

AN ACT

ENTITLED, An Act to revise and repeal various provisions regarding the construction and maintenance of county and township highways and bridges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 31-1-3 be amended to read:

31-1-3. All public highways lawfully established shall continue as established until changed or vacated as provided by law.

Section 2. That § 31-3-18 be amended to read:

31-3-18. Any public highway located under §§ 31-3-6 to 31-3-37, inclusive, shall be at least sixty-six feet in width, and may be one hundred feet in width if all residents of land adjoining the highway petition for such width. However, a highway not exceeding one-half mile in length and not located on any section line shall be at least thirty-three feet in width if, in the judgment of the board of county commissioners, such width is sufficient to accommodate properly the travel on the highway. Each order locating or changing any highway shall specify the width of the highway.

Section 3. That § 31-3-30 be amended to read:

31-3-30. At the meeting of the board of county commissioners at which the report of the committee appointed to examine the highway is presented, any person over whose land the highway passes and who is opposed to the petition shall set forth in writing that he or she is damaged by the location, change, or vacation of the highway and the amount of any damage. The board shall determine from the report and the evidence before the board the amount of damages sustained and whether the damages so assessed are greater than the utility of the proposed highway or change. If the board deems the highway of sufficient advantage to the public to warrant the paying of the damages assessed, the board shall declare the highway located, changed, or vacated and all damages declared assessed shall be paid by the county. However, if the board determines that the damages

assessed are greater than the advantages of the proposed location, change, or vacation, the board shall order the petition dismissed.

Section 4. That § 31-3-38 be repealed.

Section 5. That § 31-6-1 be repealed.

Section 6. That § 31-6-2 be repealed.

Section 7. That § 31-6-3 be repealed.

Section 8. That § 31-6-4 be repealed.

Section 9. That § 31-6-5 be repealed.

Section 10. That § 31-6-6 be repealed.

Section 11. That § 31-6-7 be repealed.

Section 12. That § 31-6-8 be repealed.

Section 13. That § 31-6-9 be repealed.

Section 14. That § 31-11-2 be repealed.

Section 15. That § 31-12-7 be amended to read:

31-12-7. The county highway superintendent shall maintain in a county road book or database a complete record of the divisions of the county highway system into sections, each section being designated by some appropriate number, name, or letter, and the starting point and terminus of each section being clearly designated at length.

Section 16. That § 31-12-9 be amended to read:

31-12-9. Before any permanent improvement is undertaken upon the county highway system, the county highway superintendent shall, under the general direction of the board of county commissioners where deemed necessary, make or have made a survey and prepare or have prepared plans, specifications, and estimates for the improvement. Unless the county has adopted its own standards, the survey, plans, specifications, and estimates shall be prepared according to standards

to be prescribed by the Transportation Commission, and shall be on the basis and with the object in view of permanent improvement, each as to bridge, culvert, tile, and road work.

Section 17. That § 31-12-10 be repealed.

Section 18. That § 31-12-13 be amended to read:

31-12-13. Any road, tile, or culvert construction, repair work, or materials on the county highway system, for which the county highway superintendent's estimated cost exceeds the amount provided in § 5-18A-14, shall be advertised and let at a public letting by the board of county commissioners or may be built by day labor. The board may reject all bids, in which case the board may readvertise and let at a public letting.

Section 19. That § 31-12-18 be amended to read:

31-12-18. Each culvert constructed on the county highway system shall have a width of not less than twenty-four feet.

Section 20. That § 31-12-21 be repealed.

Section 21. That § 31-12-22 be repealed.

Section 22. That § 31-12-23 be repealed.

Section 23. That § 31-12-28 be repealed.

Section 24. That § 31-12-29 be repealed.

Section 25. That § 31-12-30 be repealed.

Section 26. That § 31-12-31 be repealed.

Section 27. That § 31-12-32 be repealed.

Section 28. That § 31-12-33 be repealed.

Section 29. That § 31-12-34 be repealed.

Section 30. That § 31-12-35 be repealed.

Section 31. That § 31-12-36 be repealed.

Section 32. That § 31-12-37 be repealed.

Section 33. That § 31-12-38 be repealed.

Section 34. That § 31-12-39 be repealed.

Section 35. That § 31-12-40 be repealed.

Section 36. That § 31-12-42 be amended to read:

31-12-42. The portion of the county road and bridge fund derived from motor vehicle license collections credited pursuant to § 32-11-1 shall be used by the board of county commissioners for constructing and maintaining county highways outside the limits of municipalities, and also for constructing and maintaining secondary roads.

Section 37. That chapter 31-12 be amended by adding a NEW SECTION to read:

The board of county commissioners may designate a highway that is unsafe for vehicle travel as a no maintenance highway. The board shall identify the beginning and end point of the highway designated as no maintenance. The board does not have any responsibility on a no maintenance highway except to require removal or remediation of a manmade obstruction, if needed, to maintain the public access.

Section 38. That chapter 31-12 be amended by adding a NEW SECTION to read:

The board of county commissioners shall post signs on a no maintenance highway to notify the motoring public that it is a no maintenance highway and that no vehicle travel is advised. The signs shall be posted at each entry point and at regular intervals along a no maintenance highway. A properly posted sign is prima facie evidence that adequate notice of a no maintenance highway has been given to the motoring public.

Section 39. That § 31-14-3 be amended to read:

31-14-3. After determining the necessity for any new or replacement bridge in the county, the board of county commissioners shall advise the county highway superintendent of the determination,

and require the superintendent or a registered engineer retained by the board of county commissioners for that purpose to make a drainage investigation of the bridge site.

