

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1068

Introduced by Louden, 49; Erdman, 47.

Read first time January 22, 2008

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to highways and roads; to amend sections
2 39-1817, 39-1818, 39-2103, 39-2105, 39-2109, 39-2112,
3 and 39-2113, Reissue Revised Statutes of Nebraska; to
4 create the classification of remote residential road;
5 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 39-1817, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 39-1817 The county board of any county may, in accordance
4 with sections 39-1817 to 39-1820, enter into an agreement with
5 any agency or political subdivision of the state approving
6 the construction of a water impoundment structure which, when
7 completed, may result in the occasional and temporary storage
8 or flowage of floodwaters upon, across, or adjacent to any road
9 classified as a local road or remote residential road by the Board
10 of Public Roads Classifications and Standards. Any such agreement
11 may include such terms regarding the maintenance of such road
12 or other matters incident to the construction and operation of
13 such water impoundment structure as the parties to the agreement
14 determine to be mutually acceptable. Conformance with sections
15 39-1817 to 39-1820 shall relieve the county board and all other
16 parties to any such agreement of any liability for personal injury
17 or property damage suffered by any person while utilizing any such
18 road for travel during a period of inundation.

19 Sec. 2. Section 39-1818, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 39-1818 A water impoundment structure which will result
22 in temporary storage and flowage of water upon, across, or adjacent
23 to a road upstream from such structure may be approved only
24 if such road would not be inundated because of the storage in
25 such structure of waters from a ten-year, twenty-four-hour or

1 lesser frequency storm. A water impoundment structure which will
2 also serve as a roadbed may be approved and constructed only if
3 the structure would contain the runoff from a twenty-five-year,
4 twenty-four-hour frequency storm without water overtopping such
5 structure or being discharged through its emergency spillway,
6 except that if the road which is subject to such inundation is
7 classified as a local road or remote residential road with current
8 average daily traffic of fifty vehicles or less, the containment of
9 a ten-year, twenty-four-hour frequency storm shall be sufficient.
10 In making the storm frequency determinations required by this
11 section, any recognized method may be used.

12 Sec. 3. Section 39-2103, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 39-2103 Rural highways are hereby divided into ~~eight~~ nine
15 functional classifications as follows:

16 (1) Interstate, which shall consist of the federally
17 designated National System of Interstate and Defense Highways;

18 (2) Expressway, which shall consist of a group of
19 highways following major traffic desires in Nebraska which rank
20 next in importance to the National System of Interstate and Defense
21 Highways. The expressway system is one which ultimately should be
22 developed to multilane divided highway standards;

23 (3) Major arterial, which shall consist of the balance
24 of routes which serve major statewide interests for highway
25 transportation. This system is characterized by high-speed,

1 relatively long-distance travel patterns;

2 (4) Scenic-recreation, which shall consist of highways or
3 roads located within or which provide access to or through state
4 parks, recreation or wilderness areas, other areas of geographical,
5 historical, geological, recreational, biological, or archaeological
6 significance, or areas of scenic beauty;

7 (5) Other arterial, which shall consist of a group of
8 highways of less importance as through-travel routes which would
9 serve places of smaller population and smaller recreation areas not
10 served by the higher systems;

11 (6) Collector, which shall consist of a group of highways
12 which pick up traffic from many local or land-service roads and
13 carry it to community centers or to the arterial systems. They are
14 the main school bus routes, mail routes, and farm-to-market routes;

15 (7) Local, which shall consist of all remaining rural
16 roads, except minimum maintenance roads and remote residential
17 roads; and

18 (8) Minimum maintenance, which shall consist of (a) roads
19 used occasionally by a limited number of people as alternative
20 access roads for areas served primarily by local, collector,
21 or arterial roads, or (b) roads which are the principal access
22 roads to agricultural lands for farm machinery and which are not
23 primarily used by passenger or commercial vehicles; and -

24 (9) Remote residential, which shall consist of roads or
25 segments of roads in remote areas of counties with (a) a population

1 density of no more than five people per square mile or (b) an
2 area of at least one thousand square miles, and which roads or
3 segments of roads serve as primary access to no more than seven
4 residences. For purposes of this subdivision, residence means a
5 structure which serves as a primary residence for more than six
6 months of a calendar year. Population shall be determined using
7 data from the most recent federal decennial census.

