

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 712**

Introduced by Hughes, 44.

Read first time January 05, 2022

Committee: Agriculture

- 1 A BILL FOR AN ACT relating to prairie dogs; to amend sections 23-3803,  
2 23-3804, 23-3805, 23-3806, and 23-3808, Reissue Revised Statutes of  
3 Nebraska; to change provisions of the Black-Tailed Prairie Dog  
4 Management Act relating to management plans, duties, powers,  
5 notices, liens, penalties, appeals, trespass, damages, and liability  
6 as prescribed; to harmonize provisions; to provide severability; and  
7 to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-3803, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 23-3803 (1) A county may adopt by resolution and carry out a  
4 coordinated program for the management of black-tailed prairie dogs on  
5 property within the county consistent with the Black-Tailed Prairie Dog  
6 Management Act. When a county adopts such a resolution, the county shall  
7 assume the authority and duties provided in the act and the act shall be  
8 applicable to persons owning or controlling property within the county.

9 (2) A black-tailed prairie dog management plan adopted pursuant to  
10 this section shall:

11 (a) Include ~~include~~ a finding by the county board of adverse impacts  
12 of unmanaged colonies within the county and the necessity to exercise the  
13 authority made available under the Black-Tailed Prairie Dog Management  
14 Act; ~~Such management plan shall~~

15 (b) Include ~~include~~ a listing of the methods for management of  
16 colonies to be used for purposes which are consistent with the act; ~~or~~  
17 ~~Such management plan shall not~~

18 (c) Provide a method for an adjacent landowner to make a written  
19 waiver of objection to the expansion of a colony upon such adjacent  
20 landowner's property pursuant to section 23-3804; and

21 (d) Not conflict with any state management plan for black-tailed  
22 prairie dogs or any rules or regulations adopted and promulgated pursuant  
23 to the Nongame and Endangered Species Conservation Act or ~~and shall not~~  
24 ~~conflict~~ with any state or federal recovery plan for endangered or  
25 threatened species.

26 (3) A county may cooperate and coordinate with the Animal and Plant  
27 Health Inspection Service of the United States Department of Agriculture,  
28 the Game and Parks Commission, the United States Fish and Wildlife  
29 Service, and other local, state, and national agencies and organizations,  
30 public or private, to prepare a coordinated program for the control and  
31 management of black-tailed prairie dogs and to carry out its duties and

1 responsibilities under the Black-Tailed Prairie Dog Management Act.

2 (4) A county may by resolution discontinue a coordinated program for  
3 the management of black-tailed prairie dogs. If such a program is  
4 discontinued, any unpaid assessments against landowners for costs of  
5 black-tailed prairie dog management shall continue to be collected  
6 pursuant to the Black-Tailed Prairie Dog Management Act.

7 Sec. 2. Section 23-3804, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 23-3804 Each person who owns or controls property within a county  
10 that has adopted a coordinated program for the management of black-tailed  
11 prairie dogs under section 23-3803 shall effectively manage colonies  
12 present upon such ~~his, her, or its~~ property to prevent the expansion of  
13 colonies to adjacent property unless the owner of the adjacent property  
14 makes a written waiver of objection to the expansion of such colonies to  
15 such adjacent landowner's property if the owner of the adjacent property  
16 objects to such expansion.

17 Sec. 3. Section 23-3805, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 23-3805 A county board of a county that has adopted a coordinated  
20 program for the management of black-tailed prairie dogs under section  
21 23-3803 may:

22 (1) Employ personnel and expend funds for the purchase of materials,  
23 machinery, and equipment to carry out its duties and responsibilities  
24 under the Black-Tailed Prairie Dog Management Act;

25 (2) Issue general and individual notices as provided in section  
26 23-3806 for the management of colonies; ~~and~~

27 (3) Examine property within the county for the purpose of  
28 determining the location of colonies; ~~and -~~

29 (4) Assign performance of elements of the black-tailed prairie dog  
30 management plan, including, but not limited to, investigation of reports  
31 or complaints regarding unmanaged prairie dog colonies.

1           Sec. 4. Section 23-3806, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           23-3806 (1)(a) Notices for management of colonies shall consist of  
4 two kinds: General notice and individual notices, which notices shall be  
5 on a form prescribed by this section. ~~Failure to publish general notice~~  
6 ~~or to serve individual notices as provided in this section shall not~~  
7 ~~relieve any person from the necessity of full compliance with the Black-~~  
8 ~~Tailed Prairie Dog Management Act.~~

9           (b) General notice shall be published by the county board of each  
10 county that has adopted a coordinated program for the management of  
11 black-tailed prairie dogs under section 23-3803 in one or more newspapers  
12 of general circulation in the county on or before May 1 of each year or  
13 at such other times as the county board may determine.

