

ASSEMBLY, No. 2954

STATE OF NEW JERSEY

INTRODUCED MAY 12, 1997

By Assemblymen DeCROCE and CHATZIDAKIS

1 AN ACT concerning the discontinuance of county roads and amending  
2 R.S.27:16-28.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. R.S.27:16-28 is amended to read as follows:

8 27:16-28. Any road or portion thereof owned by any county or  
9 under the control of any county governing body may be (a)  
10 discontinued as a county road and returned to the jurisdiction and  
11 control of the municipality wherein the same is situated; or (b) vacated  
12 and abandoned as a public highway, in manner following:

13 a. Any road or portion thereof owned by any county or under the  
14 control of any county governing body may be discontinued as a county  
15 road by an ordinance or resolution, as appropriate, passed by the  
16 affirmative vote of a majority of all of the members of the governing  
17 body, which ordinance or resolution shall describe the road or portion  
18 thereof so sought to be discontinued as a county road sufficiently to  
19 clearly identify the same, and shall declare that the road or portion of  
20 road therein described shall be discontinued as a county road, and that  
21 the county shall and does relinquish all jurisdiction over and  
22 responsibility for the construction, reconstruction, repair and  
23 maintenance thereof. The clerk of the board of chosen freeholders,  
24 upon the passage of such an ordinance or resolution shall prepare a  
25 certified copy thereof, and shall cause such certified copy to be served  
26 upon the municipal clerk of each municipality in which the road or  
27 portion thereof sought to be discontinued as a county road shall lie.  
28 Such certified copy shall be served within 10 days from the date of  
29 passage. The municipality may adopt an ordinance stating its  
30 acceptance of jurisdiction for the road or portion of the road. At the  
31 expiration of the period of 10 days from the final adoption of the  
32 municipal ordinance the road or portion of road therein described shall  
33 cease to be a county road, and from thenceforward jurisdiction over  
34 the road or portion of road shall vest in and the responsibility for the

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 construction, reconstruction, repair and maintenance of the road, or  
2 portion of road, shall devolve upon the governing body, as the case  
3 may be, of the municipality wherein the road or portion of road shall  
4 lie. The clerk of the board shall forthwith file a certified copy of the  
5 county ordinance or resolution in the office of the county clerk and the  
6 latter shall record and index the same in the road records of his office.

7 b. Any road or portion thereof owned by any county or under the  
8 control of any county governing body may be vacated and abandoned  
9 as a public highway by any county governing body, in the manner  
10 following: The governing body of any county, by the affirmative vote  
11 of the majority of all the members thereof, may pass an ordinance or  
12 resolution, as appropriate, describing the road or portion thereof,  
13 intended to be vacated and abandoned, sufficiently to clearly identify  
14 and locate the same, and declaring it to be the intention of the county  
15 to vacate and abandon the road or portion thereof as a public highway,  
16 and fixing the time and place not less than three weeks nor more than  
17 six weeks thereafter, when and where the board shall meet for final  
18 consideration and action upon the ordinance or resolution, and when  
19 and where all persons interested therein may appear and be given an  
20 opportunity to be heard. Within three days of passage, the clerk of  
21 the board of freeholders shall cause said ordinance or resolution to be  
22 advertised verbatim in a newspaper published and circulating within  
23 the limits of the county, which publication shall be inserted once in  
24 each week for three weeks consecutively before the day of the  
25 meeting. And if, after the public hearing held at the time and place  
26 specified in the ordinance or resolution, the county governing body, by  
27 a vote of the majority of all of the members thereof, shall again adopt  
28 such ordinance or resolution, the road or portion thereof shall from  
29 thenceforth be deemed to be vacated and abandoned, and shall cease  
30 to be a public road or highway, and title to the land which theretofore  
31 was lying within the area of the side lines or legal right of way of the  
32 road, shall revert to and vest in the respective owners of the legal title  
33 thereto, free and clear of any easement or right of way thereover or  
34 thereupon in favor of the public. The clerk of the board shall  
35 forthwith file a certified copy of the ordinance or resolution in the  
36 office of the county clerk and the latter shall record and index the  
37 same in the road records of his office. Any vacation ordinance or  
38 resolution, as appropriate, adopted pursuant to this subsection shall  
39 expressly reserve and except from vacation all rights and privileges  
40 then possessed by a public utility, as defined in R.S.48:2-13, and by a  
41 cable television company, as defined in the "Cable Television Act,"  
42 P.L.1972, c.186 (C.48:5A-1 et seq.), to maintain, repair and replace  
43 their existing facilities in, adjacent to, over or under the county road  
44 or portion thereof, to be vacated and abandoned.  
45 (cf: P.L.1984, c.195, s. 1)

1       2. This act shall take effect immediately.

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STATEMENT

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6       This bill requires that when a county governing body adopts an  
7 ordinance or resolution, as appropriate, to abandon and vacate a  
8 county road or portion thereof, the ordinance or resolution must  
9 reserve all rights and privileges possessed by public utilities and cable  
10 television companies, to maintain, repair and replace their existing  
11 facilities in, adjacent to, over or under the county road or portion  
12 thereof, to be vacated and abandoned. A similar right and privilege of  
13 protecting utility and cable television company facilities with regard to  
14 vacated municipal streets or highways has existed since 1986.

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19 Protects existing public utility and cable television facilities when  
20 county road is vacated and abandoned.