

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

840U0576

SENATE BILL NO. 220

Introduced by: Senator Rampelberg and Representative Verchio

1 FOR AN ACT ENTITLED, An Act to revise certain procedures for the vacation, change, or
2 location of public highways.

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

4 Section 1. That § 31-3-6 be amended to read as follows:

5 31-3-6. Upon receiving the petition of two or more voters of an organized civil township ~~or~~
6 ~~of the,~~ or a petition by a number of voters equal to or greater than one percent of the ballots cast
7 for the last gubernatorial election in the affected county, or a request as provided for in section
8 2 in this Act, the board of supervisors of the township or the board of county commissioners
9 wherein the highway is located or is proposed to be located may, except as provided in §§ 31-3-
10 6.1, 31-3-12 and, 31-3-44, and 31-18-3, vacate, change, or locate any highway located or to be
11 used within the township or county, if the public interest will be better served by the proposed
12 vacating, changing, or locating of the highway. The petition of the voters shall set forth the
13 beginning, course, and termination of the highway proposed to be located, changed, or vacated,
14 together with the names of the owners of the land through which the highway may pass.

15 Section 2. That chapter 31-3 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 In lieu of a petition of voters for the vacation, change, or location of a public highway as
3 provided in § 31-3-6, a board of county commissioners may vacate, change, or locate a public
4 highway, upon a request for such action made to the board for purposes of subdividing property
5 for residential, commercial, or industrial development or in situations in which an existing
6 structure is located within a public highway. In addition to the information required in a petition
7 of the voters as specified in § 31-3-6, the request shall include a survey of the public highway
8 to be vacated, which shall be conducted by a surveyor or engineer certified in this state. The
9 board of county commissioners may not vacate, change, or locate any such public highway
10 unless the board conducts a hearing as provided in § 31-3-7. In addition to the notice
11 requirements specified in § 31-3-7, the board, at a minimum, shall notify the owners of any land
12 that is adjacent to the affected highway segment at least two weeks before the hearing. The
13 notification shall be by certified, return receipt mail and shall include the information required
14 in the public notice pursuant to § 31-3-7.

15 Section 3. That § 31-3-7 be amended to read as follows:

16 31-3-7. In case of the filing of a petition described in § 31-3-6 or section 2 of this Act, the
17 board shall, after giving notice of a public hearing, hold a public hearing called for the purpose
18 of receiving public testimony about the action proposed by the petition. The board shall give
19 notice of the public hearing by publication in the official newspaper of ~~said~~ the township, if any,
20 otherwise in the nearest legal newspaper of ~~said~~ the county, once each week for at least two
21 consecutive weeks. The notice of the public hearing shall state the purpose, date, time, and
22 location of the hearing and a legal description of the location of the highway and the action
23 proposed by the petition and how information, opinions, and arguments may be presented by
24 any person unable to attend the hearing. The board shall, by resolution, determine whether the

1 public interest will be better served by ~~such~~ the proposed vacating, changing, or locating of the
2 highway in question, and upon resolution in the affirmative, shall make its order that ~~such~~ the
3 highway be vacated, changed, or located.