Section 40. That § 31-14-5 be amended to read:

31-14-5. A registered engineer retained by the board of county commissioners or the department shall prepare plans and specifications for bridge repair or construction work. Plans and specifications prepared by a registered engineer retained by the board of county commissioners shall conform to the design requirements of the American Association of State Highway and Transportation Officials. The plans and specifications, whether prepared by the department or by a registered engineer retained for that purpose, shall be forwarded to the proper county auditor who shall place them on file in the auditor's office. A copy shall be forwarded to the department for the department's records.

Section 41. That § 31-14-6 be repealed.

Section 42. That § 31-14-7 be repealed.

Section 43. That § 31-14-8 be amended to read:

31-14-8. Each bid shall be made in accordance with the plans and specifications on file. Each bid in excess of fifty thousand dollars shall be accompanied by a certified check, certified by a state or national bank domiciled within this state, in the sum of five percent of the total amount of the bid, or a ten percent bid bond issued by a surety authorized to do business in the state. To be effectual for any purpose the bid and certified check or bond shall be securely enclosed in a sealed envelope and deposited with the county auditor before the hour of opening the sealed bids.

Section 44. That § 31-14-10 be repealed.

Section 45. That § 31-14-11 be amended to read:

31-14-11. Promptly at the hour specified, the board of county commissioners in open session shall proceed to examine all sealed bids and notify the successful bidder that the bid has been accepted. Upon being so notified, the successful bidder shall enter into a contract with the county

in accordance with the bid, and the successful bid, together with the plans and specifications upon which the bid was based, is deemed a part of the contract.

Section 46. That § 31-14-12 be repealed.

Section 47. That § 31-14-14 be amended to read:

31-14-14. If any bidder fails or refuses, for a period of ten days after notice pursuant to § 31-14-11, to enter into the contract, the board of county commissioners may award the contract in the same manner to the next lowest responsible bidder or may reject all bids and rebid the contract. The delinquent bidder shall forfeit to the county the certified check or bid bond accompanying the bid.

Section 48. That § 31-14-15 be amended to read:

31-14-15. After the execution of all contracts under § 31-14-11, the board of county commissioners shall promptly return to all bidders the certified checks accompanying their sealed bids.

Section 49. That § 31-14-16 be repealed.

Section 50. That § 31-14-19 be amended to read:

31-14-19. The county highway superintendent shall keep a detailed account of all material found necessary to add to or deduct from each and every structure as set forth in the plans and specifications. On completion of the structure the superintendent shall file with the county auditor a detailed statement of the cost of the structure, including the additions or reductions from the contract price and any compensation to the inspector.

Section 51. That § 31-14-21 be amended to read:

31-14-21. In lieu of accepting any bids received on any bridge, approach, or abutment, or repair to bridge, or in case of emergency, the board of county commissioners may, if in the board's judgment the bridge or piece of work may be procured for less money than the amount of any bid submitted, cause the same to be built by day labor by regular county labor and county-owned

equipment. The county highway superintendent shall be in charge of the construction. The superintendent shall hire a foreman, purchase the necessary material, and hire the necessary labor for the construction of each bridge, or piece of work. The work shall be done in accordance with plans and specifications furnished by the department or a registered engineer, the same as any other bridge or piece of work let by contract.

Section 52. That § 31-14-22 be amended to read:

31-14-22. The county highway superintendent shall keep a careful and itemized account of the quantity and cost of all materials and labor used in the construction of each such bridge or piece of work authorized by § 31-14-21. The cost statement shall be filed with the county auditor.

Section 53. That § 31-14-23 be amended to read:

31-14-23. If it is deemed advisable by the board of county commissioners, the board may purchase material to be used in the construction of roads, bridges, and culverts, in quantities sufficient to meet the estimated demand of the county for the materials for the next succeeding twelve months. Before purchasing the materials, however, the board of county commissioners shall direct the county highway superintendent to prepare an estimate setting forth the needs of the county during the twelve months. The county highway superintendent shall prepare specifications of the quality of all materials. No patented material may be specified to the exclusion of unpatented material.

Section 54. That § 31-14-25 be repealed.

Section 55. That § 31-14-27 be amended to read:

31-14-27. If a township board of supervisors or county highway superintendent requests the board of county commissioners to construct or replace in its entirety any bridge or the placing or replacing of any culvert with an opening of sixteen square feet or more including material upon the secondary roads within the township, the board of county commissioners may cause the work to be

done and the township shall reimburse the county up to and including five hundred dollars. If the cost is in excess of five hundred dollars, the county and township may enter into an agreement as to how the cost in excess of five hundred dollars will be split between the county and the township. After the placing or replacing of any culvert as provided in this section, the culvert shall be maintained and kept clean at the expense of the township. The construction or replacing of any bridge or the placing or replacing of any culvert with an opening of less than sixteen square feet upon a secondary road within a township shall be at the total expense of the township. The bridge or culvert shall be maintained and kept clean at the expense of the township.

Section 56. That § 31-14-32 be repealed.

Section 57. That § 31-14-37 be repealed.

Section 58. That § 31-14-41 be repealed.

Section 59. That § 31-14-42 be repealed.

Section 60. That § 31-14-43 be repealed.

Section 61. That § 31-14-44 be repealed.

Section 62. That § 31-14-45 be repealed.

Section 63. That § 31-15-3 be repealed.

Section 64. That §§ 31-15-1, 31-15-2, and 31-15-4 to 31-15-21, inclusive, be repealed.

An Act to revise and repeal various provisions regarding the construction and maintenance of county and township highways and bridges.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1107

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1107
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State