

LEGISLATIVE BILL 100

Approved by the Governor May 26, 1971

Introduced by Fern Hubbard Orme, 29th District; Donald Elrod, 35th District; Willard H. Waldo, 31st District

AN ACT to amend sections 39-2106, 39-2111, 39-2112, 39-2115, 39-2116, 39-2117, 39-2118, 39-2119, 39-2120, 39-2121, 39-2122, 39-2123, and 39-2124, Revised Statutes Supplement, 1969, relating to highways; to change provisions for terms of office; to change and transfer duties as prescribed; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 39-2106, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2106. To assist in developing the functional classification system, there is hereby established the Board of Public Roads Classifications and Standards which shall consist of eleven members to be appointed by the Governor with the approval of the Legislature. Of the members of such board, two shall be representatives of the Department of Roads, three shall be representatives of the counties, one of whom shall be a licensed county highway superintendent in good standing and two of whom shall be county board members, three shall be representatives of the municipalities who shall be either public works directors or licensed city street superintendents in good standing, and three shall be lay citizens who shall represent the three congressional districts of the state. The county members on the board shall represent the various classes of counties, as defined in section 23-1114.01, in the following manner: One shall be a representative from either a Class 1 or Class 2 county; one shall be a representative from either a Class 3 or Class 4 county; and one shall be a representative from either a Class 5, Class 6, or Class 7 county. The municipal members of the board shall represent municipalities of the following sizes by population: One shall be a representative from a municipality of less than two thousand five hundred population; one shall be a representative from a municipality of two thousand five hundred to fifty thousand population; and one shall be a representative from a municipality of over fifty thousand population.

In making such appointments, the Governor shall consult with the Director-State Engineer and with the appropriate county and municipal officials and may consult with organizations representing such officials or representing counties or municipalities as may be appropriate. ~~Members of such board shall serve for a term of two years and may be reappointed for not more than one successive term.~~ At the expiration of existing term, one member from the county representatives, the municipal representatives and the lay citizens shall be appointed for a term of two years: two members from the county representatives, the municipal representatives and the lay citizens shall be appointed for terms of four years. One representative from the Department of Roads shall be appointed for a two-year term and the other representative shall be appointed for a four-year term. Thereafter, all such appointments shall be for terms of four years each. Members of such board shall receive no compensation for their services as such, except that the lay members shall receive the same compensation as members of the State Highway Commission, and all members shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. All expenses of such board shall be paid by the Department of Roads.

Sec. 2. That section 39-2111, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2111. The county or municipality may appeal to the State-Highway-Commission Board of Public Roads Classifications and Standards from any action taken by the Department of Roads in assigning any functional classification under the provisions of section 39-2110. Upon the taking of such an appeal, the commission board shall review all information pertaining to the assignment, hold a hearing thereon if deemed advisable, and render a decision on the assigned classification, which decision shall be subject to the provisions of Chapter 84, article 9.

Sec. 3. That section 39-2112, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2112. Any county or municipality may, based on changing traffic patterns or volume, request the Department of Roads to reclassify any segment of highway, road, or street. The department shall review such request and either grant or deny the reclassification in whole or in part. Any county or municipality dissatisfied with the action taken by the department under this section, may appeal to the State

Highway-Commission Board of Public Roads Classifications and Standards in the manner provided in section 39-2111.

Sec. 4. That section 39-2115, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2115. The Department of Roads, and each county and municipality shall develop and file with the State--Highway--Commission Board of Public Roads Classifications and Standards a long-range, six-year plan of highway, road, and street improvements based on priority of needs and calculated to contribute to the orderly development of an integrated statewide system of highways, roads, and streets. Each such plan shall be filed with the commission board promptly upon preparation but in no event later than March 1, 1971. If any county or municipality, or the Department of Roads, shall fail to file its plan on or before such date, the commission board shall so notify the local governing board and the Governor, who shall order the suspension of distribution of any highway-user revenue allocated to such county or municipality, or the Department of Roads, until the plan has been filed.

Sec. 5. That section 39-2116, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2116. The State-Highway-Commission Board of Public Roads Classifications and Standards shall review all six-year plans submitted to it and make such recommendations for changes therein as it believes necessary or desirable in order to achieve the orderly development of an integrated system of highways, roads, and streets, but in so doing the commission board shall take into account the fact that individual priorities of needs may not lend themselves to immediate integration. The department and each county and municipality shall give careful and serious consideration to any such recommendations received from the commission board and shall not reject them except for substantial or compelling reason.

Sec. 6. That section 39-2117, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2117. The six-year plans required by the provisions of section 39-2115 shall be extended annually, on or before the anniversary date of the original filing, by the addition of a new year so that there shall at all times be a six-year plan on file with the State--Highway--Commission Board of Public Roads Classifications and Standards. Each such extension

shall be subject to the provisions of section 39-2116.

Sec. 7. That section 39-2118, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2118. The Department of Roads shall annually, on or before the anniversary date of the filing of its six-year plan, prepare and file with the State--Highway--Commission Board of Public Roads Classifications and Standards a plan for specific highway improvements for the current year; Provided, that the first annual plan shall be filed on or before March 1, 1970, and the second annual plan shall be filed on or before March 1, 1971. In so doing, the department shall take into account all federal funds which will be available to the department for such year. The commission board shall review each such annual plan to determine whether it is consistent with the department's current six-year plan. The department shall be required to justify any inconsistency with the six-year plan to the satisfaction of the commission board.

