

LEGISLATIVE BILL 483

Approved by the Governor March 28, 2001

Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson;
Connealy, 16; Erdman, 47; Janssen, 15; Preister, 5;
Quandahl, 31; Redfield, 12

AN ACT relating to public property; to amend sections 14-375, 14-3,107, 15-701, 16-609, 16-611, 17-558, 39-1725, and 39-1726, Reissue Revised Statutes of Nebraska; to change provisions relating to the vacation of roads, streets, and alleys by counties, cities, and villages; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 14-375, Reissue Revised Statutes of Nebraska, is amended to read:

14-375. Upon the recommendation of the city planning board, the city council may, by ordinance or resolution, vacate any street or alley within any such city without any petition being filed therefor. Before any such street or alley shall be vacated, the council shall appoint a committee of at least three members thereof, who shall faithfully and impartially and after reasonable notice to the owners and parties interested in property affected by such vacation, assess the damages, if any, to such owners and parties affected. They shall take into consideration the amount of special benefits, if any, arising from such vacation and shall file their report in writing with the city clerk. Any owner or party interested in property affected by such vacation, who shall file a written protest with such committee, may appeal from the adoption by the council of such appraisers' report in the manner provided in section 14-813, but such appeal shall not stay the passage of the ordinance or resolution vacating such street or alley. The award of appraisers shall be final and conclusive as the order of a court of general jurisdiction, unless appealed from. When the city vacates a street or alley, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Sec. 2. Section 14-3,107, Reissue Revised Statutes of Nebraska, is amended to read:

14-3,107. The city is authorized to vacate or narrow any street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley upon petition of the owners of seventy-five percent of the taxable frontage feet abutting upon such street or alley proposed to be vacated and asking for such vacation, or the city, for purposes of construction of a controlled-access highway, or to conform to a master plan of the city, may, without petition having been filed therefor, vacate any street or alley or any part thereof in the city. Whenever a street is vacated or narrowed the part so vacated shall revert to the abutting owners on the respective sides thereof, except + PROVIDED, that if part or all of the vacated street lies within the State of Nebraska but one side or any part of the street is adjacent to the boundary of the State of Nebraska, all of the street lying within the State of Nebraska, or that part lying within the State of Nebraska, shall revert to the owner of the abutting property lying wholly within the State of Nebraska. The city is authorized to open, to improve, and to make passable any street, highway, boulevard, main thoroughfare, controlled-access facility, connecting link, major traffic street, or alley. The term open as used in this section refers to the adaptation of the surface of the street to the needs of ordinary travel, but does not necessarily require the grading to an established grade. The costs of any of the improvements mentioned in this section, except as otherwise provided in sections 14-384 to 14-3,127, to the extent of special benefits thereby conferred, may be assessed against the property specially benefited thereby in the usual manner for assessing special benefits. When the city vacates all or any portion of a street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley pursuant to this section, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Sec. 3. Section 15-701, Reissue Revised Statutes of Nebraska, is

amended to read:

15-701. The city council shall have power by ordinance to create, open, widen or otherwise improve, vacate, control, name, and rename any street, alley, or public way or ways, including the sidewalk space within the limits of the city, except that ~~+~~ PROVIDED, all damages sustained by the owners of the property thereon by opening or widening shall be ascertained in the manner set forth in sections 76-704 to 76-724. Whenever ~~+~~ AND PROVIDED FURTHER, whenever any street, alley, or public way shall be vacated, the same shall revert to the owners of the adjacent real estate, one-half on each side thereof, unless the city reserves title thereto in the ordinance vacating such street, alley, or public way. In the event title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city, as authorized in its home rule charter. When the city vacates all or any portion of a street, alley, or public way or ways, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Sec. 4. Section 16-609, Reissue Revised Statutes of Nebraska, is amended to read:

16-609. The council shall have power to open, control, name, rename, extend, widen, narrow, vacate, grade, curb, gutter, park, and pave or otherwise to improve and control and keep in good repair and condition, in any manner it may deem proper, any street, avenue, or alley, or public ~~park~~ park or square, or part of either, within or without the limits of the city, ~~+~~ and it may grade partially or to the established grade, or park or otherwise improve any width or part of any such street, avenue, or alley. When the city vacates all or any portion of a street, avenue, or alley, or public park or square, or part of either, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Sec. 5. Section 16-611, Reissue Revised Statutes of Nebraska, is amended to read:

16-611. (1) Upon the vacation of any street the same so vacated shall be and remain the property of the city, but may be sold and conveyed by the city for any price that shall be agreed upon by the mayor and three-fourths of the city council by the city, the title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof.

