

LEGISLATIVE BILL 1068

Approved by the Governor April 14, 2008

Introduced by Louden, 49; Erdman, 47.

FOR AN ACT relating to transportation; to amend sections 39-1817, 39-1818, 39-2103, 39-2105, 39-2109, 39-2110, 39-2112, and 39-2113, Reissue Revised Statutes of Nebraska, and section 13-1210, Revised Statutes Cumulative Supplement, 2006; to require reports regarding the public transportation assistance program; to create the classification of remote residential road; to change and eliminate provisions relating to functional classification of roads; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 13-1210, Revised Statutes Cumulative Supplement, 2006, is amended to read:

13-1210 (1) The Department of Roads shall annually certify the amount of operating costs eligible for funding under the public transportation assistance program established under section 13-1209.

(2) The department shall submit an annual report to the chairperson of the Appropriations Committee of the Legislature on or before December 1 of each year regarding funds requested by each applicant for eligible operating costs in the current fiscal year pursuant to subsection (2) of section 13-1209 and the total amount of state grants projected to be awarded in the current fiscal year pursuant to the public transportation assistance program. The report shall separate into two categories the requests and grants awarded for handicapped vans, otherwise known as paratransit vehicles, and requests and grants awarded for handicapped-accessible fixed-route bus systems.

Sec. 2. Section 39-1817, Reissue Revised Statutes of Nebraska, is amended to read:

39-1817 The county board of any county may, in accordance with sections 39-1817 to 39-1820, enter into an agreement with any agency or political subdivision of the state approving the construction of a water impoundment structure which, when completed, may result in the occasional and temporary storage or flowage of floodwaters upon, across, or adjacent to any road classified as a local road or remote residential road. ~~by the Board of Public Roads Classifications and Standards.~~ Any such agreement may include such terms regarding the maintenance of such road or other matters incident to the construction and operation of such water impoundment structure as the parties to the agreement determine to be mutually acceptable. Conformance with sections 39-1817 to 39-1820 shall relieve the county board and all other parties to any such agreement of any liability for personal injury or property damage suffered by any person while utilizing any such road for travel during a period of inundation.

Sec. 3. Section 39-1818, Reissue Revised Statutes of Nebraska, is amended to read:

39-1818 A water impoundment structure which will result in temporary storage and flowage of water upon, across, or adjacent to a road upstream from such structure may be approved only if such road would not be inundated because of the storage in such structure of waters from a ten-year, twenty-four-hour or lesser frequency storm. A water impoundment structure which will also serve as a roadbed may be approved and constructed only if the structure would contain the runoff from a twenty-five-year, twenty-four-hour frequency storm without water overtopping such structure or being discharged through its emergency spillway, except that if the road which is subject to such inundation is classified as a local road or remote residential road with current average daily traffic of fifty vehicles or less, the containment of a ten-year, twenty-four-hour frequency storm shall be sufficient. In making the storm frequency determinations required by this section, any recognized method may be used.

Sec. 4. Section 39-2103, Reissue Revised Statutes of Nebraska, is amended to read:

39-2103 Rural highways are hereby divided into ~~eight~~ nine functional classifications as follows:

(1) Interstate, which shall consist of the federally designated National System of Interstate and Defense Highways;

(2) Expressway, which shall consist of a group of highways following major traffic desires in Nebraska which rank next in importance to the National System of Interstate and Defense Highways. The expressway system is one which ultimately should be developed to multilane divided highway

standards;

(3) Major arterial, which shall consist of the balance of routes which serve major statewide interests for highway transportation. This system is characterized by high-speed, relatively long-distance travel patterns;

(4) Scenic-recreation, which shall consist of highways or roads located within or which provide access to or through state parks, recreation or wilderness areas, other areas of geographical, historical, geological, recreational, biological, or archaeological significance, or areas of scenic beauty;

(5) Other arterial, which shall consist of a group of highways of less importance as through-travel routes which would serve places of smaller population and smaller recreation areas not served by the higher systems;

(6) Collector, which shall consist of a group of highways which pick up traffic from many local or land-service roads and carry it to community centers or to the arterial systems. They are the main school bus routes, mail routes, and farm-to-market routes;

(7) Local, which shall consist of all remaining rural roads, except minimum maintenance roads and remote residential roads; ~~and~~

(8) Minimum maintenance, which shall consist of (a) roads used occasionally by a limited number of people as alternative access roads for areas served primarily by local, collector, or arterial roads, or (b) roads which are the principal access roads to agricultural lands for farm machinery and which are not primarily used by passenger or commercial vehicles; ~~and-~~

(9) Remote residential, which shall consist of roads or segments of roads in remote areas of counties with (a) a population density of no more than five people per square mile or (b) an area of at least one thousand square miles, and which roads or segments of roads serve as primary access to no more than seven residences. For purposes of this subdivision, residence means a structure which serves as a primary residence for more than six months of a calendar year. Population shall be determined using data from the most recent federal decennial census.

