

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1167

Introduced by Lautenbaugh, 18.

Read first time January 19, 2012

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to public contracts; to amend sections 39-8,105,
2 39-1302, and 60-6,188, Reissue Revised Statutes of
3 Nebraska; to require certain provisions in highway and
4 bridge construction and maintenance contracts; to require
5 identifying signage as prescribed; to harmonize
6 provisions; to provide a duty for the Revisor of
7 Statutes; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Contracts with a county, city, or village for
2 the construction, reconstruction, improvement, maintenance, or repair
3 of roads, bridges, and their appurtenances shall include the
4 following provisions:

5 (1) Incentive provisions for early completion of the
6 project, with such incentive provisions to be determined and
7 negotiated on a project-by-project basis;

8 (2) Disincentive provisions for late completion of the
9 project, with such disincentive provisions to be determined and
10 negotiated on a project-by-project basis; and

11 (3) Provisions requiring that, during the course of
12 project work taking place within the corporate limits of the city or
13 village, lane closures be kept to a minimum so that a lane may be
14 used while it is not under active construction, and that any
15 improperly closed lane shall result in a fee of one thousand dollars
16 per day for each day the lane is improperly closed being charged to
17 the general contractor in charge of the project. An improperly closed
18 lane also includes any lane closed without the express permission of
19 the mayor or city manager of the city or village.

20 Sec. 2. Every general contractor in charge of a highway
21 or bridge maintenance, repair, or construction zone shall post signs
22 in such maintenance, repair, or construction zone which inform
23 motorists of the name and telephone number of the general contractor
24 in at least four-inch print. The signs shall be placed at intervals
25 of at least one sign per mile in the maintenance, repair, or

1 construction zone.

2 Sec. 3. Section 39-8,105, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 39-8,105 All contracts let by the department for
5 construction or maintenance upon any interstate bridge, except
6 contracts for emergency maintenance, whether let pursuant to an
7 agreement between the department and an adjoining state, or
8 otherwise, shall be let in the same manner and under the same
9 conditions provided by sections 39-1348 to 39-1354 and section 5 of
10 this act.

11 Sec. 4. Section 39-1302, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 39-1302 For purposes of sections 39-1301 to 39-1392 and
14 section 5 of this act, unless the context otherwise requires:

15 (1) Abandon shall mean to reject all or part of the
16 department's rights and responsibilities relating to all or part of a
17 fragment, section, or route on the state highway system;

18 (2) Alley shall mean an established passageway for
19 vehicles and pedestrians affording a secondary means of access in the
20 rear to properties abutting on a street or highway;

21 (3) Approach or exit road shall mean any highway or ramp
22 designed and used solely for the purpose of providing ingress or
23 egress to or from an interchange or rest area of a highway. An
24 approach road shall begin at the point where it intersects with any
25 highway not a part of the highway for which such approach road

1 provides access and shall terminate at the point where it merges with
2 an acceleration lane of a highway. An exit road shall begin at the
3 point where it intersects with a deceleration lane of a highway and
4 shall terminate at the point where it intersects any highway not a
5 part of a highway from which the exit road provides egress;

6 (4) Arterial highway shall mean a highway primarily for
7 through traffic, usually on a continuous route;

8 (5) Beltway shall mean the roads and streets not
9 designated as a part of the state highway system and that are under
10 the primary authority of a county or municipality, if the location of
11 the beltway has been approved by (a) record of decision or finding of
12 no significant impact by the federal highway administration and (b)
13 the applicable local planning authority as a part of the
14 comprehensive plan;

15 (6) Business shall mean any lawful activity conducted
16 primarily for the purchase and resale, manufacture, processing, or
17 marketing of products, commodities, or other personal property or for
18 the sale of services to the public or by a nonprofit corporation;

19 (7) Channel shall mean a natural or artificial
20 watercourse;

21 (8) Commercial activity shall mean those activities
22 generally recognized as commercial by zoning authorities in this
23 state, and industrial activity shall mean those activities generally
24 recognized as industrial by zoning authorities in this state, except
25 that none of the following shall be considered commercial or

1 industrial:

2 (a) Outdoor advertising structures;

3 (b) General agricultural, forestry, ranching, grazing,
4 farming, and related activities, including wayside fresh produce
5 stands;

6 (c) Activities normally or regularly in operation less
7 than three months of the year;

8 (d) Activities conducted in a building principally used
9 as a residence;

10 (e) Railroad tracks and minor sidings; and

11 (f) Activities more than six hundred sixty feet from the
12 nearest edge of the right-of-way of the road or highway;

13 (9) Connecting link shall mean the roads, streets, and
14 highways designated as part of the state highway system and which are
15 within the corporate limits of any city or village in this state;

16 (10) Controlled-access facility shall mean a highway or
17 street especially designed for through traffic and over, from, or to
18 which owners or occupants of abutting land or other persons have no
19 right or easement or only a controlled right or easement of access,
20 light, air, or view by reason of the fact that their property abuts
21 upon such controlled-access facility or for any other reason. Such
22 highways or streets may be freeways, or they may be parkways;

