

LEGISLATIVE BILL 121

Approved by the Governor February 20, 1981

Introduced by Vickers, 38

AN ACT relating to school lands and funds; to amend section 72-224.03, Revised Statutes Supplement, 1980; to provide procedures for granting easements to certain public bodies as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 72-224.03, Revised Statutes Supplement, 1980, be amended to read as follows:

72-224.03. Any Except as otherwise provided in section 2 of this act any public body that has or hereafter shall be granted by the Legislature the authority to acquire educational lands for public use shall be required to condemn the interest of the state, as trustee for the public schools, in educational lands in the following manner:

(1) The proceedings shall be had before a board consisting of (a) the superintendent of a school district offering instruction in grades kindergarten through twelve, (b) a certified public accountant, and (c) a licensed real estate appraiser, all appointed by the Governor for a term of six years, except that of the initial appointees one shall serve for a term of two years, one for a term of four years, and one for a term of six years as designated by the Governor. The members of the board shall each receive fifty dollars for each day actually engaged in the performance of official duties and shall be reimbursed for expenses as provided in section 84-306.01, for state employees, to be paid by the Board of Educational Lands and Funds;

(2) The condemnation proceedings shall be commenced by the filing of a plat and complete description of the lands to be acquired together with an application for that purpose with the secretary of the Board of Educational Lands and Funds. Notice of the pendency of such application and the date of hearing shall be given by serving a copy of the application, together with notice of the date of hearing, upon the Governor and the Attorney General. The date of hearing shall be not less than ten days from the date of the filing of the application;

(3) The condemner and the Board of Educational Lands and Funds may present evidence before the board of appraisers. The board shall have the power to administer oaths and subpoena witnesses at the request of either party or on its own motion;

(4) After hearing the evidence, the board of appraisers shall make the award and file same in the office of the Board of Educational Lands and Funds. Appeals from such award may be taken to the district court of Lancaster County; and

(5) Upon payment of the amount of the award by the condemner, it shall be the duty of the secretary of the Board of Educational Lands and Funds to transmit a certified copy of the award to the condemner for filing in the office of the register of deeds in the county or counties where the land is located. The filing of such certified copy of the award shall have the force and effect of a deed of conveyance of the real estate and shall constitute a transfer of the title thereto.

Sec. 2. Any public body enumerated in section 72-222 may acquire an easement from the state on any educational land when such easement is for the purpose for which such public body is authorized by law to condemn private lands in this state. It shall not be necessary for the acquiring public body to follow the procedure established in section 72-224.03 to obtain such easement. The public body may obtain such easement by the filing of an application with the Board of Educational Lands and Funds. Such application shall describe the nature and purpose of the easement, contain a legal description of the easement, and shall name the public body seeking the easement. Upon receiving the application for easement the Board of Educational Lands and Funds shall either (1) deny the application or (2) grant the easement and place a value on the easement to be paid by the applicant. When placing a value on the easement the Board of Educational Lands and Funds shall take into consideration the board's fiduciary responsibility as trustee for the educational lands. The public body applying for the easement shall then either (1) accept the Board of Educational Lands and Funds' value or (2) proceed according to section 72-224.03. Upon the granting of such easement, it shall be the duty of the secretary of the Board of Educational Lands and Funds to transmit a certified copy of the easement for filing in the office of the register of deeds in the county or counties where the easement is located.

Sec. 3. That original section 72-224.03, Revised Statutes Supplement, 1980, is repealed.