

LEGISLATIVE BILL 500

Approved by the Governor May 13, 2003

Introduced by Smith, 48

AN ACT relating to highways and bridges; to amend sections 39-2301, 39-2302, 39-2304 to 39-2311, and 39-2502, Reissue Revised Statutes of Nebraska, and sections 39-2503, 39-2504, and 39-2512 to 39-2514, Revised Statutes Supplement, 2002; to adopt the County Highway and City Street Superintendents Act; to change licensing provisions; to change incentive payments to counties and municipalities as prescribed; to provide findings; to define and redefine terms; to provide powers and duties; to eliminate obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 39-2303, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 39-2301, Reissue Revised Statutes of Nebraska, is amended to read:

39-2301. (1) Sections 39-2301 to 39-2311 and sections 2 and 9 to 11 of this act shall be known and may be cited as the There is hereby established the Board of Examiners for County Highway and City Street Superintendents Act.

(2) The Legislature finds that in order to safeguard life, health, and property, and in order to further professional management of county road and municipal street programs, persons practicing or offering to practice street or highway superintending in this state are encouraged to become licensed as provided in the act.

Sec. 2. For purposes of the County Highway and City Street Superintendents Act, unless the context otherwise requires:

(1) Board of examiners means the Board of Examiners for County Highway and City Street Superintendents;

(2) City street superintendent means a person who engages in the practice of street superintending for an incorporated municipality;

(3) County highway superintendent means a person who engages in the practice of highway superintending for a county; and

(4) Street or highway superintending means:

(a) Developing and annually updating long-range plans based on needs and coordinated with adjacent local governmental units;

(b) Developing annual programs for design, construction, and maintenance;

(c) Developing annual budgets based on programmed projects and activities;

(d) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and

(e) Managing personnel, contractors, and equipment in support of such planning, programming, budgeting, and implementation operations.

Sec. 3. Section 39-2302, Reissue Revised Statutes of Nebraska, is amended to read:

39-2302. Except as provided in section 39-2303, no No person shall be employed by any county as a county highway superintendent or by any municipality as a city street superintendent after July 1, 1970, to qualify for the incentive payments provided in sections 39-2501 to 39-2520, unless he or she has been licensed under the provisions of sections 39-2301 to 39-2311 County Highway and City Street Superintendents Act.

Sec. 4. Section 39-2304, Reissue Revised Statutes of Nebraska, is amended to read:

39-2304. The Board of Examiners for County Highway and City Street Superintendents is created. The board shall consist of seven members to be appointed by the Governor, four of whom shall be county representatives, and three of whom shall be municipal representatives.

Immediately preceding appointment to the board, each county and municipal representative shall hold a current license as a county highway or city street superintendent pursuant to sections 39-2301 to 39-2311 the County Highway and City Street Superintendents Act. Of the county representatives, no more than one member shall be appointed from each class of county as defined in section 23-1114.01, and of the municipal representatives, no more than one shall be appointed from each congressional district, one of whom shall be a representative of a city of the metropolitan or primary class, one of whom shall be a representative of a city of the first class, and one of

whom shall be a representative of a city of the second class or a village.

In making such appointments, the Governor may give consideration to a list of licensed county highway engineers, county highway superintendents, and county surveyors submitted by the Nebraska Association of County Officials and to a list of licensed city street superintendents or street commissioners, city engineers, and public works directors submitted by the League of Nebraska Municipalities. Two county representatives shall initially be appointed for terms of two years each, and two county representatives shall initially be appointed for terms of four years each. One municipal representative shall initially be appointed for a term of two years, and two municipal representatives shall initially be appointed for terms of four years each. Thereafter, all such appointments shall be for terms of four years each.

In the event a county or municipal representative loses his or her license as a county highway or city street superintendent, such person shall no longer be qualified to serve on the board and such seat shall be vacant. In the event of a vacancy occurring on the board for any reason, such vacancy shall be filled by appointment by the Governor for the remainder of the unexpired term. Such appointed person shall meet the same requirements and qualifications as the member whose vacancy he or she is filling.