23 (11) Department shall mean the Department of Roads;

24 (12) Displaced person shall mean any individual, family,
25 business, or farm operation which moves from real property acquired

1 for state highway purposes or for a federal-aid highway;

2 (13) Easement shall mean a right acquired by public
3 authority to use or control property for a designated highway
4 purpose;

5 (14) Expressway shall mean a divided arterial highway for
6 through traffic with full or partial control of access which may have
7 grade separations at intersections;

8 (15) Family shall mean two or more persons living
9 together in the same dwelling unit who are related to each other by
10 blood, marriage, adoption, or legal guardianship;

11 (16) Farm operation shall mean any activity conducted
12 primarily for the production of one or more agricultural products or
13 commodities for sale and home use and customarily producing such
14 products or commodities in sufficient quantity to be capable of
15 contributing materially to the operator's support;

16 (17) Federal-aid primary roads shall mean roads, streets,
17 and highways, whether a part of the state highway system, county road
18 systems, or city streets, which have been designated as federal-aid
19 primary roads by the department and approved by the United States
20 Secretary of Transportation and shown on the maps provided for in
21 section 39-1311;

22 (18) Freeway shall mean an expressway with full control
23 of access;

24 (19) Frontage road shall mean a local street or road
25 auxiliary to an arterial highway for service to abutting property and

1 adjacent areas and for control of access;

2 (20) Full control of access shall mean that the right of
3 owners or occupants of abutting land or other persons to access or
4 view is fully controlled by public authority having jurisdiction and
5 that such control is exercised to give preference to through traffic
6 by providing access connections with selected public roads only and
7 by prohibiting crossings or intersections at grade or direct private
8 driveway connections;

9 (21) Grade separation shall mean a crossing of two
10 highways at different levels;

11 (22) Highway shall mean a road or street, including the
12 entire area within the right-of-way, which has been designated a part
13 of the state highway system;

14 (23) Individual shall mean a person who is not a member
15 of a family;

16 (24) Interchange shall mean a grade-separated
17 intersection with one or more turning roadways for travel between any
18 of the highways radiating from and forming part of such intersection;

19 (25) Map shall mean a drawing or other illustration or a
20 series of drawings or illustrations which may be considered together
21 to complete a representation;

22 (26) Mileage shall mean the aggregate distance in miles
23 without counting double mileage where there are one-way or divided
24 roads, streets, or highways;

25 (27) Parking lane shall mean an auxiliary lane primarily

1 for the parking of vehicles;

2 (28) Parkway shall mean an arterial highway for
3 noncommercial traffic, with full or partial control of access, and
4 usually located within a park or a ribbon of park-like development;

5 (29) Relinquish shall mean to surrender all or part of
6 the rights and responsibilities relating to all or part of a
7 fragment, section, or route on the state highway system to a
8 political or governmental subdivision or public corporation of
9 Nebraska;

10 (30) Right of access shall mean the rights of ingress and
11 egress to or from a road, street, or highway and the rights of owners
12 or occupants of land abutting a road, street, or highway or other
13 persons to a way or means of approach, light, air, or view;

14 (31) Right-of-way shall mean land, property, or interest
15 therein, usually in a strip, acquired for or devoted to a road,
16 street, or highway;

17 (32) Road shall mean a public way for the purposes of
18 vehicular travel, including the entire area within the right-of-way.
19 A road designated as part of the state highway system may be called a
20 highway, while a road in an urban area may be called a street;

21 (33) Roadside shall mean the area adjoining the outer
22 edge of the roadway. Extensive areas between the roadways of a
23 divided highway may also be considered roadside;

24 (34) Roadway shall mean the portion of a highway,
25 including shoulders, for vehicular use;

1 (35) Separation structure shall mean that part of any
2 bridge or road which is directly overhead of the roadway of any part
3 of a highway;

4 (36) State highway purposes shall have the meaning set
5 forth in subsection (2) of section 39-1320;

6 (37) State highway system shall mean the roads, streets,
7 and highways shown on the map provided for in section 39-1311 as
8 forming a group of highway transportation lines for which the
9 department shall be the primary authority. The state highway system
10 shall include, but not be limited to, rights-of-way, connecting
11 links, drainage facilities, and the bridges, appurtenances,
12 easements, and structures used in conjunction with such roads,
13 streets, and highways;

14 (38) Street shall mean a public way for the purposes of
15 vehicular travel in a city or village and shall include the entire
16 area within the right-of-way;

17 (39) Structure shall mean anything constructed or
18 erected, the use of which requires permanent location on the ground
19 or attachment to something having a permanent location;

20 (40) Title shall mean the evidence of a person's right to
21 property or the right itself;

22 (41) Traveled way shall mean the portion of the roadway
23 for the movement of vehicles, exclusive of shoulders and auxiliary
24 lanes;

