

ENGROSSED LEGISLATIVE BILL 373

Introduced by Hansen, 16.

A BILL FOR AN ACT relating to roads; to amend sections 39-1722, 39-1724, and 39-1725, Reissue Revised Statutes of Nebraska, and section 39-1410, Revised Statutes Cumulative Supplement, 2024; to change provisions relating to section lines and vacation or abandonment of public roads; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 39-1410, Revised Statutes Cumulative Supplement, 2024, is amended to read:

39-1410 (1) The section lines are hereby declared, but are not required, to be public roads in each county in the state.

(2) The county board of any county may, whenever the public good requires it, open roads on section lines and cause them to be worked in the same manner as other public roads.

(3) Any damages claimed by reason of any such road shall be appraised and allowed in the manner provided by law.

(4)(a) The county board shall cause existing government corners along such line to be perpetuated by:

(i) Causing to be planted monuments of some durable material, with suitable witnesses; and

(ii) Causing a record to be made of such monuments.

(b) If government corners are lost or obliterated, the county board shall cause the corners to be located in the manner provided in sections 23-1907 and 23-1908.

(c) The county board shall cause any work to be done under this section to be performed by the county surveyor or, if there is no county surveyor in the county, by some other competent professional land surveyor.

Sec. 2. Section 39-1722, Reissue Revised Statutes of Nebraska, is amended

to read:

39-1722 (1) Except as provided in subsection (3) of this section, the county board of any county may by resolution, when it deems the public interest may require vacation or abandonment of a public road of the county, direct the county highway superintendent or in counties having no highway superintendent then such person as the board may direct to study the use being made of such public road and to submit in writing to the county board within thirty days, a report upon the study made and the recommendation of the directed superintendent or person as to such vacation or abandonment. Such resolution and report shall be retained in the office of the county clerk as a part of the permanent public records of the county board.

(2) The county board of any county shall not require vacation or abandonment of any public road or any part of such road which is within the area of the zoning jurisdiction of a city of the metropolitan, primary, or first class without the prior approval of the governing body of such city.

(3)(a) Except as provided in subsection (2) of this section, the county board of any county may by resolution propose to vacate or abandon a public road that was previously declared a public road pursuant to section 39-1410 as such section existed prior to the effective date of this act if it determines such vacation or abandonment is in the interest of the public.

(b) No study is required to be conducted for a vacation or abandonment under this subsection.

Sec. 3. Section 39-1724, Reissue Revised Statutes of Nebraska, is amended to read:

39-1724 (1)(a) The county board shall adopt a resolution fixing the time, date, and place for a public hearing on the issue of vacating or abandoning a public road when:

(i) The county board receives the report described in section 39-1722; or

(ii) The county board by resolution proposes to vacate or abandon a public road that was previously declared a public road pursuant to section 39-1410 as such section existed prior to the effective date of this act.

(b) The resolution fixing the time, date, and place for the public hearing shall contain a clear and unambiguous description of the road to be vacated or abandoned.

(2) The county board shall cause such resolution to be published once a week for three consecutive weeks in a legal newspaper published in the county or, if none is published in the county, in a legal newspaper of general circulation in the county.

(3)(a) Whenever possible the county board shall cause copies of such resolution to be served by either registered or certified mail upon:

(i) The owners of land abutting on or adjacent to the road to be vacated or abandoned; and

(ii) The planning and public works directors of a city of the metropolitan, primary, or first class when such road or any part thereof is within the area of the zoning jurisdiction of such city.

(b) Such copies shall be mailed to the last-known address of each person described in subdivision (a) of this subsection not less than two weeks in advance of the hearing.

Sec. 4. Section 39-1725, Reissue Revised Statutes of Nebraska, is amended to read:

39-1725 (1) After the public hearing described in section 39-1724, the county board shall, by resolution at its next meeting or as soon thereafter as may be practicable, vacate or abandon or refuse vacation or abandonment, as in the judgment of the board the public good may require.

(2) Vacation and abandonment shall not be ordered except upon vote of two-thirds of all members of the county board and the prior approval of the governing body of a city of the metropolitan, primary, or first class has been obtained when any public road or any part thereof is within the area of the zoning jurisdiction of such city. If such road lies within a township in a county operating roads on a township basis, the road shall not be vacated or abandoned unless an offer has been made to relinquish to the township in the manner provided in section 39-1726.

(3) In the event that the county board decides to vacate or abandon a public road, its resolution shall state upon what conditions, if any, the vacation or abandonment shall be qualified and particularly whether or not the title or right-of-way to any vacated or abandoned fragment or section of road shall be sold, revert to private ownership, or remain in the public. If the county board fails to specify in a resolution as to the disposition of right-of-way, and if there shall be nonuse of such right-of-way for any public purpose for a continuous period of not less than ten years, the right-of-way shall revert to the owners of the adjacent real estate, one-half on each side of such road.

(4) When the county vacates all or any portion of a road, the county shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating resolution with the register of deeds for the county to be indexed against all affected lots.

Sec. 5. Original sections 39-1722, 39-1724, and 39-1725, Reissue Revised Statutes of Nebraska, and section 39-1410, Revised Statutes Cumulative Supplement, 2024, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 373 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR