

Appendix 29

29. County Highways – Alteration, ch. 62, § 1-2, 1994 Wyo. Sess. Laws 187, 187.

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SESSION LAWS

OF THE

STATE OF WYOMING

PASSED BY THE

FIFTY-SECOND STATE LEGISLATURE

1994 BUDGET SESSION

Gratis

CONVENED AT CHEYENNE, FEBRUARY 21, 1994

ADJOURNED MARCH 17, 1994

Compiled and Published under Statutory Authority

by

LEGISLATIVE SERVICE OFFICE

CHAPTER 62

COUNTY HIGHWAYS-ALTERATION

Original Senate File No. 38

AN ACT to amend W.S. 24-3-101 by creating a new subsection (c) relating to county highways; specifying authority of county commissioners to alter highways and other public roads; providing for easements upon abandonment or alteration of highways and roads as specified; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 24-3-101 by creating a new subsection (c) is amended to read:

24-3-101. Resolution by county commissioners; petition of county electors; alteration authority specified.

(c) IN ALTERING ANY COUNTY HIGHWAY UNDER THIS ARTICLE OR ANY OTHER ROAD DEDICATED BY RECORDED PLAT AS A PUBLIC ROAD, A BOARD OF COUNTY COMMISSIONERS MAY CHANGE THE DESIGNATION OF ANY ROAD TO A PRIVATE ROAD. IF A BOARD ALTERS ANY ROAD, IT SHALL RESERVE THE ACCESS RIGHTS OF THE AREA LANDOWNERS AND PERMIT GOVERNMENTAL AGENCIES TO RETAIN ACCESS TO THAT ROAD FOR PERFORMING ESSENTIAL PUBLIC SERVICES. IT MAY ALSO DESIGNATE A NONGOVERNMENTAL ENTITY TO BE RESPONSIBLE FOR THE MAINTENANCE OF ANY ROAD ALTERED PURSUANT TO THIS SECTION.

Section 2. This act is effective July 1, 1994.

Approved March 23, 1994.

CHAPTER 63

STATE AND LOCAL GOVERNMENT SELF-INSURANCE-2

Original Senate File No. 86

AN ACT to amend W.S. 1-41-106 by creating a new subsection (e) relating to state government self-insurance program; providing that claims covered by insurance will not be paid out of the self-insurance account; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Appendix 30

30. Roads and Highways – Notice of Vacation, ch. 164, § 1, 2005 Wyo. Sess.
Laws 383, 383.

SESSION LAWS
OF THE
STATE OF WYOMING
PASSED BY THE
FIFTY-EIGHTH STATE LEGISLATURE
2005 GENERAL SESSION

CONVENED AT CHEYENNE, JANUARY 11, 2005

ADJOURNED MARCH 3, 2005

Compiled and Published under Statutory Authority

by

LEGISLATIVE SERVICE OFFICE

(i) Fifty-four million seventy thousand dollars (\$54,070,000.00) from the Level III Green River/Wind River construction project development fund established in W.S. 99-3-604. The transfer of money into water development account III shall not eliminate recognition of the water storage potential in the Green River/Wind River basins;

(ii) Ten million dollars (\$10,000,000.00) from the budget reserve account.

Section 2. W.S. 99-3-604 is repealed.

Section 3. This act is effective July 1, 2005.

Approved March 2, 2005.

Chapter 164

ROADS AND HIGHWAYS-NOTICE OF VACATION

Original Senate File No. 94

AN ACT relating to county roads and highways; providing that counties shall notify cities and towns of intent to vacate county roads, alleys or highways within a specified vicinity of the cities or towns; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 24-3-101(a) is amended to read:

24-3-101. Resolution by county commissioners; petition of county electors; alteration authority specified.

(a) The board of county commissioners of any county, may, on its own motion by resolution duly adopted, where it deems the public interest so requires, initiate the procedure for the establishment, vacation or alteration of a county highway, as the case may be, by setting forth in such resolution the point of commencement, the course and the point of termination of said road to be established, altered or vacated, as the case may be, and thereafter following out the provisions of article 2, chapter 52, Wyoming Revised Statutes, 1931, not inconsistent therewith. If the motion specifies vacation of a county road, alley or highway located within one and one half (1 ½) miles of the boundary of a city or town, the board shall notify the governing body of the city or town.

Section 2. This act is effective July 1, 2005.

Approved March 2, 2005.

Appendix 31

31. Current statutes through 2005 General Session on establishing, altering and vacating county roads - Title 24, Chapter 3, Article 1.

