 successive weeks in a newspaper of general circulation in the county, city, or village, respectively, and by posting 5 notices within the limits of the portion of the road or street to be designated, in public and conspicuous places. The posting shall be done and at least 1 publication in the newspaper shall be made not less than 10 days before the hearing.

(3) Within 30 days after the hearing, if the board, the legislative body of the city, or the legislative body of the village considers the designation desirable, it shall file with the county clerk, city clerk, or village clerk, respectively, a true copy of its resolution designating the portion of the county local road as a natural beauty road, the portion of the city street as a natural beauty street, or the portion of the village street as a natural beauty street, respectively.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** Natural Beauty Roads

**Popular Name:** NREPA

**324.35703 Designation; petition requesting withdrawal; revocation of designation; determination; publication of notice; reversion to former status.**

Sec. 35703. (1) Not more than 45 days after a board designates a road as a natural beauty road or the legislative body of a city or village designates a street as a natural beauty street, the property owners of record of 51% or more of the lineal footage along the natural beauty road or natural beauty street may submit a petition to the board or the legislative body of the city or village, respectively, requesting that the designation be withdrawn. If the petition is valid, the designation as a natural beauty road or natural beauty street shall be withdrawn.

(2) A board or the legislative body of a city or village may revoke a designation of a natural beauty road or natural beauty street after holding a public hearing in accordance with the procedure described in section 35702(2). Not more than 30 days after a hearing, if the board, the legislative body of the city, or the legislative body of the village by majority vote determines that the revocation is necessary, it shall file with the county clerk, city clerk, or village clerk, respectively, a notice of its determination and publish the notice in a newspaper of general circulation in the county, city, or village, respectively, once each week for 2 successive weeks. After publication of the notice, the road or street previously designated shall revert to its former status.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** Natural Beauty Roads

**Popular Name:** NREPA

**324.35704 Guidelines and procedures for native vegetation preservation; rights of public utilities or governmental agencies or municipalities.**

Sec. 35704. (1) The department shall develop uniform guidelines and procedures that may be adopted by a board to preserve native vegetation in a natural beauty road right-of-way from destruction or substantial

damage by cutting, spraying, dusting, mowing, or other means. The department shall develop uniform guidelines that may be adopted by the legislative body of a city or village to preserve native vegetation in a natural beauty street right-of-way from destruction or substantial damage by cutting, spraying, dusting, mowing, or other means. Guidelines and procedures developed pursuant to this subsection shall not prohibit the application of accepted principles of sound forest management in a natural beauty road or natural beauty street right-of-way or prevent a local road authority from regulating speed and from taking actions to modify specific road features to correct traffic hazards that pose a direct and ongoing threat to motorists.

(2) The department may advise and consult with a board or a city or village legislative body on the application of the guidelines and procedures.

(3) A board or a city or village legislative body shall provide for a public hearing before an act that would result in substantial damage to native vegetation in the right-of-way of a natural beauty road or natural beauty street, respectively, is permitted.

(4) Subject to subsections (5), (6), and (7), prior to approval of any construction project or tree cutting that would significantly impact native vegetation within the right-of-way of a natural beauty road, the board shall notify the clerk of the city, village, or township within which the road lies of the proposed activity. If the city, village, or township desires to hold a public hearing on the proposed activity, the clerk of the city, village, or township shall notify the board within 7 days of the transmittal of notice by the board. The notice to the board shall include the date, time, and place of the township, city, or village hearing. The hearing shall take place within 14 days of the transmittal of notice to the board. A member of the board or a representative of the board shall attend the hearing. The city, village, or township clerk shall provide the board with a written report of testimony taken at the hearing within 10 days of the hearing. The board shall not approve the construction project or tree cutting until 12 days after notice of the proposed activity has been sent to the city, village, or township clerk, or if notification of a hearing

is timely received by the board, until 12 days after the public hearing is held. The board shall consider, in approval or denial of the proposed activity, any report of testimony taken at the public hearing received from the city, village, or township.

(5) The notification and hearing provided for in subsection (4) are not required if the construction or tree cutting is necessitated by emergency conditions.

(6) This part does not affect the right of a public utility to control vegetation in connection with the maintenance, repair, or replacement of public utility facilities constructed in a road or street before its designation as a natural beauty road or natural beauty street, or in connection with the construction, maintenance, repair, or replacement of public utility facilities crossing a natural beauty road or natural beauty street.