8 The rural highways classified under subdivisions (1)
9 ~~to~~ through (3) of this section should, combined, serve every
10 incorporated municipality having a minimum population of one
11 hundred inhabitants or sufficient commerce, a part of which will be
12 served by stubs or spurs, and along with rural highways classified
13 under subdivision (4) of this section, should serve the major
14 recreational areas of the state.

15 For purposes of this section sufficient commerce ~~shall~~
16 ~~mean~~ means a minimum of two hundred thousand dollars of gross
17 receipts under the Nebraska Revenue Act of 1967.

18 Sec. 4. Section 39-2105, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 39-2105 Jurisdictional responsibility for the various
21 functional classifications of public highways and streets shall be
22 as follows:

23 (1) The state shall have the responsibility for the
24 design, construction, reconstruction, maintenance, and operation
25 of all roads classified under the category of rural highways

1 as interstate, expressway, and major arterial, and the municipal
2 extensions thereof, except that the state shall not be responsible
3 for that portion of a municipal extension which exceeds the design
4 of the rural highway leading into the municipality. When the design
5 of a rural highway differs at the different points where it leads
6 into the municipality, the state's responsibility for the municipal
7 extension thereof shall be limited to the lesser of the two
8 designs. The state shall be responsible for the entire interstate
9 system under either the rural or municipal category, and for
10 connecting links between the interstate and the nearest existing
11 state highway system in rural areas, except that ~~PROVIDED~~, if
12 such a connecting link has not been improved and a sufficient study
13 by the Department of Roads results in the determination that a link
14 to an alternate state highway would provide better service for the
15 area involved, the department shall have the option of providing
16 the alternate route, subject to satisfactory local participation in
17 the additional cost of the alternate route;

18 (2) The various counties shall have the responsibility
19 for the design, construction, reconstruction, maintenance, and
20 operation of all roads classified as other arterial, collector,
21 local, ~~and~~ minimum maintenance, and remote residential under the
22 rural highway category;

23 (3) The various incorporated municipalities shall have
24 the responsibility for the design, construction, reconstruction,
25 maintenance, and operation of all streets classified as expressway

1 which are of a purely local nature, that portion of municipal
2 extensions of rural expressways and major arterials which
3 exceeds the design of the rural portions of such systems, and
4 responsibility for those streets classified as other arterial,
5 collector, and local within their corporate limits; and

6 (4) Jurisdictional responsibility for all
7 scenic-recreation roads and highways shall remain with the
8 governmental subdivision which had jurisdictional responsibility
9 for such road or highway prior to its change in classification
10 to scenic-recreation made pursuant to this section and sections
11 39-2103, ~~39-2105~~, 39-2109, and 39-2113.

12 Sec. 5. Section 39-2109, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 39-2109 (1) The Board of Public Roads Classifications and
15 Standards shall develop the specific criteria for each functional
16 classification set forth in sections 39-2103 and 39-2104, which
17 criteria shall be consistent with the general criteria set forth
18 in those sections. No such criteria shall be adopted until after
19 public hearings have been held thereon at such times and places as
20 to assure interested parties throughout the state an opportunity
21 to be heard thereon. Following their adoption, such criteria shall
22 be printed and published and copies thereof shall be deposited
23 with the Secretary of State, the Clerk of the Legislature, the
24 county clerk of each county, and the clerk of each incorporated
25 municipality.

1 ~~(2) Within six months from July 19, 1980, the Board~~
2 ~~of Public Roads Classifications and Standards shall adopt and~~
3 ~~promulgate the specific criteria for scenic-recreation roads and~~
4 ~~highways pursuant to sections 39-2103, 39-2105, 39-2109, and~~
5 ~~39-2113.~~

6 ~~(3) Within six months from August 26, 1983, the Board~~
7 ~~of Public Roads Classifications and Standards shall adopt and~~
8 ~~promulgate the specific criteria for minimum maintenance roads and~~
9 ~~highways.~~

10 (2) Within six months after the effective date of this
11 act, the Board of Public Roads Classifications and Standards shall
12 adopt and promulgate the specific criteria for remote residential
13 roads.

