

ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023
COMMITTEE STATEMENT
LB102

Hearing Date: Thursday January 26, 2023
Committee On: Government, Military and Veterans Affairs
Introducer: Erdman
One Liner: Change provisions relating to the Land Surveyors Regulation Act and the Nebraska Plane Coordinate System Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Aguilar, Brewer, Conrad, Halloran, Hunt, Lowe, Raybould, Sanders
Nay:
Absent:
Present Not Voting:

Testimony:

Proponents:
Senator Steve Erdman
Casey Sherlock
Casey DunnGossin

Representing:
Introducer
State Surveyor/Board of Examiners
Office of the Chief Information Officer

Opponents:

Representing:

Neutral:
John Berry

Representing:
Lancaster County Engineering

* ADA Accomodation Written Testimony

Summary of purpose and/or changes:

Summary:

This bill substantially revises the Nebraska Plane Coordinate System Act, the Land Surveyors Regulation Act, and related statutes governing the land surveying profession and official public records of ownership interests in real estate.

Section 11 of the bill redefines the Nebraska Plane Coordinate System based on the work of the National Spatial Reference System created by the National Geodetic Survey. Sections 12 and 13 of the bill revise the statutory language relating to units of measure and the required format for expression of geographic positions in the context of land surveying and recording of public land records. Section 14 clarifies that "appropriate use" may be made of other geodetic reference networks. Section 15 provides that tract descriptions need not exclusively be made with reference to a plane coordinate system and recognizes that parties to real estate transactions may rely on other sources of information.

Section 18 modifies the Land Surveyors Regulation Act to revise definitions of "land surveying" and "professional land surveyor."

Section 19 provides new authority for professional land surveyors and their assistants and trainees to enter public and private lands and waterways in the conduct of a land survey. It also provides specific authorization for a number of acts related to performing a land survey, including the placement of survey monuments. It requires vehicles used for this purpose to be clearly marked with the surveyor or employer's identifying information. If these land surveying activities result in property damage, the surveyor, assistant, or trainee is liable to the owner or tenant for actual damages, including crop damage. Landowners and tenants would not be liable for damages to the surveyors, their assistants, or their trainees for injuries or other damages incurred during the course of their surveying work on the subject parcel unless those damages result from an intentional tort by the owner or tenant. Section 20 authorizes the Attorney General and local county attorneys to enforce the Land Surveyors Regulation Act.

Section 30 of the bill defines the scope of practice and the licensure process for land surveyors who offer land surveying through an organization. This process includes application for a certificate of authorization for organizational practice to the Board of Examiners for Land Surveyors with an application fee not greater than \$300. The Secretary of State would be forbidden from issuing any such certificate of authority without the appropriate authorization from the occupational board, or from allowing the unauthorized establishment of business entities with names suggestive of land surveying. The board would have the authority to set parameters for expiration and renewal of certificates of authorization. No such authorization is required for an organization to practice land surveying only for itself. This section also affirms the liability of such professional organizations for the acts of individuals acting on their behalf.

Sections 40 and 41 of the bill sets out a professional disciplinary process for the examining board to follow in enforcing the Land Surveyors Regulation Act. Section 44 prohibits conduct related to the unauthorized practice of land surveying.

The bill also includes a number of sections that only make harmonizing changes. For example, in numerous locations it replaces the phrase "registered land surveyor" with "professional land surveyor" and in other instances replaces "registered" with "licensed." The bill is comprised of fifty-three sections in total. As introduced, it includes an operative date of September 1, 2023.

Explanation of amendments:

AM 183 to LB 102

The committee amendment would allow for county facilities other than the county courthouse to be used for storage of surveyor records, makes harmonizing changes missed in the introduced bill, and eliminates ambiguous language. The amendment also resolves a possible unconstitutional delegation of legislative authority to Congress, instead charging the Nebraska GIS Council with authority relating to adoption of coordinate systems to be used by land surveyors in conducting their work.

Tom Brewer, Chairperson