(7) This part does not affect or restrict the maintenance activities of a governmental agency or municipality having jurisdiction over a beauty road.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 119, Imd. Eff. Mar. 6, 1996

**Popular Name:** Act 451

**Popular Name:** Natural Beauty Roads

**Popular Name:** NREPA

**324.35705 Citizen's advisory committee; establishment; purpose.**

Sec. 35705. The department may establish a citizen's advisory committee to assist in the formulation of proposals for guidelines and procedures.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** Natural Beauty Roads

**Popular Name:** NREPA

**324.35706 Violation of guideline or procedure; complaint; civil action; default in payment of civil fine or costs.**

Sec. 35706. (1) If there is a violation of a guideline or procedure adopted by a board, the legislative body of a city, or the legislative body of a village pursuant to section 35704, a complaint, signed by 5 or more freeholders of the township, city, or village, respectively, or by freeholders representing 10% or more of the lineal frontage along a natural beauty road or natural beauty street, may be filed with the county prosecutor, city attorney, or village attorney, respectively, or with the attorney general. The county prosecutor, the city attorney, the village attorney, or the attorney general, on behalf of the board, the legislative body of the city, the legislative body of the village, or the department, may commence a civil action seeking either of the following:

(a) A temporary or permanent injunction to enjoin the violation of the guideline or procedure.

(b) A civil fine of not more than \$400.00 for the violation of the guideline or procedure.

(2) A default in the payment of a civil fine or costs ordered under this part or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995

**Popular Name:** Act 451

**Popular Name:** Natural Beauty Roads

**Popular Name:** NREPA

## **ELECTRIC TRANSMISSION LINE CERTIFICATION ACT Act 30 of 1995**

AN ACT to regulate the location and construction of certain electric transmission lines; to prescribe powers and duties of the Michigan public service commission and to give precedence to its determinations in certain circumstances; and to prescribe the powers and duties of certain local units of government and officials of those local units of government.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995

*The People of the State of Michigan enact:*

**460.561 Short title.**

Sec. 1. This act shall be known and may be cited as the “electric transmission line certification act”.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995

**460.562 Definitions.**

Sec. 2. As used in this act:

(a) “Affiliated transmission company” means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, which has fully satisfied the requirements to join a regional transmission organization as determined by the federal energy regulatory commission, is engaged in this state in the transmission of electricity using facilities it owns that were transferred to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is not independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(b) “Certificate” means a certificate of public convenience and necessity issued for a major transmission line under this act or issued for a transmission line under section 9.

(c) “Commission” means the Michigan public service commission.

(d) “Construction” means any substantial action taken on a route constituting placement or erection of the foundations or structures supporting a transmission line. Construction does not include preconstruction activity or the addition of circuits to an existing transmission line.

(e) “Electric utility” means a person, partnership, corporation, association, or other legal entity whose transmission or distribution of

electricity the commission regulates under 1909 PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to 460.10cc. Electric utility does not include a municipal utility, affiliated transmission company, or independent transmission company.

(f) “Independent transmission company” means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, engaged in this state in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(g) “Major transmission line” means a transmission line of 5 miles or more in length wholly or partially owned by an electric utility, affiliated transmission company, or independent transmission company through which electricity is transferred at system bulk supply voltage of 345 kilovolts or more.

(h) “Municipality” means a city, township, or village.

(i) “Preconstruction activity” means any activity on a proposed route conducted before construction of a transmission line begins. Preconstruction activity includes surveys, measurements, examinations, soundings, borings, sample-taking, or other testing procedures, photography, appraisal, or tests of soil, groundwater, structures, or other materials in or on the real property for contamination. Preconstruction activity does not include an action that permanently or irreparably alters the real property on or across the proposed route.

(j) “Route” means real property on or across which a transmission line is constructed or proposed to be constructed.

(k) “Transmission line” means all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of 100 kilovolts or more.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.563 Transmission as essential service; act as controlling.**

Sec. 3. (1) Transmission of electricity is an essential service.

(2) This act shall control in any conflict between this act and any other law of this state.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.564 Construction plan.**

Sec. 4. (1) If an electric utility that has 50,000 or more residential customers in this state, affiliated transmission company, or an independent transmission company plans to construct a major transmission line in this state in the 5 years after planning commences, the electric utility, affiliated transmission company, or independent transmission company shall submit a construction plan to the commission. An electric utility with fewer than 50,000 residential customers in this state may submit a plan under this section. A plan shall include all of the following:

(a) The general location and size of all major transmission lines to be constructed in the 5 years after planning commences.

(b) Copies of relevant bulk power transmission information filed by the electric utility, affiliated transmission company, or independent transmission company with any state or federal agency, national electric reliability coalition, or regional electric reliability coalition.