ARTICLE 1
IN GENERAL

24-3-101. Resolution by county commissioners; petition of county electors; alteration authority specified.

(a) The board of county commissioners of any county, may, on its own motion by resolution duly adopted, where it deems the public interest so requires, initiate the procedure for the establishment, vacation or alteration of a county highway, as the case may be, by setting forth in such resolution the point of commencement, the course and the point of termination of said road to be established, altered or vacated, as the case may be, and thereafter following out the provisions of article 2, chapter 52, Wyoming Revised Statutes, 1931, not inconsistent therewith. If the motion specifies vacation of a county road, alley or highway located within one and one half (1 ½) miles of the boundary of a city or town, the board shall notify the governing body of the city or town.

(b) (i) Any person desiring the establishment, vacation or alteration of a county highway shall file in the office of the county clerk of the proper county, a petition signed by five (5) or more electors of the county residing within twenty-five (25) miles of the road proposed to be established, altered, or vacated, in substance as follows: To the Board of County Commissioners of County. The undersigned ask that a county highway, commencing at and running thence and terminating at be established (altered or vacated as the case may be).

(ii) With said petition shall be filed a list containing the names and also the known post office address of each person owning or having an interest in any land over which the proposed establishment, vacation or alteration of a county highway is to be made.

(c) In altering any county highway under this article or any other road dedicated by recorded plat as a public road, a board of county commissioners may change the designation of any road to a private road. If a board alters any road, it shall reserve the access rights of the area landowners and permit governmental agencies to retain access to that road for performing essential public services. It may also designate a nongovernmental entity to be responsible for the maintenance of any road altered pursuant to this section.

24-3-102. Requiring deposit by petitioners.

The board of the county commissioners may require, in their discretion, that the petitioners for the establishment, alteration or vacation of a public road, shall deposit with the county clerk, a sufficient sum of money to defray the expenses of laying out, vacating or altering such road, and such expense, when so incurred, shall be paid out of such deposit. If the road is finally established, altered or vacated, the money so deposited shall be returned to the person who deposited the same.

24-3-103. Viewer; appointment, qualifications and duties generally.

Upon filing of the petition the board of the county commissioners at a regular or special meeting, or the chairman of the board, if in his judgment an emergency exists, shall appoint a suitable and disinterested person, who may be a member of the board of county commissioners, to examine into the expediency of the proposed road, alteration or vacation thereof, and to report immediately.

24-3-104. Viewer; oath; scope of investigation.

The person so appointed shall be termed a viewer, and he shall be sworn by some person or officer authorized by law to administer oaths, before entering upon his duties, to faithfully and impartially discharge his duties, and he shall file his oath in the office of the county clerk. He shall not be confined to the precise matter of the petition, but may inquire or determine whether that, or any road, in the vicinity of the proposed or altered road, answering the same purpose is required.

24-3-105. Viewer; factors to be considered.

In forming his judgment the viewer shall take into consideration both the public and private convenience, and also the expense of the proposed road.

24-3-106. Viewer; report.

The said viewer shall report in writing to the board of the county commissioners, whether or not in his judgment, said proposed road is practicable, and ought or ought not be established, altered or vacated, as the case may be, stating the probable expense of the same, including damages to the property

owners along the line thereof, the benefits thereto, and such other matters therein as shall enable the said board to act understandingly in the premises.

24-3-107. Viewer; compensation.

The board of the county commissioners shall allow the said viewer such reasonable compensation for his services as they shall determine and fix upon.

24-3-108. Roads established by consent of landowners.

Public roads shall be established without the appointment of a viewer, or without any other proceeding, than the order of the board of county commissioners; provided, that the written consent of all the owners of the land to be used for that purpose, be first filed in the office of the county clerk, and when it is shown to the satisfaction of the said board that the said road is of sufficient importance to be opened and traveled, they shall make an order establishing the same. The board of the county commissioners, when in their judgment such action shall be in the interests of economy or the public good, may purchase or receive donations or rights-of-way for a public road, or any alteration thereof, or any part thereof, from any and all persons along the route thereof, and declare the same opened, whenever the consent of the owners of the land through which said proposed road or alteration shall run, has been obtained, either by the donations of land or when an amicable adjustment of the amount to be paid therefor has been made between such landowners and said board; and all roads or parts of roads or alteration of roads heretofore opened or made, by consent or adjustment of damages, without recourse to other proceedings, are hereby declared to be public roads, the same as if such roads had been legally opened, or said alterations legally made.