(2) When an alley is vacated the same shall revert to the owner of the adjacent real estate by the city, the title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof, unless the alley is except that when any alley is taken wholly from one or more lots, upon the vacation thereof, it shall revert to the owner of the abutting property and become a part of such property in which case the title to such property shall vest in the owner of the abutting property and become a part of such property.

(3) When a portion of a street or alley is vacated only on one side of the center thereof, the title to such ~~land~~ property shall vest in the owner of the abutting property and become a part of such property.

(4) When the city vacates all or any portion of a street or alley, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Sec. 6. Section 17-558, Reissue Revised Statutes of Nebraska, is amended to read:

17-558. Second-class cities and villages shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the city or village; and also to create, open, and improve any new street, avenue, alley, or lane. All ~~+~~ PROVIDED, all damages sustained by the citizens of the city or village, or by the owners of the property therein, shall be ascertained in such manner as shall be provided by ordinance. Whenever any street, avenue, ~~or~~ alley, or lane shall be vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof and become a part of such property. When a portion of a street, avenue, ~~or~~ alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property. When the city or village vacates all or any portion of a street, avenue, alley, or lane, the city or village shall, within thirty days after the effective date of the vacation, file a

certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Sec. 7. Section 39-1725, Reissue Revised Statutes of Nebraska, is amended to read:

39-1725. After the public hearing 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. Vacation ~~PROVIDED, that vacation~~ and abandonment shall not be ordered except upon vote of two-thirds of all members of the 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 ~~AND PROVIDED FURTHER, that if said road lies within a township in a county operating roads on a township basis the same 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.

In the event that the county board decides to vacate or abandon, 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 ~~PROVIDED, that 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 thereof. 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. 8. Section 39-1726, Reissue Revised Statutes of Nebraska, is amended to read:

39-1726. (1) No fragment of a county road lying within a township in a county operating roads on a township basis shall be vacated or abandoned without first offering to relinquish it to the ~~said~~ township. The county board shall offer to relinquish such county road by written notification to such township. Such offer to relinquish may be conditional or subject to the reservation of any right which the county board deems necessary and proper. Four months after sending the written notification, the county board may proceed to abandon such county road unless a petition from a notified township has been filed with the county board setting forth that the ~~said~~ township desires to maintain such road, or portion thereof, subject to the reservations contained in the notice. The county board may reject any petition which does not accept the conditions or reservations set forth in the notice. The petition and the acceptance or rejection thereof by the county board shall be placed upon public record in the office of the county clerk. In the event the petition is accepted, the county board shall by resolution relinquish the county road to the township. From the date of the resolution the county shall be relieved of all responsibility in relation to ~~said~~ the road. In the event a petition for relinquishment is not received within ~~said~~ four months or in the event that the petition for relinquishment is not accepted, the county board shall, by resolution, state whether the vacated or abandoned road shall be retained or disposed of by sale, or by reverter to the adjacent property or otherwise.

(2) In any county in which is located a city of the metropolitan class, written notification of the proposed vacation or abandonment shall be given to the planning director of the city, and any recommendations which the officer shall make shall be received and considered before such vacation or abandonment is effected.

(3) When the county vacates or abandons all or any portion of a county 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 in which the vacated property is located to be indexed against all affected lots.

Sec. 9. Original sections 14-375, 14-3,107, 15-701, 16-609, 16-611, 17-558, 39-1725, and 39-1726, Reissue Revised Statutes of Nebraska, are repealed.