

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

400V0430

HOUSE BILL NO. 1090

Introduced by: The Committee on Transportation at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete provisions regarding
2 county highways.

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

4 Section 1. That § 31-11-5 be repealed.

5 ~~— 31-11-5. The county highway superintendent shall have charge of all road construction and~~
6 ~~maintenance in the county, subject to the approval of the board of county commissioners. In~~
7 ~~case of a disagreement between the county superintendent of highways and the board of county~~
8 ~~commissioners an appeal may be taken to the Transportation Commission, whose decision shall~~
9 ~~be final.~~

10 Section 2. That § 31-19-50 be repealed.

11 ~~— 31-19-50. If by order of the Department of Transportation by agreement with any county,~~
12 ~~it shall be necessary for the board of county commissioners to acquire any land or lands outside~~
13 ~~of the limits of any public highway in order to comply with any order issued by the department~~
14 ~~for the purpose of making a safe and proper grade, widening or changing or relocating any~~
15 ~~section of the state trunk highway system, the board of county commissioners shall proceed to~~



1 ~~acquire title to any such land or lands, or right-of-way in the name of and for the use of the state~~
2 ~~for highway purposes. Such land or lands or right-of-way may be acquired either by purchase~~
3 ~~or condemnation and the proceedings shall be by resolution duly adopted and recorded in the~~
4 ~~office of the county auditor.~~

5 Section 3. That § 31-19-51 be repealed.

6 ~~—31-19-51. In case the owner of any land or lands referred to in § 31-19-50 and the board of~~
7 ~~county commissioners cannot agree upon the price to be paid for any such land or lands by the~~
8 ~~county, the board of county commissioners may appoint a board of appraisers of three~~
9 ~~disinterested persons, or if demanded by the owner within ten days after the service of the~~
10 ~~resolution to condemn, the board of county commissioners shall appoint one disinterested~~
11 ~~person, the owner another, and these two shall appoint a third not resident of the township in~~
12 ~~which said land or lands are situated, who shall make a careful inspection of such land or lands~~
13 ~~and fix a value upon the same, taking into consideration any benefits or damages that may~~
14 ~~accrue to such owner by the acquiring and use of any such land or lands. Such appraisal duly~~
15 ~~made and filed in the office of the county auditor shall be presumed to be the true value thereof~~
16 ~~and shall be the amount of the payment therefor by the board of county commissioners unless~~
17 ~~changed by the judgment of a jury in the circuit court.~~

18 Section 4. That § 31-19-52 be repealed.

19 ~~—31-19-52. Immediately after appraisal has been made by the appraisers appointed as~~
20 ~~provided in § 31-19-51 the county auditor shall deliver a copy of such appraisal to the owner~~
21 ~~of such land or lands so appraised. If the owner of such land or lands is not a resident of the~~
22 ~~county and unknown to the county auditor he shall publish the result of such appraisal in the~~
23 ~~official newspapers of the county in two issues thereof, setting forth that such appraisal of such~~
24 ~~land or lands is in pursuance of proceedings to acquire such land or lands for highway~~

1 ~~right-of-way or construction purposes and that the county is prepared to and will pay the amount~~
2 ~~fixed by such board of appraisers for such land or lands to be used for such purposes. Upon~~
3 ~~completion of these proceedings the board of county commissioners may proceed to use such~~
4 ~~land or lands for highway purposes.~~

5 Section 5. That § 31-19-53 be repealed.

6 ~~—31-19-53. The award of damages pursuant to § 31-19-51 with settlement for any such land~~
7 ~~or lands shall be subject to appeal therefrom to the circuit court, and any person aggrieved by~~
8 ~~any award of damages made under the provisions of §§ 31-19-50 to 31-19-55, inclusive, for land~~
9 ~~taken for highway construction, change, or relocation purposes may appeal from such decision~~
10 ~~to the circuit court in the manner prescribed for appeal from other decisions of the board of~~
11 ~~county commissioners. An appeal so taken shall be docketed as in other cases pending in circuit~~
12 ~~courts and the case shall be heard and determined de novo.~~

13 Section 6. That § 31-19-54 be repealed.

14 ~~—31-19-54. In the event any board of county commissioners within thirty days after notice or~~
15 ~~demand from the Department of Transportation pursuant to § 31-19-50 shall fail, refuse, or~~
16 ~~neglect to obtain or institute proper condemnation proceedings for the purpose of obtaining any~~
17 ~~lands or right-of-way of any section of any trunk highway to be constructed or improved or any~~
18 ~~necessary right-of-way for the purpose of making a safe and proper grade, change, or relocation,~~
19 ~~the department may acquire such necessary right-of-way either by purchase or condemnation.~~
20 ~~The title to such right-of-way shall be in the name of the state and the cost thereof shall be paid~~
21 ~~out of state highway funds.~~

22 Section 7. That § 31-19-55 be repealed.

23 ~~—31-19-55. The proceedings prescribed in §§ 31-19-50 to 31-19-54, inclusive, for acquiring~~
24 ~~lands for highway purposes by order of the Department of Transportation may also be followed~~

1 ~~in acquiring lands for highway purposes by the board of county commissioners when the~~
2 ~~construction, change, or relocation of a highway is wholly within the hands of the board of~~
3 ~~county commissioners and paid for by county funds. The same may apply to the board of~~
4 ~~township supervisors in the construction, change, or relocation of township highways.~~