
Local Government Committee

HB 1367

Brief Description: Concerning the maintenance and repair of private roadways impacting the public interest.

Sponsors: Representatives MacEwen, Haler and Muri.

Brief Summary of Bill

- Authorizes counties, cities, and towns to construct and repair a private roadway after receiving a signed petition from property owners abutting the roadway and adopting a resolution concerning improvement of a roadways.
- Requires the petition to state: (1) the nature of the proposed roadway improvement; (2) the fact that the petition signers are the true property owners of the property next to the roadway; (3) the financial contribution that will be provided by each property owners; and (4) a proposed timeline for completing the roadway improvement.
- Requires the resolution to: (1) include a declaration identifying the significant public uses necessitating the roadway improvement; and (2) how the roadway improvement will be financed.
- Authorizes local jurisdictions to pay the entire cost, contribute to a portion of the cost, or assess the cost against the property owners for their proportionate share of the roadway improvement.

Hearing Date: 1/24/17

Staff: Yvonne Walker (786-7841).

Background:

Counties provide and maintain roads in the unincorporated areas of the county outside of cities. Cities provide for their own streets.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Road districts were originally created as a special purpose district that functioned as a subdivision of a county to finance the construction and maintenance of county roads outside of cities. Although county legislative authorities are authorized to form road districts, over the years, road districts have become a mere taxing district which levies a property tax to finance and provide revenue to establish, lay out, construct, alter, repair, improve, and maintain county roads in unincorporated areas. No specific governmental structure (no governing body or officials) is specified in law, as districts are administered by the county legislative authority through the county road engineer.

Summary of Bill:

Counties, cities, and towns are authorized to construct, reconstruct, and repair a private roadway after the governing body has: (1) received a petition concerning the roadway; and (2) the governing body has adopted a resolution relating to the matter.

Petition.

The petition concerning financing for the roadway must be signed by the owners abutting the roadway, according to the county records where the roadway is located, constituting an aggregate amount of the majority of the lineal frontage where the roadway improvement will take place.

The petition must state: (1) the nature and territorial extent of the proposed roadway improvement; (2) the fact that the petition signers are true owners, according to the county records, of the majority of the lineal frontage where the roadway improvement will take place; (3) the financial contribution that will be provided by each property owner; and (4) a proposed timeline for completing the roadway improvement.

The petition must then be filed with the appropriate local governmental entity.

Resolution.

Once a petition is filed, the appropriate county, city, or town, may consider and adopt a resolution.

The resolution must: (1) include a declaration identifying the significant public use necessitating the roadway improvement; and (2) state whether all or a portion of the roadway improvements will be financed directly by the abutting property owners. The county, city, or town cannot increase the overall cost of the project that will be contributed by the property owners as specified in the petition but the resolution may modify the amount contributed by each property owner to reflect a fairer allocation among the property owners.

The legislative body of the appropriate county, city, or town must provide a public hearing on the resolution prior to its adoption. Notice of the public hearing must be published in the official newspaper or regularly published official publication for two consecutive weeks before the public hearing. At least 10 days before the hearing, the legislative body must mail a notice of the hearing date to each property owner or reputed owner of the abutting property. An affidavit must be filed with the local jurisdiction before the hearing showing that notice was made by publication and mailing. The hearing may be postponed to a definite date until the hearing is

held. At the hearing, the legislative body of the county, city, or town must hear from persons who appear for or against the roadway improvement and determine: (1) whether to proceed with the improvement; (2) whether to make any changes to the original plan; and (3) if changes are to be made, what the changes will be, if any.

Funding.

If a local jurisdiction performs and completes the contemplated roadway improvement then all or a portion of the cost may be assessed against abutting property owners. The amount cannot exceed the amount specified in the petition but can be adjusted for any authorized modifications. A county, city, or town may also pay the entire cost or contribute to a portion of the cost of the construction, reconstruction or repair of the roadway.

The local jurisdiction must (by resolution) provide whether the full amount of the assessment to property owners must be paid in one payment, whether it may be paid in installments, and prescribe the time and amount of such payments. If the assessment is to be paid in installments, the local jurisdiction may by resolution provide for interest on unpaid installments and fix the rate of interest.

When any portion of the cost is to be assessed against abutting property owners, the local jurisdiction may create a private roadway construction fund with warrants drawn on the fund where the cost of the respective roadway improvements may be paid. The local jurisdiction may loan the amounts necessary to pay for any costs of the improvement loan to the private roadway construction fund. If assessments are made for the improvement, then payments for the improvement must be paid into the roadway improvement fund. If any funds are available over the amounts necessary to pay outstanding warrants, any advances or loans made to the fund must be repaid. If warrants are drawn on any such fund that are not paid for lack of sufficient funds, they must be stamped as such and bear interest until called and paid at a rate established by the local jurisdiction.

If the abutting owners that are required to financially contribute to the cost of the roadway improvement fail to pay, the local government entity may assess the cost against the property owners for the proportionate share of costs as provided in the petition (but adjusted for any modifications).

An assessment roll must be prepared if any portion of the roadway improvement costs are to be assessed against the abutting property. The assessment roll must describe the property assessed, the name of the property owner, and the amount of the assessment. The assessment roll must be filed with the appropriate official of the county, city, or town. The clerk of the local jurisdiction must mail notice of the hearing to the person whose name appears on the county treasurer's tax roll as the owner and publish notice in the newspaper or other official publication for two consecutive weeks prior to the hearing. The notice must be mailed and first publication made at least 10 days before the hearing date. Proof of mailing and publication must be made by affidavit and filed with the appropriate official of the local jurisdiction before the date fixed for the hearing. Following the hearing, the local jurisdiction must by resolution affirm, modify, or reject or order recasting of the assessment roll. An appeal may be filed with the superior court from the ordinance confirming the assessment roll in the same manner as provided for appeals from the assessment roll.

The assessment roll, as affirmed or modified by the city or town, must be filed with the treasurer of the county, city, or town for collection, and the amount of the assessment roll including interest, if any, becomes a lien against the property from the date of the filing. A lien may be foreclosed whenever any payment on any assessment or installment is delinquent and unpaid for a period of 30 days or more.

Definitions.

Private roadway means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons.

Public use means the use of a private roadway by a governmental entity related to police or fire protection services or any other governmental service requiring the use of a private roadway as the vehicular roadway for ingress or egress by the governmental entity.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.