The rural highways classified under subdivisions (1) ~~to~~ through (3) of this section should, combined, serve every incorporated municipality having a minimum population of one hundred inhabitants or sufficient commerce, a part of which will be served by stubs or spurs, and along with rural highways classified under subdivision (4) of this section, should serve the major recreational areas of the state.

For purposes of this section, sufficient commerce shall mean means a minimum of two hundred thousand dollars of gross receipts under the Nebraska Revenue Act of 1967.

Sec. 5. Section 39-2105, Reissue Revised Statutes of Nebraska, is amended to read:

39-2105 Jurisdictional responsibility for the various functional classifications of public highways and streets shall be as follows:

(1) The state shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified under the category of rural highways as interstate, expressway, and major arterial, and the municipal extensions thereof, except that the state shall not be responsible for that portion of a municipal extension which exceeds the design of the rural highway leading into the municipality. When the design of a rural highway differs at the different points where it leads into the municipality, the state's responsibility for the municipal extension thereof shall be limited to the lesser of the two designs. The state shall be responsible for the entire interstate system under either the rural or municipal category, and for connecting links between the interstate and the nearest existing state highway system in rural areas, except that + PROVIDED, if such a connecting link has not been improved and a sufficient study by the Department of Roads results in the determination that a link to an alternate state highway would provide better service for the area involved, the department shall have the option of providing the alternate route, subject to satisfactory local participation in the additional cost of the alternate route;

(2) The various counties shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified as other arterial, collector, local, ~~and~~ minimum maintenance, and remote residential under the rural highway category;

(3) The various incorporated municipalities shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all streets classified as expressway which are of a purely local nature, that portion of municipal extensions of rural expressways and major arterials which exceeds the design of the rural portions of such systems, and responsibility for those streets classified as other arterial, collector, and

local within their corporate limits; and

(4) Jurisdictional responsibility for all scenic-recreation roads and highways shall remain with the governmental subdivision which had jurisdictional responsibility for such road or highway prior to its change in classification to scenic-recreation made pursuant to this section and sections 39-2103, 39-2105, 39-2109, and 39-2113.

Sec. 6. Section 39-2109, Reissue Revised Statutes of Nebraska, is amended to read:

39-2109 (1) The Board of Public Roads Classifications and Standards shall develop the specific criteria for each functional classification set forth in sections 39-2103 and 39-2104, which criteria shall be consistent with the general criteria set forth in those sections. No such criteria shall be adopted until after public hearings have been held thereon at such times and places as to assure interested parties throughout the state an opportunity to be heard thereon. Following their adoption, such criteria shall be printed and published and copies thereof shall be deposited with the Secretary of State, the Clerk of the Legislature, the county clerk of each county, and the clerk of each incorporated municipality.

~~(2) Within six months from July 19, 1980, the Board of Public Roads Classifications and Standards shall adopt and promulgate the specific criteria for scenic-recreation roads and highways pursuant to sections 39-2103, 39-2105, 39-2109, and 39-2113.~~

~~(3) Within six months from August 26, 1983, the Board of Public Roads Classifications and Standards shall adopt and promulgate the specific criteria for minimum maintenance roads and highways.~~

(2) Within eighteen months after the effective date of this act, the Board of Public Roads Classifications and Standards shall adopt and promulgate the specific criteria for remote residential roads.

Sec. 7. Section 39-2110, Reissue Revised Statutes of Nebraska, is amended to read:

39-2110 Following adoption and publication of the specific criteria required by section 39-2109, the Department of Roads, after consultation with the appropriate local authorities in each instance, shall assign a functional classification to each segment of highway, road, and street in this state. Before assigning any such classification, the department shall make reasonable effort to resolve any differences of opinion between the department and any county or municipality. Whenever a new road or street is to be opened or an existing road or street is to be extended, the department shall, upon a request from the operating jurisdiction, assign a functional classification to such segment in accordance with the specific criteria established under section 39-2109.