24-3-109. Survey of proposed location for new road; recordation required.

If, upon considering and acting upon the report of the viewer, or otherwise, the board of the county commissioners shall decide to lay out such road, they shall cause the county surveyor to make an accurate survey thereof, if such survey is deemed necessary, and to plat and record the same in the book provided by the county for such purpose; and a copy of said plat and notes of survey shall, without unnecessary delay, be filed in the office of the county clerk.

24-3-110. Notice of location of road to be published or posted; notice by mail to property owners.

(a) Notice shall be published of the proposed location or alteration of any road for three (3) successive weeks in three (3) successive issues of some official newspaper published in the county, if any such there be, and if no newspaper be published therein, such notice shall be posted in at least three (3) public places along the line of said proposed or altered road, which notice may be in the following form:

To all to whom it may concern: The Board of County Commissioners have decided to locate (or alter, as the case may be) a road commencing at in County, Wyoming, running thence (here describe in general terms the points and courses thereof), and terminating at

All objections thereto or claims for damages by reason thereof must be filed in writing with the county clerk of said county, before noon on the day of A.D. or such road will be established (or altered) without reference to such objections or claims for damages.

..... County Clerk

Dated A.D.

(b) The county commissioners shall cause a copy of the above notice to be mailed by registered mail to all persons owning lands or claiming any interest in any lands over or across which said road is proposed to be located or altered. The publication and posting of such notice shall be a legal and sufficient notice to all persons owning lands or claiming any interest in lands over which the proposed road is to be located or altered.

24-3-111. Objections and claims for damages; when filed.

If the board of the county commissioners shall determine to establish, lay out or alter any road, they shall appoint a day, not less than thirty (30) days after such determination, on or before which day all objections to the establishment, alteration or vacation of the proposed road, and claims for damages by reason thereof, shall be filed with the county clerk.

24-3-112. Objections and claims for damages; when barred.

No objections or claims for damages shall be filed or made after the noon [12:00 p.m.] of the day fixed for filing the same, and if no objections or claims for damages are filed, on or before noon [12:00 p.m.] of the day fixed for filing the same, they shall be disregarded, and not considered, and shall be deemed to have been waived and barred.

24-3-113. Objections and claims for damages; continuance of hearing upon filing.

If objections to the establishment, altering or vacating of the road, or if any claims for damages shall be filed, the further hearing of the application may be continued by the board until the matter can be properly disposed of.

24-3-114. Appraisers; number; appointment; qualifications; duties generally; report.

When claims for damages are filed, at the next regular meeting or special meeting of the board of the county commissioners, or as soon thereafter as may be practicable and convenient, the said board shall appoint three (3) suitable and disinterested electors of the county as appraisers, to view the ground, on a day fixed by said board, and they shall report their doings in the matter and file their report in writing with the county clerk within thirty (30) days after the date of their appointment, fixing the amount of the damages sustained by the claimants.

24-3-115. Appraisers; notification of appointment required; contents.

The county clerk shall cause each of the said appraisers to be notified in writing, of his appointment, stating in said notice, first, the names of all appraisers, second, the names of all claimants for damages, on account of the location or alteration of the said road, with the amount of damages asked by each claimant, third, stating when their report must be filed, and fourth, the law relating to their duty as found in W.S.

24-3-116. The county clerk shall prepare suitable blanks, for such notice, for the oath of the appraisers and for the report, a proper number of which shall be forwarded by him to them.

24-3-116. Appraisers; specific duties enumerated; compensation.

The said appraisers shall, within ten (10) days after receiving notice of their appointment, meet at some convenient place, on the line of said proposed or altered road, and take and administer to each other, an oath or affirmation to faithfully and impartially discharge their duties. They shall then view the ground, so far as they shall deem it necessary, and fix the amount of damages sustained by each claimant, after allowing for all benefits that may accrue to each claimant, by reason of the location or alteration of the said proposed road. They, or a majority of them, shall as soon as practicable, after performing their said duties, make a report in writing to the county clerk of their doings, stating that they were so sworn or affirmed as aforesaid, before performing their duties and fixing the amount of damages, if any, sustained by each claimant, after allowing and deducting for benefits, and where they have disallowed claims for damages, they shall so state in their report, and they shall immediately transmit their report, when made, to the county clerk. They shall, whenever they can conveniently do so, notify the claimants or their agents, of the place of their meeting and may hear such evidence as they may deem necessary in determining the amount of damages fixed by them. They are hereby authorized to administer oaths to each other and to such witnesses as they may hear. If any one (1) of them shall fail or refuse to perform his duty, the other two (2) appraisers shall serve and shall appoint a suitable and disinterested elector in his place, who shall be within easy access, and he shall be sworn or affirmed in like manner as the other two (2) appraisers, and the facts of such appointment and qualification shall be stated in said report to the county clerk. The said appraisers shall each receive for his compensation such reasonable sum as the board of county commissioners shall allow.