25 (42) Unzoned commercial or industrial area for purposes

1 of control of outdoor advertising shall mean all areas within six
2 hundred sixty feet of the nearest edge of the right-of-way of the
3 interstate and federal-aid primary systems which are not zoned by
4 state or local law, regulation, or ordinance and on which there is
5 located one or more permanent structures devoted to a business or
6 industrial activity or on which a commercial or industrial activity
7 is conducted, whether or not a permanent structure is located
8 thereon, the area between such activity and the highway, and the area
9 along the highway extending outward six hundred feet from and beyond
10 each edge of such activity and, in the case of the primary system,
11 may include the unzoned lands on both sides of such road or highway
12 to the extent of the same dimensions if those lands on the opposite
13 side of the highway are not deemed scenic or having aesthetic value
14 as determined by the department. In determining such an area,
15 measurements shall be made from the furthest or outermost edges of
16 the regularly used area of the commercial or industrial activity,
17 structures, normal points of ingress and egress, parking lots, and
18 storage and processing areas constituting an integral part of such
19 commercial or industrial activity;

20 (43) Visible, for purposes of section 39-1320, in
21 reference to advertising signs, displays, or devices, shall mean the
22 message or advertising content of such sign, display, or device is
23 capable of being seen without visual aid by a person of normal visual
24 acuity. A sign shall be considered visible even though the message or
25 advertising content may be seen but not read;

1 (44) Written instrument shall mean a deed or any other
2 document that states a contract, agreement, gift, or transfer of
3 property; and

4 (45) Zoned commercial or industrial areas shall mean
5 those areas within six hundred sixty feet of the nearest edge of the
6 right-of-way of the Highway Beautification Control System defined in
7 section 39-201.01, zoned by state or local zoning authorities for
8 industrial or commercial activities.

9 Sec. 5. Contracts for the construction, reconstruction,
10 improvement, maintenance, or repair of roads, bridges, and their
11 appurtenances shall include the following provisions:

12 (1) Incentive provisions for early completion of the
13 project, with such incentive provisions to be determined and
14 negotiated on a project-by-project basis;

15 (2) Disincentive provisions for late completion of the
16 project, with such disincentive provisions to be determined and
17 negotiated on a project-by-project basis; and

18 (3) Provisions requiring that, during the course of
19 project work taking place within the corporate limits of any city or
20 village, lane closures be kept to a minimum so that a lane may be
21 used while it is not under active construction, and that any
22 improperly closed lane shall result in a fee being charged to the
23 general contractor in charge of the project of one thousand dollars
24 per day for each day the lane is improperly closed. An improperly
25 closed lane also includes any lane closed without the express

1 permission of the mayor or city manager of the city or village.

2 Sec. 6. Section 60-6,188, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 60-6,188 (1) The maximum speed limit through any
5 maintenance, repair, or construction zone on the state highway system
6 shall be thirty-five miles per hour in rural areas and twenty-five
7 miles per hour in urban areas.

8 (2) Such speed limits shall take effect only after
9 appropriate signs giving notice of the speed limit are erected or
10 displayed in a conspicuous place in advance of the area where the
11 maintenance, repair, or construction activity is or will be taking
12 place. Such signs shall conform to the manual and shall be regulatory
13 signs imposing a legal obligation and restriction on all traffic
14 proceeding into the maintenance, construction, or repair zone. The
15 signs may be displayed upon a fixed, variable, or movable stand.
16 While maintenance, construction, or repair is being performed, the
17 signs may be mounted upon moving Department of Roads vehicles
18 displaying such signs well in advance of the maintenance zone.

19 (3) The Director-State Engineer may increase the speed
20 limit through any highway maintenance, repair, or construction zone
21 in increments of five miles per hour if the speed set does not exceed
22 the maximum speed limits established in sections 60-6,186, 60-6,187,
23 60-6,189, 60-6,190, 60-6,305, and 60-6,313. The Director-State
24 Engineer may delegate the authority to raise speed limits through any
25 maintenance, repair, or construction zone to any department employee

1 in a supervisory capacity or may delegate such authority to a county,
2 municipal, or local engineer who has the duty to maintain the state
3 highway system in such jurisdiction if the maintenance is performed
4 on behalf of the department by contract with the local authority.
5 Such increased speed limit through a maintenance, repair, or
6 construction zone shall be effective when the Director-State Engineer
7 or any officer to whom authority has been delegated gives a written
8 order for such increase and signs posting such speed limit are
9 erected or displayed.

10 (4) The Department of Roads shall post signs in
11 maintenance, repair, or construction zones which inform motorists
12 that the fine for exceeding the posted speed limit in such zones is
13 doubled.

14 (5) Every general contractor in charge of a highway or
15 bridge maintenance, repair, or construction zone shall post signs in
16 such maintenance, repair, or construction zone which inform motorists
17 of the name and telephone number of the general contractor in at
18 least four-inch print. The signs shall be placed at intervals of at
19 least one sign per mile in the maintenance, repair, or construction
20 zone.

21 Sec. 7. The Revisor of Statutes shall assign sections 1
22 and 2 of this act to Chapter 13.

23 Sec. 8. Original sections 39-8,105, 39-1302, and
24 60-6,188, Reissue Revised Statutes of Nebraska, are repealed.