

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1052

Introduced by Christensen, 44.

Read first time January 18, 2012

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to counties; to amend section 39-1802, Reissue
2 Revised Statutes of Nebraska; to require notice of
3 certain maintenance actions as prescribed; and to repeal
4 the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 39-1802, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 39-1802 The county board shall have the authority to
4 construct, maintain, and improve drainage facilities on the public
5 roads of the county. The county board also shall have the authority
6 to make channel changes, control erosion, and provide stream
7 protection or any other control measures beyond the road right-of-way
8 limits wherever it is deemed necessary in order to protect the roads
9 and drainage facilities from damage. The county board and any person
10 acting in its behalf shall have the authority to enter upon private
11 or public property for the ~~above~~ purposes listed in this section. The
12 county board shall make a record of the condition of the premises
13 prior to entry upon the premises that can be used in the event of
14 damages to private property. In case of any damage to the premises,
15 the county board shall pay the owner of the premises the amount of
16 the damages. Upon failure of the landowner and county board to agree
17 upon the amount of damages, the landowner, in addition to any other
18 available remedy, may file a petition as provided for in section
19 76-705. The county board shall give thirty days' notice of its
20 intention to enter upon private property for purposes listed in this
21 section or to modify, relocate, remove, or destroy any encroaching
22 private property in the county road right-of-way for such purposes.
23 The notice shall be given by certified mail. The notice shall provide
24 detailed information as to purposes for entry upon the premises, any
25 claimed encroachments, and any modifications to, relocation, removal,

1 or destruction of private property planned by the county board.
2 Evidence shall be provided which clearly shows any claimed
3 encroachment and need for proposed actions by the county. Evidence
4 shall include photographs, surveys, and such other information as
5 required to support the claims of the county board. No proposed
6 action by the county board to enter upon the premises for purposes
7 listed in this section or to modify, relocate, remove, or destroy any
8 private property claimed to be encroaching the right-of-way shall
9 take place prior to the end of the thirty-day notice without the
10 written agreement of the landowner, except that construction, repair,
11 and improvements to drainage facilities in the county road right-of-
12 way affecting private property that are determined by the county
13 board to be an emergency and that are immediately necessary to repair
14 or improve the structural integrity and safety of the county road or
15 drainage facility to address imminent risk to public safety may take
16 place prior to the end of the thirty-day notice without written
17 agreement of the landowner.

18 Sec. 2. Original section 39-1802, Reissue Revised
19 Statutes of Nebraska, is repealed.