

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 373

FINAL READING

Introduced by Hansen, 16.

Read first time January 16, 2025

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to roads; to amend sections 39-1722, 39-1724,
- 2 and 39-1725, Reissue Revised Statutes of Nebraska, and section
- 3 39-1410, Revised Statutes Cumulative Supplement, 2024; to change
- 4 provisions relating to section lines and vacation or abandonment of
- 5 public roads; to harmonize provisions; and to repeal the original
- 6 sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 39-1410, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 39-1410 (1) The section lines are hereby declared, but are not
4 required, to be public roads in each county in the state.

5 (2) The ~~and, the~~ county board of any county may, whenever the public
6 good requires it, open such roads on section lines ~~without any~~
7 ~~preliminary survey~~ and cause them to be worked in the same manner as
8 other public roads. ÷

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

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

13 (i) Causing ~~causing~~ to be planted monuments of some durable
14 material, with suitable witnesses; ÷ and

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

16 (b) If the same ~~and,~~ if government corners are lost or obliterated,
17 the county board shall cause the corners to be located in the manner
18 provided in sections 23-1907 and 23-1908 ~~the manual of instruction for~~
19 ~~government surveys.~~

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

24 **Sec. 2.** Section 39-1722, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 39-1722 (1) Except as provided in subsection (3) of this section,
27 the The county board of any county may by resolution, when it deems the
28 public interest may require vacation or abandonment of a public road of
29 the county, direct the county highway superintendent or in counties
30 having no highway superintendent then such person as the board may direct
31 to study the use being made of such public road and to submit in writing

1 to the county board within thirty days, a report upon the study made and
2 ~~the his or her recommendation of the directed superintendent or person~~ as
3 to ~~such~~ the vacation or abandonment. ~~Such~~ thereof. Said resolution and
4 report shall be retained in the office of the county clerk as a part of
5 the permanent public records of the county board. ÷

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

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

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

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

21 39-1724 (1)(a) ~~The~~ Upon receipt of the report, as provided in
22 section 39-1722, the county board shall adopt a resolution fixing the
23 time, date, and place for a public hearing on the issue of vacating or
24 abandoning a public road when: . Such

25 (i) The county board receives the report described in section
26 39-1722; or

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

31 (b) The resolution fixing the time, date, and place for the public

1 hearing shall contain a clear and unambiguous description of the road to
2 be vacated or abandoned.

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

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

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

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

14 (b) Such copies shall be mailed ~~by mailing the same~~ to the last-
15 known address of each person described in subdivision (a) of this
16 subsection ~~owner~~ not less than two weeks in advance of the hearing.

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

19 39-1725 (1) After the public hearing described in section 39-1724,
20 the county board shall, by resolution at its next meeting or as soon
21 thereafter as may be practicable, vacate or abandon or refuse vacation or
22 abandonment, as in the judgment of the board the public good may require.

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

31 (3) In the event that the county board decides to vacate or abandon

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

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

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