

LEGISLATIVE BILL 265

Approved by the Governor April 2, 1979

Introduced by Sieck, 24

AN ACT relating to roads; to permit the inundation of certain roads by floodwaters as prescribed; to limit liability; to provide duties; and to declare an emergency.

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

Section 1. The county board of any county may, in accordance with this act, 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 or across any road classified as a local 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 shall determine to be mutually acceptable. Conformance with this act 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. 2. A water impoundment structure which will result in temporary storage and flowage of water upon and across 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 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. 3. Whenever any water impoundment structure is approved pursuant to this act, it shall be

the responsibility of the county board to erect at both ends of the portion of the road subject to such inundation permanent warning devices providing notice of the potential hazard. Such warning devices shall conform to the United States Department of Transportation's Manual of Uniform Traffic Control Devices, shall have printed thereon the words FLOOD AREA, and shall indicate the distance from such sign to the opposite extreme of the flood hazard area. The county board shall exercise reasonable care in maintaining such warning devices.

Sec. 4. Any liability of the type described in section 1 of this act which might arise because of the operation of a water impoundment structure constructed prior to the effective date of this act shall be relieved by conformance by the county board with section 3 of this act even if conformance with the provisions of section 2 of this act has not been achieved.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.