

LEGISLATIVE BILL 78

Approved by the Governor February 28, 2018

Introduced by Crawford, 45; Blood, 3.

A BILL FOR AN ACT relating to state highways; to amend section 39-1314, Reissue Revised Statutes of Nebraska; to change a provision relating to relinquishment or abandonment of a highway fragment, section, or route as prescribed; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 39-1314, Reissue Revised Statutes of Nebraska, is amended to read:

39-1314 No fragment or section of a route nor any route on the state highway system shall be abandoned without first offering to relinquish such fragment, section, or route to the political or governmental subdivisions or public corporations wherein any portion of the state highway system is to be abandoned. The department shall offer to relinquish such fragment, section, or route by written notification to such political or governmental subdivisions or public corporations of the department's offer to relinquish. ~~Such offer to relinquish may be conditional or subject to the reservation of any right which the department deems necessary.~~ Four months after sending the notice of offer to relinquish, the department may proceed to abandon such fragment, section, or route on the state highway system unless a petition from a notified political or governmental subdivision or public corporation has been filed with the department, prior to abandonment, setting forth that the political or governmental subdivision or public corporation desires to maintain such fragment, section, route, or portion thereof. After the filing of such petition, the department and political or governmental subdivision or public corporation may negotiate the terms or conditions of any relinquishment, including any reservation of rights by either party, except that any rights and conditions asserted by the department as existing at the time of right-of-way acquisition or stipulated to as a requirement for federal funding of project development and construction shall not be negotiable. The department may reject any petition which does not accept the conditions or reservations specified in the department's offer to relinquish. Any petition and a written memorandum of understanding executed which is accepted by the department and the political or governmental subdivision or public corporation, together with a written instrument describing the proposed relinquishment, shall be filed as a placed upon public record in the department. The memorandum of understanding shall detail the reservation of rights made by either party, including any restrictions upon any future use of the fragment, section, or route to be relinquished, and shall also state the right of the political or governmental subdivision or public corporation to petition the department to seek renegotiation of the terms and conditions of the relinquishment at a future date. Such written instrument shall bear the department seal and shall be dated and subscribed by the Director-State Engineer and state the terms or upon what conditions, if any, pursuant to the memorandum of understanding, upon which the relinquishment shall be qualified. Such written instrument shall be certified by the department and be recorded in the office of the register of deeds of the county where the portion of the state highway system is being relinquished. No fee shall be charged for such recording. After such recording, the fragment, section, route, or portion relinquished will be the responsibility of such political or governmental subdivision or public corporation, subject to any mutually agreed terms or conditions. At any time after the relinquishment, the political or governmental subdivision or public corporation may, upon a showing of a change in financial or other circumstances or for economic development purposes, petition the department to renegotiate the agreed terms or conditions of the relinquishment or revert to abandonment. If the department agrees to new terms or conditions, it shall file an amended memorandum of understanding executed by the department and the political or governmental subdivision or public corporation and certify and record an amended written instrument with the register of deeds.

Sec. 2. Original section 39-1314, Reissue Revised Statutes of Nebraska, is repealed.