(c) Additional information required by commission rule or order that directly relates to the construction plan.

(2) At the same time the electric utility, affiliated transmission company, or independent transmission company submits a construction plan to the commission under subsection (1), the electric utility, affiliated transmission company, or independent transmission company shall

provide a copy of the construction plan to each municipality in which construction of the planned major transmission line is intended.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.565 Transmission line; certificate required.**

Sec. 5. An electric utility, affiliated transmission company, or independent transmission company shall not begin construction of a major transmission line for which a plan has been submitted under section 4 until the commission issues a certificate for that transmission line. Except as otherwise provided in section 9, a certificate of public convenience and necessity under this act is not required for constructing a new transmission line other than a major transmission line or for reconstructing, repairing, replacing, or improving an existing transmission line, including the addition of circuits to an existing transmission line.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.566 Public meeting as condition for certificate application.**

Sec. 6. (1) Before applying for a certificate under section 5, an electric utility, affiliated transmission company, or independent transmission company shall schedule and hold a public meeting in each municipality through which a proposed major transmission line for which a plan has been submitted under section 4 would pass. A public meeting held in a township satisfies the requirement that a public meeting be held in each affected village located within the township.

(2) In the 60 days before a public meeting held under subsection (1), the electric utility, affiliated transmission company, or independent transmission company shall offer in writing to meet with the chief elected official of each affected municipality or his or her designee to discuss the utility's, affiliated transmission company's, or independent transmission company's desire to build the major transmission line and to explore the routes to be considered.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.567 Application for certificate for proposed major transmission line; withdrawal; contents.**

Sec. 7. (1) An electric utility that has 50,000 or more residential customers in this state, an affiliated transmission company, or an independent transmission company shall apply to the commission for a certificate for a proposed major transmission line. An applicant may withdraw an application at any time.

(2) An application for a certificate shall contain all of the following:

- (a) The planned date for beginning construction.
- (b) A detailed description of the proposed major transmission line, its route, and its expected configuration and use.
- (c) A description and evaluation of 1 or more alternate major transmission line routes and a statement of why the proposed route was selected.
- (d) If a zoning ordinance prohibits or regulates the location or development of any portion of a proposed route, a description of the location and manner in which that zoning ordinance prohibits or regulates the location or construction of the proposed route.
- (e) The estimated overall cost of the proposed major transmission line.
- (f) Information supporting the need for the proposed major transmission line, including identification of known future wholesale users of the proposed major transmission line.
- (g) Estimated quantifiable and nonquantifiable public benefits of the proposed major transmission line.

(h) Estimated private benefits of the proposed major transmission line to the applicant or any legal entity that is affiliated with the applicant.

(i) Information addressing potential effects of the proposed major transmission line on public health and safety.

(j) A summary of all comments received at each public meeting and the applicant's response to those comments.

(k) Information indicating that the proposed major transmission line will comply with all applicable state and federal environmental standards, laws, and rules.

(l) Other information reasonably required by the commission pursuant to rule.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.568 Public notice; publication; conduct of proceeding; fees; consultants; granting or denying application; criteria; identification of route and estimated cost; validity and duration of certificate.**

Sec. 8. (1) Upon applying for a certificate, the electric utility, affiliated transmission company, or independent transmission company shall give public notice in the manner and form the commission prescribes of an opportunity to comment on the application. Notice shall be published in a newspaper of general circulation in the area to be affected within a reasonable time period after an application is provided to the commission and shall be sent to each affected municipality and each affected landowner on whose property a portion of the proposed major transmission line will be constructed. The notice shall be written in plain, nontechnical, and easily understood terms and shall contain a title that includes the name of the electric utility, affiliated transmission company, or independent transmission company and the words "NOTICE OF INTENT TO CONSTRUCT A MAJOR TRANSMISSION LINE".

(2) The commission shall conduct a proceeding on the application as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Upon receiving an application for a certificate, each affected municipality and each affected landowner shall be granted full intervenor status as of right in commission proceedings concerning the proposed major transmission lines.

(3) The commission may assess certificate application fees from the electric utility, affiliated transmission company, or independent transmission company to cover the commission's administrative costs in processing the application and may require the electric utility, affiliated transmission company, or independent transmission company to hire consultants chosen by the commission to assist the commission in evaluating those issues the application raises.

(4) The commission shall grant or deny the application for a certificate not later than 1 year after the application's filing date. If a party submits an alternative route for the proposed major transmission line, the commission shall grant the application for either the electric utility's, affiliated transmission company's, or independent transmission company's proposed route or 1 alternative route or shall deny the application. The commission may condition its approval upon the applicant taking additional action to assure the public convenience, health, and safety and reliability of the proposed major transmission line.