14           (c) Whenever any county board of a county that has adopted a  
15 coordinated program for the management of black-tailed prairie dogs under  
16 section 23-3803 ~~finds has reason to believe, based upon information or~~  
17 ~~through its own investigation,~~ that a colony, or any portion of a colony,  
18 has expanded onto adjacent property and the owner of the adjacent  
19 property objects to such expansion and the county board determines that  
20 it is necessary to secure more prompt or definite management of a colony  
21 than is accomplished by the general published notice, it shall cause to  
22 be served individual notice, upon the owner of record of the property  
23 upon which the colony is located, by certified mail at his or her last-  
24 known address, of recommended methods of when and how black-tailed  
25 prairie dogs are to be managed.

26           (d) The county board shall use ~~one or both of~~ the following form  
27 ~~forms~~ for all individual notices:

28           (i) ..... County Board  
29           OFFICIAL NOTICE

30           Information received by the county board, including from an onsite  
31 investigation, indicates the existence of an unmanaged black-tailed

1 prairie dog colony on property owned by you  
 2 at: ..... . The method of management  
 3 recommended by the county board is as  
 4 follows: ..... . Other  
 5 appropriate management methods are acceptable if approved by the county  
 6 board.

7 State law specifies a duty of each person who owns or controls  
 8 property within a county that has adopted a coordinated program for the  
 9 management of black-tailed prairie dogs under section 23-3803 to manage  
 10 black-tailed prairie dog colonies present upon his or her property to  
 11 prevent the expansion of colonies to adjacent property unless ~~if~~ the  
 12 owner of the adjacent property waives objection in writing ~~objects~~ to  
 13 such expansion. You must provide notice and evidence to the county board  
 14 within sixty days after the date specified at the bottom of this notice  
 15 that appropriate management as specified in this notice, or alternative  
 16 management that is approved by the board, has been initiated. If services  
 17 for the management of black-tailed prairie dogs are not available within  
 18 the sixty-day period specified in this notice, you may satisfy this  
 19 notice by providing evidence that you have arranged for management to  
 20 occur when available. If such notice and evidence are not received by the  
 21 county board within sixty days after the date specified at the bottom of  
 22 this notice, the county board or its agent may enter upon your property  
 23 for the purpose of taking the appropriate management measures. Costs for  
 24 the management activities performed by the county board shall be at the  
 25 expense of the owner of the property and shall become a lien on the  
 26 property ~~as a special assessment levied on the date of control.~~

27 If the county board receives a written request from you within  
 28 fifteen days after the date specified at the bottom of this notice, you  
 29 are entitled to a hearing before the county board to challenge this  
 30 notice.

31 County Board

1 Dated ..... ; ~~or~~  
2 ~~(ii) ..... County Board~~

3 ~~OFFICIAL NOTICE~~

4 ~~Information received by the county board indicates the presence of~~  
5 ~~an unmanaged black tailed prairie dog colony on property owned by you~~  
6 ~~at: ..... The method of~~  
7 ~~management recommended by the county board is as~~  
8 ~~follows: ..... Other~~  
9 ~~appropriate management methods are acceptable if approved by the county~~  
10 ~~board.~~

11 ~~State law specifies a duty of each person who owns or controls~~  
12 ~~property within a county that has adopted a coordinated program for the~~  
13 ~~management of black-tailed prairie dogs under section 23-3803 to manage~~  
14 ~~black-tailed prairie dog colonies present upon his or her property to~~  
15 ~~prevent the expansion of colonies to adjacent property if the owner of~~  
16 ~~the adjacent property objects to such expansion. You must provide notice~~  
17 ~~and evidence to the county board within sixty days after the date~~  
18 ~~specified at the bottom of this notice that appropriate management as~~  
19 ~~specified in this notice, or alternative management that is approved by~~  
20 ~~the board, has been initiated. If services for the management of black-~~  
21 ~~tailed prairie dogs are not available within the sixty-day period~~  
22 ~~specified in this notice, you may satisfy this notice by providing~~  
23 ~~evidence that you have arranged for management to occur when available.~~  
24 ~~If such notice and evidence are not received by the county board within~~  
25 ~~sixty days after the date specified at the bottom of this notice you may,~~  
26 ~~upon conviction, be subject to a fine of \$100.00 per day for each day of~~  
27 ~~noncompliance beginning on ....., up to a maximum of fifteen days of~~  
28 ~~noncompliance (maximum \$1,500).~~

29 ~~If the county board receives a written request from you within~~  
30 ~~fifteen days after the date specified at the bottom of this notice, you~~  
31 ~~are entitled to a hearing before the county board to challenge this~~

1 notice.