Sec. 8. Section 39-2112, Reissue Revised Statutes of Nebraska, is amended to read:

39-2112 Any county or municipality may, based on changing traffic patterns or volume or a change in jurisdiction, request the Department of Roads to reclassify any segment of highway, road, or street. Any county that wants to use the minimum maintenance, remote residential, or scenic-recreation functional classification or wants to return a road to its previous functional classification may request the department to reclassify an applicable segment of highway or road. If a county board wants a road or a segment of road to be classified as remote residential, it shall hold a public hearing on the matter prior to requesting the department to reclassify such road or segment of road. The department shall review such a request made under this section 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 Board of Public Roads Classifications and Standards in the manner provided in section 39-2111.

Sec. 9. Section 39-2113, Reissue Revised Statutes of Nebraska, is amended to read:

39-2113 (1) In addition to the duties imposed upon it by section 39-2109, the Board of Public Roads Classifications and Standards shall develop minimum standards of design, construction, and maintenance for each functional classification set forth in sections 39-2103 and 39-2104. Except for scenic-recreation road standards, such standards shall be such as to assure that each segment of highway, road, or street will satisfactorily meet the requirements of the area it serves and the traffic patterns and volumes which it may reasonably be expected to bear.

(2) The standards for a scenic-recreation road and highway classification shall insure a minimal amount of environmental disruption practicable in the design, construction, and maintenance of such highways, roads, and streets by the use of less restrictive, more flexible design standards than other highway classifications. Design elements of such a

road or highway shall incorporate parkway-like features which will allow the user-motorist to maintain a leisurely pace and enjoy the scenic and recreational aspects of the route and include rest areas and scenic overlooks with suitable facilities. ~~The board may stipulate that speed limits consistent with scenic-recreation use apply to any such highway or road.~~

(3) The standards developed for a minimum maintenance road and highway classification shall provide for a level of minimum maintenance sufficient to serve farm machinery and the occasional or intermittent use by passenger and commercial vehicles. The standards shall provide that any defective bridges, culverts, or other such structures on, in, over, under, or part of the minimum maintenance road may be removed by the county in order to protect the public safety and need not be replaced by equivalent structures except when deemed by the county board to be essential for public safety or for the present or future transportation needs of the county. The standards for such minimum maintenance roads shall include the installation and maintenance by the county at entry points to minimum maintenance roads and at regular intervals thereon of appropriate signs to adequately warn the public that the designated section of road has a lower level of maintenance effort than other public roads and thoroughfares. Such signs shall conform to the requirements in the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118.

(4) The standards developed for a remote residential road classification shall provide for a level of maintenance sufficient to provide access to remote residences, farms, and ranches by passenger and commercial vehicles. The standards shall allow for one-lane traffic where sight distance is adequate to warn motorists of oncoming traffic. The standards for remote residential roads shall include the installation and maintenance by the county at entry points to remote residential roads of appropriate signs to adequately warn members of the public that they are traveling on a one-lane road. Such signs shall conform to the requirements in the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118.

~~(4)~~ (5) The board shall by rule provide for the relaxation of standards for any functional classification in those instances in which their application is not feasible because of peculiar, special, or unique local situations.

~~(5)~~ (6) Any county or municipality which believes that the application of standards for any functional classification to any segment of highway, road, or street would work a special hardship, or any other interested party which believes that the application of standards for scenic-recreation roads and highways to any segment of highway, road, or street would defeat the purpose of the scenic-recreation functional classification contained in section 39-2103, may request the board to relax the standards for such segment. The Department of Roads, when it believes that the application of standards for any functional classification to any segment of highway that is not hard surfaced would work a special hardship, may request the board to relax such standards. The board shall review any request made pursuant to this section and either grant or deny it in whole or in part. The provisions of this section shall not be construed to apply to removal of a road or highway from the state highway system pursuant to section 39-1315.01.

Sec. 10. Original sections 39-1817, 39-1818, 39-2103, 39-2105, 39-2109, 39-2110, 39-2112, and 39-2113, Reissue Revised Statutes of Nebraska, and section 13-1210, Revised Statutes Cumulative Supplement, 2006, are repealed.