(5) The commission shall grant the application and issue a certificate if it determines all of the following:

(a) The quantifiable and nonquantifiable public benefits of the proposed major transmission line justify its construction.

(b) The proposed or alternative route is feasible and reasonable.

(c) The proposed major transmission line does not present an unreasonable threat to public health or safety.

(d) The applicant has accepted the conditions contained in a conditional grant.

(6) A certificate issued under this section shall identify the major transmission line's route and shall contain an estimated cost for the transmission line.

(7) If construction of a proposed major transmission line is not begun within 5 years of the date that a certificate is granted, the certificate is invalid and a new certificate shall be required for the proposed major transmission line.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.569 Certificate other than for major transmission line; provisions applicable to issuance; applicability of MCL 460.564.**

Sec. 9. (1) An electric utility, affiliated transmission company, or independent transmission company may file an application with the commission for a certificate for a proposed transmission line other than a major transmission line. If an electric utility, affiliated transmission company, or independent transmission company applies for a certificate under this section, the electric utility, affiliated transmission company, or independent transmission company shall not begin construction of the proposed transmission line until the commission issues a certificate for that transmission line.

(2) The commission shall proceed on an application in the same manner as provided in section 8. Except as otherwise provided in subsection (3), the provisions of this act that apply to applications and certificates for major transmission lines apply in the same manner to applications and certificates issued under this section.

(3) Section 4 does not apply to a transmission line for which a certificate is sought under this section.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.570 Local ordinances or limitations in conflict with certificate; effect.**

Sec. 10. (1) If the commission grants a certificate under this act, that certificate shall take precedence over a conflicting local ordinance, law, rule, regulation, policy, or practice that prohibits or regulates the location or construction of a transmission line for which the commission has issued a certificate.

(2) A zoning ordinance or limitation imposed after an electric utility, affiliated transmission company, or independent transmission company files for a certificate shall not limit or impair the transmission line's construction, operation, or maintenance.

(3) In an eminent domain or other related proceeding arising out of or related to a transmission line for which a certificate is issued, a certificate issued under this act is conclusive and binding as to the public convenience and necessity for that transmission line and its compatibility with the public health and safety or any zoning or land use requirements in effect when the application was filed.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.571 Limited license.**

Sec. 11. In a civil action in the circuit court under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, the court may grant a limited license to an electric utility, affiliated transmission company, or independent transmission company for entry on land to conduct preconstruction activity related to a proposed major transmission line or a transmission line if the electric utility, affiliated transmission company, or independent transmission company has scheduled or held a public meeting in connection with a certificate sought under section 7 or 9 and if written notice of the intent to enter the land has been given to each affected landowner on whose property the electric utility, affiliated transmission company, or independent transmission company wishes to enter. The limited license may be granted upon such terms as justice and equity require. An electric utility, affiliated transmission company, or independent transmission company

that obtains a limited license shall provide each affected land owner with a copy of the limited license. A limited license shall include a description of the purpose of entry, the scope of activities permitted, and the terms and conditions of entry with respect to the time, place, and manner of entry. The court shall not deny a limited license for entry to conduct preconstruction activity for any of the following reasons:

- (a) A disagreement exists over the proposed route.
- (b) The electric utility, affiliated transmission company, or independent transmission company has not yet applied for a certificate.
- (c) The commission has not yet granted or denied the application.
- (d) An alleged lack of public convenience or necessity.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.572 Costs to be included in rates.**

Sec. 12. Reasonable and prudent costs for a transmission line for which a certificate is issued shall be included in an electric utility's rates. The commission shall not disallow costs the electric utility incurs in constructing a transmission line for which a certificate is issued, which costs do not exceed the amount set forth in the certificate unless the commission determines that the actual costs were imprudently and unreasonably incurred, based upon substantial evidence presented in opposition to the electric utility's rate request. Costs incurred by the electric utility that exceed the amount set forth in the certificate shall be included in the electric utility's rates, if reasonably and prudently incurred based upon substantial evidence presented in support of the electric utility's rate request.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995

