

HOUSE BILL No. 5428

March 26, 2014, Introduced by Rep. Heise and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1909 PA 283, entitled

"An act to revise, consolidate, and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, 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; maintaining public access to waterways under certain conditions; setting and protecting shade trees, drainage, and cutting weeds and brush within this state; providing for the election or appointment and defining the powers, duties, and compensation of state, county, township, and district highway officials; and to prescribe penalties and provide remedies,"

by amending section 21 (MCL 224.21), as amended by 1996 PA 23, and by adding section 21a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) A board of county road commissioners shall not
2 contract indebtedness for an amount in excess of the money credited
3 to the board and received by the county treasurer. However, the
4 board may incur liability to complete roads under construction and

1 upon contracts, after a tax is voted, to an amount not exceeding
2 3/4 of the tax.

3 (2) A county shall keep in reasonable repair, so that they are
4 reasonably safe and convenient for public travel, all county roads,
5 bridges, and culverts that are within the county's jurisdiction,
6 ~~are under its care and control, and are open to public travel.~~ The
7 provisions of law respecting the liability of townships, cities,
8 villages, and corporations for damages for injuries resulting from
9 a failure in the performance of the same duty respecting roads
10 under their control apply to counties adopting the county road
11 system. This subsection is subject to ~~section~~ **SECTIONS 81131 AND**
12 **82124** of ~~part 821 (snowmobiles) of the natural resources and~~
13 ~~environmental protection act, Act No. 451 of the Public Acts of~~
14 ~~1994, being section 321.82124 of the Michigan Compiled Laws, and~~
15 ~~section 81131 of part 811 (off road recreation vehicles) of Act No.~~
16 ~~451 of the Public Acts of 1994, being section 324.81131 of the~~
17 ~~Michigan Compiled Laws.~~ **1994 PA 451, MCL 324.81131 AND 324.82124.**

18 (3) An action arising under subsection (2) shall be brought
19 against the board of county road commissioners of the county and
20 service shall be made upon the clerk and upon the chairperson of
21 the board. The board shall be named in the process as the "board of
22 county road commissioners of the county of
23". Any judgment obtained against the board
24 of county road commissioners in the action shall be audited and
25 paid from the county road fund as are other claims against the
26 board of county road commissioners. However, a board of county road
27 commissioners is not liable for damages to person or property

1 sustained by a person upon a county road because of a defective
2 county road, bridge, or culvert under the jurisdiction of the board
3 of county road commissioners ~~—~~unless the person serves or causes
4 to be served within 60 days after the occurrence of the injury a
5 notice in writing upon the clerk and upon the chairperson of the
6 board of county road commissioners. The notice shall set forth
7 substantially the time when and place where the injury took place,
8 the manner in which it occurred, the known extent of the injury,
9 the names of any witnesses to the accident, and that the **INJURED**
10 person ~~receiving the injury~~ intends to hold the county liable for
11 damages. This section applies to all county roads whether they
12 become county roads under this chapter or under ~~Act No. 59 of the~~
13 ~~Public Acts of 1915, being sections 247.418 to 247.481 of the~~
14 ~~Michigan Compiled Laws 1915 PA 59, MCL 247.418 TO 247.481.~~

15 **SEC. 21A. (1) A LOCAL ALLIANCE SHALL KEEP IN REASONABLE**
16 **REPAIR, SO THAT THEY ARE REASONABLY SAFE AND CONVENIENT FOR PUBLIC**
17 **TRAVEL, ALL ROADS, BRIDGES, AND CULVERTS THAT ARE WITHIN THE LOCAL**
18 **ALLIANCE'S JURISDICTION, UNDER ITS CARE AND CONTROL, AND OPEN TO**
19 **PUBLIC TRAVEL. THE PROVISIONS OF LAW RESPECTING THE LIABILITY OF**
20 **COUNTIES, CITIES, VILLAGES, AND CORPORATIONS FOR DAMAGES FOR**
21 **INJURIES RESULTING FROM A FAILURE IN THE PERFORMANCE OF THE SAME**
22 **DUTY RESPECTING ROADS UNDER THEIR CONTROL APPLY TO A LOCAL**
23 **ALLIANCE. THIS SUBSECTION IS SUBJECT TO SECTIONS 81131 AND 82124 OF**
24 **THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA**
25 **451, MCL 324.81131 AND 324.82124.**

26 **(3) AN ACTION ARISING UNDER SUBSECTION (2) SHALL BE BROUGHT**
27 **AGAINST THE BOARD OF TRUSTEES OF 1 OR MORE OF THE TOWNSHIPS WITHIN**

1 A LOCAL ALLIANCE, AND SERVICE SHALL BE MADE UPON THE CLERK AND UPON
2 THE CHAIRPERSON OF THE BOARD. THE BOARD SHALL BE NAMED IN THE
3 PROCESS AS THE "BOARD OF TOWNSHIP TRUSTEES OF THE TOWNSHIP OF
4". ANY JUDGMENT OBTAINED AGAINST THE BOARD
5 OF TOWNSHIP TRUSTEES IN THE ACTION SHALL BE AUDITED AND PAID FROM
6 THE TOWNSHIP GENERAL FUND AS ARE OTHER CLAIMS AGAINST THE BOARD OF
7 TOWNSHIP TRUSTEES. HOWEVER, A BOARD OF TOWNSHIP TRUSTEES IS NOT
8 LIABLE FOR DAMAGES TO PERSON OR PROPERTY SUSTAINED BY A PERSON UPON
9 A ROAD WITHIN THE JURISDICTION OF A LOCAL ALLIANCE BECAUSE OF A
10 DEFECTIVE ROAD, BRIDGE, OR CULVERT WITHIN THE JURISDICTION OF A
11 LOCAL ALLIANCE UNLESS THE PERSON SERVES OR CAUSES TO BE SERVED
12 WITHIN 60 DAYS AFTER THE OCCURRENCE OF THE INJURY A NOTICE IN
13 WRITING UPON THE CLERK AND UPON THE CHAIRPERSON OF THE BOARD OF
14 TOWNSHIP TRUSTEES. THE NOTICE SHALL SET FORTH SUBSTANTIALLY THE
15 TIME WHEN AND PLACE WHERE THE INJURY TOOK PLACE, THE MANNER IN
16 WHICH IT OCCURRED, THE KNOWN EXTENT OF THE INJURY, THE NAMES OF ANY
17 WITNESSES TO THE ACCIDENT, AND THAT THE INJURED PERSON INTENDS TO
18 HOLD 1 OR MORE TOWNSHIPS WITHIN A LOCAL ALLIANCE LIABLE FOR
19 DAMAGES. THIS SECTION APPLIES TO ALL ROADS WITHIN THE JURISDICTION
20 OF A LOCAL ALLIANCE.

21 (3) AS USED IN THIS SECTION, "LOCAL ALLIANCE" MEANS THAT TERM
22 AS DEFINED IN SECTION 10C OF 1951 PA 51, MCL 247.660C.

23 Enacting section 1. This amendatory act does not take effect
24 unless House Bill No. 4015 of the 97th Legislature is enacted into
25 law.