

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

339U0509

## SENATE BILL NO. 151

Introduced by: Senators Vehle, Frerichs, Krebs, Lucas, Monroe, Van Gerpen, and White and Representatives Verchio, Bartling, Feickert, Hickey, Peterson, Rounds, Rozum, and Tulson

1 FOR AN ACT ENTITLED, An Act to clarify the maintenance responsibilities on unimproved  
2 section lines.

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

4 Section 1. That § 31-18-1 be amended to read as follows:

5 31-18-1. There is along ~~every~~ each section line in this state a public ~~highway right-of-way~~  
6 located by operation of law, except where ~~some~~ a portion of the ~~highway right-of-way~~ along  
7 ~~such~~ the section line has been ~~heretofore~~ vacated or relocated by the lawful action of ~~some~~ an  
8 authorized public officer, board, or tribunal.

9 Section 2. That § 31-18-2 be amended to read as follows:

10 31-18-2. ~~Every~~ Each statutory section-line ~~highway right-of-way~~  
11 and shall be taken equally from each side of the section line, unless changed as provided in this  
12 title, ~~but~~. However, nothing ~~herein contained shall prevent~~ prevents the highway authority  
13 charged with the construction, reconstruction, or repair of any public highway along a section  
14 line from purchasing or condemning right-of-way for widening the highway to more than



1 sixty-six feet ~~or~~. Nor is the highway authority prevented from purchasing or condemning more  
 2 right-of-way on one side of the section line than on the other, ~~provided they deem~~ if it is deemed  
 3 necessary ~~so to do in order~~ to provide a better highway, to avoid destruction of trees or valuable  
 4 buildings, or to avoid unsuitable terrain.

5 Section 3. That § 31-18-3 be amended to read as follows:

6 31-18-3. The board of county commissioners may vacate or change the location of any  
 7 section-line ~~highway~~ right-of-way under its jurisdiction and the board of supervisors of an  
 8 organized township may vacate or change the location of any section-line ~~highway~~ right-of-way  
 9 under its jurisdiction, as provided in this title, but neither board may vacate or change any  
 10 portion of the state trunk highway system or any highway constructed by state or federal aid or  
 11 any highway within the limits of a municipal corporation. Also, a board of supervisors may not  
 12 vacate or change any portion of the county highway system, nor may a board of county  
 13 commissioners vacate or change any portion of the township road system. In addition, no board  
 14 of county commissioners or board of supervisors may vacate a section-line ~~highway~~ right-of-  
 15 way which provides access to public lands. This section does not prohibit the closing of a  
 16 section-line highway to vehicular traffic if the highway is unsafe for vehicular traffic.

17 Section 4. That § 31-18-4 be amended to read as follows:

18 31-18-4. The apportionment, division, or survey of ~~lands~~ any land acquired by reliction;  
 19 ~~either by the owner or owners of such lands,~~ or by virtue of the judgment of any court, pursuant  
 20 to the provisions of this code, ~~shall do~~ not in any manner operate as an abandonment or vacation  
 21 of any legal ~~highway~~ right-of-way along or across any ~~such lands,~~ and all land. Any section-line  
 22 ~~highways~~ right-of-way along or across any ~~such lands~~ land shall continue to be a public  
 23 ~~highways~~ right-of-way until changed or vacated in the manner provided by law.

24 Section 5. That § 31-13-1 be amended to read as follows:

1        31-13-1. The board of township supervisors shall construct, repair, and maintain all of the  
2 township roads within the township. The township road system consists of improved section  
3 line roads; judicially declared roads; roads impliedly accepted by the township through routine  
4 performance of certain maintenance activities, such as grading, graveling and snow removal,  
5 and accepting funds from the county pursuant to §§ 32-11-4.1, 32-11-6, and 32-22-35 for a  
6 period of at least fifteen years; and any other roads designated by resolution of the board as  
7 being on the township road system. A road may only be vacated through the process specified  
8 in chapter 31-3. Before a road may be added to the township road system, ~~it~~ the road shall meet  
9 the minimum requirements specified in §§ 31-18-2 and 31-13-4, unless the board, by resolution,  
10 waives this requirement.

11        Section 6. That chapter 31-13 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13        The board of township supervisors may designate an unimproved section line right-of-way  
14 not maintained for vehicle travel as a no maintenance section line. The board shall identify the  
15 beginning and end point of the section line designated as no maintenance. No board has  
16 responsibility on a no maintenance section line right-of-way except to require removal or  
17 remediation of a manmade obstruction, if needed, to maintain the public access.

18        Section 7. That chapter 31-13 be amended by adding thereto a NEW SECTION to read as  
19 follows:

20        The board of township supervisors shall post signs on a no maintenance section line right-  
21 of-way to notify the motoring public that it is a no maintenance section line and that the public  
22 travels on the section line at its own risk. The signs shall be posted at each entry point and at  
23 regular intervals along a no maintenance section line. A properly posted sign is prima facie  
24 evidence that adequate notice of a no maintenance section line has been given to the motoring

1 public.