24-3-117. Neglect of duty by appraiser or viewer.

If any viewer or appraiser shall refuse or neglect to perform any of the duties required by law or shall fail to act after his appointment, without a satisfactory excuse for such refusal or neglect, he shall be fined in any sum not exceeding fifty dollars (\$50.00), upon his conviction thereof in any court of competent jurisdiction, and such fine when collected shall be paid into the county treasury for the benefit of the road fund.

24-3-118. Hearing before county commissioners; determination and payment of damages; entry on land; abandonment prohibited; records; surveys.

(a) At the next meeting of the county commissioners after the report of the appraisers has been filed, or as soon thereafter as may be practicable, the said board may hear testimony and consider petitions for and remonstrances against the establishment or alteration, as the case may be of any road, or may establish or alter any road or may refuse so to do, as in the judgment of the said board, the public good may require, but in case there shall be no claim for damages filed, they shall act as speedily as possible in the matter. Said board may increase or diminish the damages allowed by the appraisers, and may make such establishment or alteration of any road, dependent or conditioned upon the payment, in whole or in part, of the damages awarded or expenses incurred in relation thereto by the petitioners for such road or such alteration of any road.

(b) The amount of damages awarded, if any, shall immediately be paid to the person or persons entitled thereto or deposited with the county clerk for delivery to such person or persons, which payment shall be without prejudice to the right of such person or persons to appeal to the district court as provided by law.

(c) When the road has been established and the award has been paid by the board of county commissioners or by the department of transportation, to the person or persons entitled, or deposited with the county clerk, the highway authorities and their contractors and employees may take possession and exercise full control of the land within the right-of-way of the road so established.

(d) After the county or the department of transportation has taken possession of the right-of-way, there shall be no abandonment of the establishing of the highway, and in the event of an appeal by an owner of real estate affected to the district court from the award finally made by the board of county commissioners, the board shall pay the amount finally determined to be due.

(e) A certificate, authorized by the board of county commissioners and signed by its chairman, setting forth the legal description of the property taken shall be recorded in the office of the county clerk, and indexed in like manner and with like effect as if it were a conveyance of the easement or right-of-way from said owners to the county.

(f) If, upon considering and acting upon the report of the viewers or otherwise, the board of county commissioners shall

decide to lay out or alter any road, they shall cause the county surveyor to make an accurate survey thereof, if such survey is necessary, and to plat the same in books to be provided by the county for such purpose, and the county clerk shall record in the same books opposite or near to such plat so that the same may be easily ascertained to be concerning the platted road, the proceeding of the said board in relation to the location, establishment or alteration of said road, in order to keep in a separate book a record of all the county roads of that county.

24-3-119. Appeals from decisions of county commissioners; notice; bond required.

Any applicant for damages claimed, or caused by the establishment or alteration of any road, may appeal from the final decision of the board of the county commissioners to the district court of the county, in which the land lies, for the taking of which for a public road, damages are asked; but notice of such appeal must be made to the county clerk, within thirty (30) days after such decision has been made by the said board, or such claim shall be deemed to have been abandoned. No appeal shall be allowed, unless a good and sufficient bond be given by the party appealing, in a sum not less than fifty dollars (\$50.00) to cover costs, said bond to be approved by the clerk of the district court.

24-3-120. Appeals from decisions of county commissioners; duties of county clerk.

The county clerk shall, within ten (10) days after the notice of an appeal as provided for in W.S. 24-3-119 is filed in his office, make out and file in the office of the clerk of the district court, in his county, a transcript of the papers on file in his office, and the proceedings of the board in relation to such damages.

24-3-121. Appeals from decisions of county commissioners; recovery of damages; court costs.