**460.573 Information as public record; disclosure of confidential information; waiver.**

Sec. 13. (1) Except as otherwise provided in this section, information obtained by the commission under this act is a public record as provided in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) An electric utility, affiliated transmission company, or independent transmission company may designate information received from a third party that the electric utility, affiliated transmission company, or independent transmission company submits to the commission in an application for a certificate or in other documents required by the commission for purposes of certification submitted to the commission as being only for the confidential use of the commission. The commission shall notify the electric utility, affiliated transmission company, or independent transmission company of a request for public records under section 5 of the freedom of information act, 1976 PA 442, MCL 15.235, if the scope of the request includes information designated as confidential. The electric utility, affiliated transmission company, or independent transmission company has 10 days after the receipt of the notice to demonstrate to the commission that the information designated as confidential should not be disclosed because the information is a trade secret or secret process or is production, commercial, or financial information the disclosure of which would jeopardize the competitive position of the electric utility, affiliated transmission company, or independent transmission company or the person from whom the information was obtained. The commission shall not grant the request for the information if the electric utility, affiliated transmission company, or independent transmission company demonstrates to the satisfaction of the commission that the information should not be disclosed for a reason authorized in this section. If the commission makes a decision to grant a request, the information requested shall not be released until 3 days have elapsed after notice of the decision is provided to the electric utility, affiliated transmission company, or independent transmission company.

(3) If any person uses information described in subsection (1) to forecast electrical demand, the person shall structure the forecast so the third party is not identified unless the third party waives confidentiality.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**460.574 Rules.**

Sec. 14. (1) The commission may promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. The rules may contain standards to determine a proposed major transmission line's health and safety aspects, including but not limited to standards for permissible additions to electric and magnetic fields produced by the transmission line.

(2) Until rules are promulgated pursuant to subsection (1), the commission shall consider and determine any health or safety issue a party raises in a proceeding concerning a certificate application.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995

**460.575 Commission order; review; powers and duties.**

Sec. 15. (1) A commission order relating to a certificate or other matter provided for under this act is subject to review as provided in section 26 of 1909 PA 300, MCL 462.26.

(2) In administering this act, the commission shall have only those powers and duties granted to the commission under this act.

**History:** 1995, Act 30, Imd. Eff. May 17, 1995 ;-- Am. 2004, Act 198, Imd. Eff. July 12, 2004

**INTERSTATE AGREEMENT ON HIGH SPEED INTERCITY  
RAIL PASSENGER NETWORK  
Act 191 of 1979**

AN ACT entering into the interstate high speed intercity rail passenger network compact; and for related purposes.

**History:** 1979, Act 191, Imd. Eff. Dec. 21, 1979

*The People of the State of Michigan enact:*

**462.71 Interstate agreement on high speed intercity rail passenger network.**

Sec. 1. The interstate agreement on a high speed intercity rail passenger network is enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I. POLICY AND PURPOSE

Because the beneficial service of and profitability of a high speed intercity rail passenger system would be enhanced by establishing such a system which would operate across state lines, it is the policy of the states party to this compact to cooperate and share jointly the administrative and financial responsibilities of preparing a feasibility study concerning the operation of such a system connecting major cities in Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky.

ARTICLE II. COOPERATION.

The states of Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky, hereinafter referred to as participating states, agree to, upon adoption of this compact by the respective states, jointly conduct and participate in a high speed intercity rail passenger feasibility study by providing such information and data as is available and may be requested by a participating state or any consulting firms representing a participating state or the compact. It is mutually understood by the participating states that such information shall not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing such information agrees to waive the confidentiality.

The participating states further agree to:

(a) Make available to each other and to any consulting firm representing the member states or the compact such assistance as may be legal, proper

and available, including but not limited to personnel, equipment, office space, machinery, computers, engineering and technical advice and services; and

(b) Provide such financial assistance for the implementation of the feasibility study as may be legal, proper and available.

### ARTICLE III. INTERSTATE RAIL PASSENGER ADVIORY COUNCIL

There is hereby created an interstate rail passenger advisory council, the membership of which shall consist of two representatives appointed by the governor. The members shall select designees who shall serve in the absence of the members. The advisory council shall meet within thirty days after ratification of this agreement by at least two participating states and establish rules for the conduct of the advisory council's business.

The advisory council shall coordinate all aspects of the high speed intercity rail passenger feasibility study relative to interstate connections and shall do all other things necessary and proper for the completion of the feasibility study.

### ARTICLE IV. EFFECTIVE DATE

This compact shall become effective upon the adoption of the compact into law by two or more of the participating states. Thereafter, it shall enter into force and effect as to any other participating state upon the enactment thereof by such state.

This compact shall continue in force with respect to a participating state and remain binding upon such state until six months after such state has given notice to each other participating state of the repeal thereof. Such withdrawal shall not be construed to relieve any participating state from any obligation incurred prior to the end of the state's participation in the compact as provided herein.

ARTICLE V. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**History:** 1979, Act 191, Imd. Eff. Dec. 21, 1979