

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1174

Introduced by Hansen, 16; Brewer, 43; Clements, 2.

Read first time January 11, 2024

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to roads; to amend sections 39-1410, 39-1722,
2 39-1724, and 39-1725, Reissue Revised Statutes of Nebraska; to
3 change provisions relating to section lines and vacation or
4 abandonment of public roads; to harmonize provisions; and to repeal
5 the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 39-1410, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 39-1410 (1) The section lines are not required ~~are hereby declared~~
4 to be public roads in each county in the state. ~~;~~

5 (2) The ~~and the~~ county board of any county may, whenever the public
6 good requires it, ~~open such~~ roads along section lines without any
7 preliminary survey and cause them to be worked in the same manner as
8 other public roads. ~~;~~ ~~Provided,~~

9 (3) Any ~~any~~ damages claimed by reason of any such road shall be
10 appraised and allowed in the manner provided by law.

11 (4)(a) The county board may ~~shall~~ cause existing government corners
12 along such line to be perpetuated by:

13 (i) Causing ~~causing~~ to be planted monuments of some durable
14 material, with suitable witnesses; ~~;~~ and

15 (ii) Causing ~~causing~~ a record to be made of such monuments. ~~the same~~

16 (b) If ~~and, if~~ government corners are lost or obliterated, the
17 county board may ~~shall~~ cause the corners to be located in the manner
18 provided in the manual of instruction for government surveys.

19 (c) The county board shall cause any such work to be done under this
20 subsection to be performed by the county surveyor or, if there is no
21 county surveyor in the county, by some other competent land surveyor.

22 Sec. 2. Section 39-1722, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 39-1722 (1) Except as provided in subsection (3) of this section,
25 the The county board of any county may by resolution, when it deems the
26 public interest may require vacation or abandonment of a public road of
27 the county, direct the county highway superintendent or in counties
28 having no highway superintendent then such person as the board may direct
29 to study the use being made of such public road and to submit in writing
30 to the county board within thirty days, a report upon the study made and
31 his or her recommendation as to such ~~the~~ vacation or abandonment ~~thereof.~~

1 Such Said resolution and report shall be retained in the office of the
2 county clerk as a part of the permanent public records of the county
3 board. ÷

4 (2) The Provided, that the county board of any county shall not
5 require vacation or abandonment of any public road or any part of such
6 road that thereof which is within the area of the zoning jurisdiction of
7 a city of the metropolitan, primary, or first class without the prior
8 approval of the governing body of such city.

9 (3)(a) Except as provided in subsection (2) of this section, the
10 county board of any county may by resolution propose to vacate or abandon
11 a public road that was previously declared a public road pursuant to
12 section 39-1410 as such section existed prior to the effective date of
13 this act if it determines such vacation or abandonment is in the interest
14 of the public.

15 (b) No study is required to be conducted for a vacation or
16 abandonment under this subsection.

17 Sec. 3. Section 39-1724, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 39-1724 (1)(a) The Upon receipt of the report, as provided in
20 section 39-1722, the county board shall adopt a resolution fixing the
21 time, date, and place for a public hearing on the issue of vacating or
22 abandoning a public road when: -

23 (i) The county board receives the report described in section
24 39-1722; or

25 (ii) The county board by resolution proposes to vacate or abandon a
26 public road that was previously declared a public road pursuant to
27 section 39-1410 as such section existed prior to the effective date of
28 this act.

29 (b) The Such resolution fixing the time, date, and place for the
30 public hearing shall contain a clear and unambiguous description of the
31 road to be vacated or abandoned.

1 (2) The county board shall cause ~~the such~~ resolution to be published
2 once a week for three consecutive weeks in a legal newspaper published in
3 the county or, if none is published in the county, in a legal newspaper
4 of general circulation in the county.

5 (3)(a) Whenever possible the county board shall cause copies of such
6 resolution to be served by either registered or certified mail upon:

7 (i) ~~The the~~ owners of land abutting on or adjacent to the road to be
8 vacated or abandoned; and

9 (ii) ~~The upon the~~ planning and public works directors of a city of
10 the metropolitan, primary, or first class when such road or any part
11 thereof is within the area of the zoning jurisdiction of such city.

12 (b) Such copies shall be mailed by mailing the same to the last-
13 known address of each person described in subdivision (a) of this
14 subsection ~~owner~~ not less than two weeks in advance of the hearing.

15 Sec. 4. Section 39-1725, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 39-1725 (1) After the public hearing described in section 39-1724,
18 the county board shall by resolution at its next meeting or as soon
19 thereafter as may be practicable, vacate or abandon or refuse vacation or
20 abandonment, as in the judgment of the board the public good may require.

21 (2) Vacation and abandonment shall not be ordered except upon a vote
22 of two-thirds of all members of the county board and the prior approval
23 of the governing body of a city of the metropolitan, primary, or first
24 class has been obtained when any public road or any part thereof is
25 within the area of the zoning jurisdiction of such city. If such road
26 lies within a township in a county operating roads on a township basis,
27 the road shall not be vacated or abandoned unless an offer has been made
28 to relinquish to the township in the manner provided in section 39-1726.

29 (3) In the event that the county board decides to vacate or abandon
30 a public road, its resolution shall state upon what conditions, if any,
31 the vacation or abandonment shall be qualified and particularly whether

1 or not the title or right-of-way to any vacated or abandoned fragment or
2 section of road shall be sold, revert to private ownership, or remain in
3 the public. If the county board fails to specify in a resolution as to
4 the disposition of right-of-way, and if there shall be nonuse of such
5 right-of-way for any public purpose for a continuous period of not less
6 than ten years, the right-of-way shall revert to the owners of the
7 adjacent real estate, one-half on each side of such road thereof.

8 (4) When the county vacates all or any portion of a road, the county
9 shall, within thirty days after the effective date of the vacation, file
10 a certified copy of the vacating resolution with the register of deeds
11 for the county to be indexed against all affected lots.

12 Sec. 5. Original sections 39-1410, 39-1722, 39-1724, and 39-1725,
13 Reissue Revised Statutes of Nebraska, are repealed.