

## LEGISLATIVE BILL 192

Approved by the Governor March 23, 1971

Introduced by Glenn A. Goodrich, 20th District

AN ACT to amend sections 23-108, 39-1722, 39-1724, and 39-1725, Reissue Revised Statutes of Nebraska, 1943, relating to counties; to provide restrictions on the county board on relocating, vacating or discontinuing public roads as prescribed; to provide for notice; and to repeal the original sections.  
Be it enacted by the people of the State of Nebraska,

Section 1. That section 23-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-108. The county board shall have power to lay out, alter or discontinue any road running through its county, to vacate or discontinue public roads running parallel and adjacent to state or federal highways not more than four hundred yards from said highway, or any part thereof, or any abandoned or unused road or part thereof, and for such purpose may acquire title to lands therein, either by gift, prescription, dedication, the exercise of the right of eminent domain, purchase or lease, and may perform such duties concerning roads as may be prescribed by law; Provided, that the county board shall not vacate or discontinue any public road or any part thereof 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.

Sec. 2. That section 39-1722, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1722. The county board of any county may by resolution, where it deems the public interest may require relocation, 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 his recommendation as to the relocation, vacation, or abandonment thereof. Said 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; Provided, that the county board shall not require relocation, vacation or abandonment of any public road or any part thereof 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.

Sec. 3. That section 39-1724, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1724. Upon receipt of the report, as provided in section 39-1722, the county board shall adopt a resolution fixing the time, date and place for public hearing. Such resolution shall contain a clear and unambiguous description of the road to be relocated, vacated, or abandoned. The county board shall cause such resolution to be published once a week for three consecutive weeks in a legal newspaper of the county and whenever possible shall cause copies thereof to be served by either registered or certified mail upon the owners of land abutting on or adjacent to the road to be relocated, vacated, or abandoned, and upon 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, by mailing the same to the last-known address of each owner not less than two weeks in advance of the hearing.

Sec. 4. That section 39-1725, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1725. After the public hearing the county board shall by resolution at its next meeting or as soon thereafter as may be practicable, relocate, vacate, or abandon or refuse relocation, vacation, or abandonment, as in the judgment of the board the public good may require; Provided, that vacation and abandonment shall not be ordered except upon unanimous vote 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; and provided further, that if said road lies within a township in a county operating roads on a township basis the same 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 relocate, vacate, or abandon, its resolution shall state upon what conditions, if any, the relocation, vacation, or abandonment shall be qualified and particularly whether or not the title or right-of-way to any relocated, vacated, or abandoned fragment or section of road shall be sold, revert to private ownership, or remain in the public; 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 nonuser 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.

Sec. 5. That original sections 23-108, 39-1722, 39-1724, and 39-1725, Reissue Revised Statutes of Nebraska, 1943, are repealed.