

**ONE HUNDRED SEVENTH LEGISLATURE - SECOND SESSION - 2022**  
**COMMITTEE STATEMENT**  
**LB712**

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**Hearing Date:** Tuesday January 18, 2022  
**Committee On:** Agriculture  
**Introducer:** Hughes  
**One Liner:** Change provisions of the Black-Tailed Prairie Dog Management Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File

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**Vote Results:**

<b>Aye:</b>	6	Senators Brandt, Brewer, Gragert, Halloran, Hansen, B., Lathrop
<b>Nay:</b>		
<b>Absent:</b>	1	Senator Groene
<b>Present Not Voting:</b>	1	Senator Cavanaugh, J.

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**Oral Testimony:**

**Proponents:**

Senator Dan Hughes  
Andrew Dunkley

**Representing:**

Introducer  
Nebraska Farm Bureau

**Opponents:**

**Representing:**

**Neutral:**

Jon Cannon  
Kimberly Stuhr

**Representing:**

Nebraska Association of County Officials  
Nebraska Wildlife Federation and Friends of the Niobrara

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**Summary of purpose and/or changes:**

LB 712 makes a series of revisions to the Black-Tailed Prairie Dog Management Act to address or remove constitutionally questionable provisions of the current law.

Section-by-section summary:

Sec. 1: Amends Section 23-3803 which prescribes elements of country management plans. The bill inserts a requirement that a plan includes a method for landowners to waive objection to the incursion of a prairie dog colony due to expansion from an adjacent property.

Sec. 2: Amends Section 23-3804 which states a duty of an owner of the land where a prairie dog colony exists to manage the colony to prevent expansion to neighboring property. Currently, this duty arises if the neighboring landowner objects to the expansion. The revision asserts this is an affirmative duty unless the neighboring landowner waives objection. The revision is intended to avoid a potential delegation defect as currently written.

Sec. 3: Amends Section 23-3805 which assigns authorities of county boards of counties that have adopted a management

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plan. The bill inserts express authority that a county may assign performance of activities necessary to carry out the plan, including investigation of complaints.

Sec. 4: Makes the following revisions to Section 23-3806:

-- removes infraction remedy as an enforcement mechanism in the event a landowner fails to meet obligations to manage a prairie dog colony present on the property, striking the individual notice and associated due process provisions associated with that remedy. The revisions would retain only that counties may cause remedial action to occur and the liability of the landowner for the costs of such action.

-- removes a statement construing that a county's failure to publish general notice does not relieve a landowner's duty to manage a prairie dog colony.

-- adds a requirement that individual notice be delivered by certified mail

-- removes procedures for collecting unpaid prairie dog colony management expenses incurred by the county as a special assessment.

Sec. 5: Amends Section 23-3808 which states a right of entry for a county to enter property to perform prairie dog colony abatement actions. The revision removes a limitation on liability of the county to torts of trespass or damages provided reasonable care is exercised. Note: any such liability would defer to the Political Subdivisions Tort Claims Act.

Sec. 6: Severability clause

Sec. 7: Repealers

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Steve Halloran, Chairperson