2 County Board

3 Dated .....

4 (2) Upon the written request of any landowner served with an  
5 individual notice pursuant to subsection (1) of this section received  
6 within fifteen days after the date specified by such notice, the county  
7 board shall hold an informal public hearing to allow such landowner an  
8 opportunity to address the county board's notice.

9 (3) Following the hearing, the county board may affirm, modify, or  
10 rescind such notice. ~~If a landowner who has received a notice pursuant to~~  
11 ~~subsection (1) of this section fails to comply with the notice, the~~  
12 ~~county board shall:~~

13 ~~(a) If, upon expiration of the sixty-day period specified on the~~  
14 ~~notice required by subdivision (1)(d) (1)(d)(i) of this section, the~~  
15 ~~landowner has not complied with the notice and has not requested a~~  
16 ~~hearing pursuant to subsection (2) of this section, the county board may~~  
17 ~~cause proper management methods to be used on such property and shall~~  
18 ~~advise the record landowner of the cost incurred in connection with such~~  
19 ~~operation. The cost of any such management shall be at the expense of the~~  
20 ~~landowner. In addition, the county board shall immediately cause notice~~  
21 ~~to be filed of possible unpaid black-tailed prairie dog management~~  
22 ~~assessments against the property upon which the management measures were~~  
23 ~~used in the register of deeds office in the county where the property is~~  
24 ~~located. If unpaid for two months, the county board shall certify to the~~  
25 ~~county treasurer the amount of such expense and such expense shall become~~  
26 ~~a lien on the property upon which the management measures were taken as a~~  
27 ~~special assessment levied on the date of management. The county treasurer~~  
28 ~~shall add such expense to and it shall become and form a part of the~~  
29 ~~taxes upon such land and shall bear interest at the same rate as~~  
30 ~~delinquent taxes; or~~

31 (b) ~~If, upon the expiration of the sixty-day period specified on the~~

1 ~~notice required by subdivision (1)(d)(ii) of this section, the landowner~~  
2 ~~has not complied with the notice and has not requested a hearing pursuant~~  
3 ~~to subsection (2) of this section, the county board shall notify the~~  
4 ~~county attorney who shall proceed against such landowner as prescribed in~~  
5 ~~this subdivision. A person who is responsible for an unmanaged colony~~  
6 ~~shall, upon conviction, be guilty of an infraction pursuant to sections~~  
7 ~~29-431 to 29-438, except that the penalty shall be a fine of one hundred~~  
8 ~~dollars per day for each day of violation, up to a total of one thousand~~  
9 ~~five hundred dollars for fifteen days of noncompliance.~~

10 (4) ~~This section shall not be construed to limit satisfaction of the~~  
11 ~~obligation imposed by this section in whole or in part by tax foreclosure~~  
12 ~~proceedings. The expense may be collected by suit instituted for that~~  
13 ~~purpose as a debt due the county or by any other or additional remedy~~  
14 ~~otherwise available. Amounts collected under this section shall be~~  
15 ~~deposited to the black-tailed prairie dog management fund of the county~~  
16 ~~board if such fund has been created by the county board or, if no such~~  
17 ~~fund has been created, then to the county general fund.~~

18 (5) Any action of the county board taken pursuant to this section  
19 may be appealed to any court having jurisdiction.

20 Sec. 5. Section 23-3808, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 23-3808 The county board of a county that has adopted a coordinated  
23 program for the management of black-tailed prairie dogs under section  
24 23-3803, or anyone authorized by the county board, may enter upon  
25 property in the county for purposes of performing the duties and  
26 exercising the powers under the Black-Tailed Prairie Dog Management Act  
27 after ~~without being subject to any action for trespass or damages,~~  
28 ~~including damages for destruction of growing crops, if reasonable care is~~  
29 ~~exercised and forty-eight hours' written advance notice of entrance is~~  
30 ~~provided to the property owner or occupant.~~

31 Sec. 6. If any section in this act or any part of any section is

1 declared invalid or unconstitutional, the declaration shall not affect  
2 the validity or constitutionality of the remaining portions.

3       Sec. 7. Original sections 23-3803, 23-3804, 23-3805, 23-3806, and  
4 23-3808, Reissue Revised Statutes of Nebraska, are repealed.