Sec. 8. That section 39-2119, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2119. Each county and municipality shall annually prepare and file, on or before the anniversary date of the filing of its six-year plan under the provisions of section 39-2115, with the State--Highway Commission Board of Public Roads and Classifications and Standards a plan for specific road or street improvements for the current year; Provided, that the first annual plan shall be filed on or before March 1, 1971. No such plan shall be adopted until after a local public hearing thereon and its approval by the local governing body. The State--Highway--Commission board shall prescribe the nature and time of notice of such hearing, which shall be such as shall be likely to come to the attention of interested citizens in the jurisdiction involved. The commission board shall review each such annual plan within sixty days after it has been filed to determine whether it is consistent with the county's or municipality's current six-year plan. The county or municipality shall be required to justify any inconsistency with the six-year plan to the satisfaction of the commission board. If any county or municipality shall fail to comply with the provisions of this section, the commission board shall so notify the local governing board and the Governor, who shall order the suspension of distribution of any highway-user revenue allocated to such county or municipality until there has been compliance.

Sec. 9. That section 39-2120, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2120. The Auditor of Public Accounts and the Board of Public Roads Classifications and Standards shall develop and schedule for implementation a standardized system of annual reporting to the State Highway--Commission board by the department and by counties and municipalities, which system shall include:

(1) A procedure for documenting and certifying that standards of design, construction, and maintenance of roads and streets have been met;

(2) A procedure for documenting and certifying that all tax revenue for road or street purposes has been expended in accordance with approved plans and standards, to include county and municipal tax revenue, as well as highway-user revenue allocations made by the state;

(3) A uniform system of accounting which clearly indicates, through a system of reports, a comparison of receipts and expenditures to approved budgets and programs;

(4) A system of budgeting which reflects uses and sources of funds in terms of programs and accomplishments;

(5) An approved system of reporting an inventory of machinery, equipment, and supplies; and

(6) An approved system of cost accounting of the operation of equipment.

Sec. 10. That section 39-2121, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2121. (1) The department, and each county and municipality, shall make the reports provided for by section 39-2120.

(2) If any county, or municipality or the Department of Roads fails to file such report on or before its due date, the State-Highway-Commission Board of Public Roads Classifications and Standards shall so notify the local governing board and the Governor, who shall order the suspension of distribution of any highway-user revenue allocated to such county or municipality or the Department of Roads until the report

has been filed.

(3) If any county or municipality either (a) files a materially false report or (b) constructs any highway, road, or street below the minimum standards developed under section 39-2113, without having received prior approval thereof, such county's or municipality's share of highway-user revenue allocated during the following calendar year shall be reduced by ten per cent and the amount of any such reduction shall be distributed among the other counties or municipalities, as appropriate, in the manner provided by law for allocation of highway-user revenue; Provided, that the penalty for filing a materially false report, and the penalty for constructing a highway, road or street below established minimum standards without prior approval shall be assessed by the ~~Board of Public Roads Classifications and Standards~~ board only after a review of the facts involved in such case, and the holding of a public hearing on the matter. The decision thereafter rendered by the board shall be subject to the provisions of Chapter 84, article 9.

Sec. 11. That section 39-2122, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2122. ~~The Department of Roads~~ Board of Public Roads Classifications and Standards may make occasional random checks of ~~county or municipal~~ construction projects to determine that the standards of design and construction developed under section 39-2113 are being met.

Sec. 12. That section 39-2123, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2123. ~~The county board of each county shall, within two years after August 4, 1969,~~ develop a numbering system for its principal roads classified as other arterial and collector roads. ~~The State Highway Commission shall prescribe within two years after the~~ Board of Public Roads Classifications and Standards has prescribed rules and regulations to achieve the maximum practicable uniformity of such numbering systems throughout the state and coordination between adjacent counties. Provisions shall be made for the placing of suitable signs along roads covered by such system, in such numbers and at such locations as the rules and regulations shall provide, and to give adequate notice of such numbering system.

Sec. 13. That section 39-2124, Revised Statutes Supplement, 1969, be amended to read as follows:

39-2124. It is the intent of the Legislature to recognize the responsibilities of the Department of Roads, of the counties, and of the municipalities in their planning programs as authorized by state law and by home rule charter and to encourage the acceptance and implementation of comprehensive, continuing, cooperative and coordinated planning by the state, the counties and the municipalities. Sections 39-2101 to 39-2125 are not intended to prohibit or inhibit the actions of the counties and of the municipalities in their planning programs and their subdivision regulations, nor are sections 39-2101 to 39-2125 intended to restrict the actions of the municipalities in their creation of street improvement districts and in their assessment of property for special benefits as authorized by state law or by home rule charter.

Sec. 14. That original sections 39-2106, 39-2111, 39-2112, 39-2115, 39-2116, 39-2117, 39-2118, 39-2119, 39-2120, 39-2121, 39-2122, 39-2123, and 39-2124, Revised Statutes Supplement, 1969, are repealed.

Sec. 15. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.