14 Sec. 6. Section 39-2112, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 39-2112 Any county or municipality may, based on
17 changing traffic patterns or volume or changes in functional
18 classifications, request the Department of Roads to reclassify any
19 segment of highway, road, or street. If a county board wants to
20 classify a road or a segment of road as remote residential it
21 shall hold a public hearing on the matter prior to requesting
22 the department to reclassify such road or segment of road. The
23 department shall review such request and either grant or deny the
24 reclassification in whole or in part. Any county or municipality
25 dissatisfied with the action taken by the department under this

1 section, may appeal to the Board of Public Roads Classifications
2 and Standards in the manner provided in section 39-2111.

3 Sec. 7. Section 39-2113, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 39-2113 (1) In addition to the duties imposed upon it
6 by section 39-2109, the Board of Public Roads Classifications and
7 Standards shall develop minimum standards of design, construction,
8 and maintenance for each functional classification set forth in
9 sections 39-2103 and 39-2104. Except for scenic-recreation road
10 standards, such standards shall be such as to assure that each
11 segment of highway, road, or street will satisfactorily meet the
12 requirements of the area it serves and the traffic patterns and
13 volumes which it may reasonably be expected to bear.

14 (2) The standards for a scenic-recreation road
15 and highway classification shall insure a minimal amount of
16 environmental disruption practicable in the design, construction,
17 and maintenance of such highways, roads, and streets by the use
18 of less restrictive, more flexible design standards than other
19 highway classifications. Design elements of such a road or highway
20 shall incorporate parkway-like features which will allow the
21 user-motorist to maintain a leisurely pace and enjoy the scenic
22 and recreational aspects of the route and include rest areas and
23 scenic overlooks with suitable facilities. The board may stipulate
24 that speed limits consistent with scenic-recreation use apply to
25 any such highway or road.

1 (3) The standards developed for a minimum maintenance
2 road and highway classification shall provide for a level of
3 minimum maintenance sufficient to serve farm machinery and
4 the occasional or intermittent use by passenger and commercial
5 vehicles. The standards shall provide that any defective bridges,
6 culverts, or other such structures on, in, over, under, or part of
7 the minimum maintenance road may be removed by the county in order
8 to protect the public safety and need not be replaced by equivalent
9 structures except when deemed by the county board to be essential
10 for public safety or for the present or future transportation needs
11 of the county. The standards for such minimum maintenance roads
12 shall include the installation and maintenance by the county at
13 entry points to minimum maintenance roads and at regular intervals
14 thereon of appropriate signs to adequately warn the public that the
15 designated section of road has a lower level of maintenance effort
16 than other public roads and thoroughfares. Such signs shall conform
17 to the requirements in the Manual on Uniform Traffic Control
18 Devices adopted pursuant to section 60-6,118.

19 (4) The standards developed for a remote residential road
20 classification shall provide for a level of maintenance sufficient
21 to provide access to remote residences, farms, and ranches by
22 passenger and commercial vehicles. The standards shall allow for
23 one-lane traffic where sight distance is adequate to warn motorists
24 of oncoming traffic. The standards for remote residential roads
25 shall include the installation and maintenance by the county at

1 entry points to remote residential roads of appropriate signs to
2 adequately warn members of the public that they are traveling on
3 a one-lane road. Such signs shall conform to the requirements in
4 the Manual on Uniform Traffic Control Devices adopted pursuant to
5 section 60-6,118. The board may stipulate that lower speed limits
6 apply to any such road.

7 ~~(4)~~ (5) The board shall by rule provide for the
8 relaxation of standards for any functional classification in those
9 instances in which their application is not feasible because of
10 peculiar, special, or unique local situations.

11 ~~(5)~~ (6) Any county or municipality which believes that
12 the application of standards for any functional classification to
13 any segment of highway, road, or street would work a special
14 hardship, or any other interested party which believes that the
15 application of standards for scenic-recreation roads and highways
16 to any segment of highway, road, or street would defeat the purpose
17 of the scenic-recreation functional classification contained in
18 section 39-2103, may request the board to relax the standards
19 for such segment. The Department of Roads, when it believes that
20 the application of standards for any functional classification to
21 any segment of highway that is not hard surfaced would work a
22 special hardship, may request the board to relax such standards.
23 The board shall review any request made pursuant to this section
24 and either grant or deny it in whole or in part. The provisions
25 of this section shall not be construed to apply to removal of a

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1 road or highway from the state highway system pursuant to section
2 39-1315.01.

3 Sec. 8. Original sections 39-1817, 39-1818, 39-2103,
4 39-2105, 39-2109, 39-2112, and 39-2113, Reissue Revised Statutes of
5 Nebraska, are repealed.