

HOUSE BILL NO. 319

INTRODUCED BY J. ESSMANN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING COUNTY COMMISSION AUTHORITY RELATED TO
5 PUBLIC ROADS; ALLOWING CERTAIN ROADS TO BE DESIGNATED A PUBLIC ROAD IF A PETITION IS
6 SUBMITTED AND A PRESUMPTION THAT THE ROAD IS PUBLIC IS NOT REBUTTED; REQUIRING PUBLIC
7 HEARINGS; ALLOWING FOR JUDICIAL REVIEW OF A DECISION BY A BOARD OF COUNTY
8 COMMISSIONERS TO DESIGNATE A ROAD AS A PUBLIC ROAD; REQUIRING THE BOARD TO DETERMINE
9 THE SCOPE OF MAINTENANCE AND DECIDE HOW MAINTENANCE WILL OCCUR; PROVIDING
10 DEFINITIONS; AND AMENDING SECTION 7-14-2101, MCA."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. **Section 1. Unidentified road -- process for designation as public -- petition --**
15 **maintenance.** (1) If a petition signed by at least 10 owners of real property in a county requests designation of
16 an unidentified road in the county as a public road, the board of county commissioners shall hold a hearing on
17 the proposed designation.

18 (2) Notice of the hearing must be provided in accordance with 7-1-2121 at least 30 days before the date
19 scheduled for the hearing.

20 (3) In addition to the publication of notice under subsection (2), notice of the hearing must be provided
21 by certified mail to all property owners whose property abuts the road proposed to be designated as a public road.

22 (4) Upon receipt by the board of the petition signed as provided in subsection (1), the road must be
23 presumed to be a public road for the purposes of the hearing required in subsection (1).

24 (5) At the hearing, the board shall announce that any member of the public may, within 60 days after the
25 hearing, submit credible evidence to the board to rebut the presumption that the road is a public road.

26 (6) (a) At the conclusion of the 60-day period, the board shall hold a second hearing, noticed as provided
27 in 7-1-2121, at which the board shall consider any evidence submitted under subsection (5) and determine if the
28 presumption of the road as a public road has been rebutted by a preponderance of the evidence.

29 (b) If the board determines that the presumption has been rebutted, the road may not be considered to
30 be a public road.



1 (c) If the board determines that the presumption has not been rebutted, the board shall pass a resolution
2 declaring the road to be a public road.

3 (7) A person aggrieved by the decision of the board may, within 30 days of a resolution passed as
4 provided in subsection (6), seek judicial review of the decision in the district court in the county in which the road
5 is located.

6 (8) Upon designation of a road as a public road as provided in this section, a legal public easement is
7 considered to exist on the tracts of land on which the road was marked on a plat or certificate of survey. The
8 status of the road as a public road must be indicated on the plat or certificate of survey and on any other official
9 maps or documents used by the county or accessed by the public.

10 (9) The board shall determine the level and scope of maintenance on a road designated as a public road
11 under this section. The resolution adopted pursuant to subsection (6) must state whether the county will assume
12 responsibility for maintaining the road or will order and create a rural special improvement district under the
13 provisions of Title 7, chapter 12, part 21, to maintain the road.

14 (10) Subject to the provisions of this section, the board may designate as a public road an unidentified
15 road that is shown as a lot on a plat or certificate of survey and may remove the lot from the assessment roll.

16 (11) For the purposes of this section, the following definitions apply:

17 (a) "Certificate of survey" has the meaning provided in 76-3-103.

18 (b) "Plat" has the meaning provided in 76-3-103.

19 (c) "Unidentified road" means a road that is marked as a line or a lot on a plat or certificate of survey and
20 that is used by the public but lacks clear legal status and has not been established or accepted by a board of
21 county commissioners under part 26 or this part.

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23 **Section 2.** Section 7-14-2101, MCA, is amended to read:

24 **"7-14-2101. General powers of county relating to roads and bridges -- definitions.** (1) The board
25 of county commissioners, under the limitations and restrictions that are prescribed by law, may:

26 (a) (i) lay out, maintain, control, and manage county roads and bridges within the county; and

27 (ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, and management of the
28 county roads and bridges within the county as provided by law;

29 (b) (i) in the exercise of sound discretion, jointly with other counties, lay out, maintain, control, manage,
30 and improve county roads and bridges in adjacent counties, wholly or in part as agreed upon between the boards

1 of the counties concerned; and

2 (ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, management, and
3 improvement of county roads and bridges in adjacent counties or shared jointly with other counties, as agreed
4 upon between the boards of the counties concerned and as provided by law; and

5 (c) (i) enter into agreements for adjusted annual contributions over not more than 6 years toward the cost
6 of joint highway or bridge construction projects entered into in cooperation with other counties, the state, or the
7 United States; and

8 (ii) subject to 15-10-420, place a joint project in the budget and levy taxes for a joint project as provided
9 by law.

10 (2) (a) Following a public hearing, a board of county commissioners may accept by resolution a road that
11 has not previously been considered a county road but that has been laid out, constructed, and maintained with
12 state department of transportation or county funds.

13 (b) A survey is not required of an existing county road that is accepted by resolution by a board of county
14 commissioners.

15 (c) A road that is abandoned by the state may be designated as a county road upon the acceptance and
16 approval by resolution of a board of county commissioners.

17 (3) The board of county commissioners may adopt regulations for unincorporated areas within a county
18 governing:

19 (a) the assignment of numerical physical addresses except for roads under the jurisdiction of a federal,
20 state, or tribal entity if that entity objects to the assignment; and

21 (b) the naming of roads except roads under the jurisdiction of a federal, state, or tribal entity unless that
22 entity consents to the naming.

23 (4) A board of county commissioners may designate an unidentified road as a public road under the
24 provisions of [section 1].

25 ~~(4)~~(5) Unless the context requires otherwise, for the purposes of this chapter, the following definitions
26 apply:

27 (a) "Bridge" includes rights-of-way or other interest in land, abutments, superstructures, piers, and
28 approaches except dirt fills.

29 (b) "County road" means:

30 (i) a road that is petitioned by freeholders, approved by resolution, and opened by a board of county

1 commissioners in accordance with this title;

2 (ii) a road that is dedicated for public use in the county and approved by resolution by a board of county
3 commissioners;

4 (iii) a road that has been acquired by eminent domain pursuant to Title 70, chapter 30, and accepted by
5 resolution as a county road by a board of county commissioners;

6 (iv) a road that has been gained by the county in an exchange with the state as provided in 60-4-201; or

7 (v) a road that has been the subject of a request under 7-14-2622 and for which a legal route has been
8 recognized by a district court as provided in 7-14-2622."

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10 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
11 integral part of Title 7, chapter 14, part 21, and the provisions of Title 7, chapter 14, part 21, apply to [section 1].

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