The amount of damages to which the claimant shall be entitled on such appeal shall be ascertained in the same manner as in a civil action, and the amount so ascertained, if any, shall be entered of record, but no judgment shall be entered therefor. The amount thus ascertained shall be certified by the clerk of the court to the county clerk who shall thereafter proceed as if such amount had been allowed by the board of the county commissioners to the claimant as damages. If the appellant shall

fail to recover an amount exceeding fifty dollars (\$50.00) above the amount allowed to him by the board of the county commissioners, he shall pay all costs of the appeal.

24-3-122. Condemned land tax free during use by state.

No taxes covering the real estate taken by the county or the department of transportation for rights-of-way shall be assessed, or charged against the land owner or owners during the time that rights-of-way are being used for the purposes for which they were established.

24-3-123. Effect of location of new road on route of previous road.

The establishment of a new road on the route of a road already established according to law, shall not vacate any road previously established, unless such vacation shall be ordered by the board of the county commissioners.

24-3-124. Removal of fences on right-of-way.

Whenever a public road is ordered to be established or altered, according to the provisions of this act, which shall pass through, or on enclosed lands, the road overseer, or other proper officer, shall give the owner, agent or occupant of such lands, notice in writing to remove the fences thereon, and if such owner, agent or occupant shall not move his fence, within thirty (30) days thereafter, the same may be removed by the proper officer, and the road opened and worked; and such owner shall forfeit and pay twenty dollars (\$20.00) for each day he shall permit his fence to remain after said thirty (30) days, and shall pay all necessary cost of removal, to be collected by the proper officer, in any court of competent jurisdiction, for the use and benefit of the general county road fund.

24-3-125. Streets in unincorporated towns or villages declared public roads; working.

All public streets of towns or villages, not incorporated, are a part of the public roads, and all road overseers, or persons having charge of the same, in their respective districts or counties, shall work the same as provided by law or ordered by the board of the county commissioners of the proper county.

24-3-126. Abandonment of portion of highway upon reconstruction or relocation of existing highway; relinquishment to county or city in lieu of abandonment.

(a) The transportation commission may abandon or relinquish any portion of state highways upon the reconstruction or relocation of any portion of an existing state highway.

(b) Prior to abandonment of any portion of a state highway, the transportation commission shall offer the highway to the governing body of any county or city in which the highway is located. Upon being notified of the transportation commission's intent to abandon any portion of a state highway, the governing body of the county or city shall comply with the procedures provided for in paragraph (c)(ii) of this section in order to initiate transfer of the state highway.

(c) The abandonment or relinquishment of any portion of state highways shall be conclusively evidenced by the resolution entered in the minute record of the commission. A certified copy of the resolution shall be recorded by the secretary of the transportation commission in the office of the county clerk of any county in which abandoned or relinquished highway right-of-way is located. Abandonment or relinquishment shall not affect the rights of corporations or their successors in interest acquired under the provisions of W.S. 1-26-813 to continue the operation and maintenance of transmission and distribution lines constructed upon the right-of-way and shall not affect the rights of any corporation or successors in interest to continue to maintain any facility lawfully in the highway right-of-way at the time of any abandonment or relinquishment. Corporations shall have the right to go upon these lands for the purposes associated with maintenance or use of their facility. Specific rules regarding relinquishment and abandonment are:

(i) Upon the entry of the resolution of abandonment in the minute record of the commission, all title and interest, except as herein provided, to the highway right-of-way shall pass to and vest in the present adjacent landowner according to the portion contributed by adjacent landowner or his predecessor in interest;

(ii) Instead of abandonment, the transportation commission may, upon written request, relinquish to any county or city any portion of a state highway within the county or city proposed to be removed from the state highway system. The

request shall be in the form of a resolution adopted by the governing body of the county or city, indicating that the portion of the state highway sought by the governing body will be used for a local public purpose enumerated in the resolution and expressing the agreement of the county or city to assume all responsibility with regard thereto. Relinquishment by the transportation commission shall be by entry of the resolution of relinquishment in the minute record of the commission and by quitclaim deed effective upon recordation in the office of the county clerk and recorder of any county in which the real property is located.

24-3-127. Cooperative agreements with federal agencies to construct, maintain and use roads within county.

The board of county commissioners of any county of this state may, in its discretion, enter into cooperative agreements with the forest service of the U.S. department of agriculture or other federal agency to provide for the joint construction, maintenance and use of roads located within the boundaries of the county, where such roads are used by the forest service or other federal agency in the protection, administration and utilization of the national forests and national recreation areas or other federal lands and are also used by communities or persons within or adjacent to such national forests or other federal lands in the use and development of the resources thereof or where such roads otherwise serve the needs of the public.