Members of the board shall receive no compensation for their services as members of the board but shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

Sec. 5. Section 39-2305, Reissue Revised Statutes of Nebraska, is amended to read:

39-2305. The board of examiners shall be furnished necessary office space, furniture, equipment, stationery, and clerical assistance by the Department of Roads. The board shall organize itself by selecting from among its members a ~~chairman~~ chairperson and such other officers as it may find desirable. The board shall meet at such times at the Department of Roads headquarters in Lincoln as may be necessary for the administration of the provisions of sections 39-2301 to 39-2311 County Highway and City Street Superintendents Act.

Sec. 6. Section 39-2306, Reissue Revised Statutes of Nebraska, is amended to read:

39-2306. (1) Any person desiring to be ~~licensed~~ issued a Class B license under the provisions of sections 39-2301 to 39-2311 section 39-2308 shall make application therefor to the board of examiners upon forms prescribed and furnished by the board. The application shall include the applicant's social security number. Such application shall, ~~except as provided in subsection (2) of this section,~~ be accompanied by an examination application fee of twenty-five dollars.

(2) Any professional engineer ~~who has been designated as a highway superintendent for one or more counties, or as a street superintendent for one or more municipalities, whether on a full-time basis or on less than a full-time basis as a consultant on construction,~~ shall be entitled to a Class B license under the provisions of sections 39-2301 to 39-2310 section 39-2308 without examination. ~~upon submitting application therefor and payment of an initial fee of fifteen dollars.~~

Sec. 7. Section 39-2307, Reissue Revised Statutes of Nebraska, is amended to read:

39-2307. The board of examiners shall, twice each year, conduct examinations of applicants for Class B licenses ~~licensing under the provisions of sections 39-2301 to 39-2311 section 39-2308.~~ Such examinations shall be designed to test the qualifications of applicants for the position of county highway superintendent or city street superintendent and shall cover the ability to:

- (1) Develop and annually update long-range plans based on needs and coordinated with adjacent local governmental units;
- (2) Develop annual programs for design, construction, and maintenance;
- (3) Develop annual budgets based on programmed projects and activities; ~~and~~
- (4) Implement the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; ~~and~~
- (5) Understand principles pertaining to highway, road, and street operations and to management of personnel, contractors, and equipment.

Sec. 8. Section 39-2308, Reissue Revised Statutes of Nebraska, is amended to read:

39-2308. Any person satisfactorily completing the examination required by section 39-2307 or exempt from such examination under the provisions of subsection (2) of section 39-2306 shall be issued a Class B

license as a county highway or city street superintendent. Such license shall be valid for a period of one year and shall be renewable upon the payment of an annual fee of ten dollars. Any person holding a license on the operative date of this act shall be deemed to be holding a Class B license under this section.

Sec. 9. Any person holding a Class B license issued pursuant to section 39-2308 may apply to the board of examiners for a Class A license upon forms prescribed and furnished by the board upon submitting evidence that (1) he or she has been employed and appointed by one or more county or counties or municipality or municipalities as a county highway or city street superintendent at least half-time for at least two years within the past six years or (2) he or she has at least four years' experience in work comparable to street or highway superintending. Such application shall be accompanied by a fee of seventy-five dollars. A Class A license shall be valid for a period of three years and shall be renewable for three years as provided in section 10 of this act upon payment of a fee of fifty dollars.

Sec. 10. (1) As a condition for renewal of a license issued pursuant to section 9 of this act, the holder of a Class A license shall be required to have successfully completed twenty hours of professional development within the preceding three years. Any license holder who completes in excess of twenty hours of professional development within the preceding three years may have the excess, not to exceed ten hours, applied to the requirement for the next triennium.

(2) The board of examiners shall not renew the Class A license of a license holder who has failed to complete the professional development requirements pursuant to subsection (1) of this section unless he or she can show good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown, the board shall permit such license holder to make up all outstanding required hours of professional development. If the board determines that good cause was not shown or if the license holder requests renewal as a Class B licensee, the board shall issue a Class B license. Renewal of such Class B license shall be governed by section 39-2308.

(3) A holder of a Class B license who previously held a Class A license may be reissued a Class A license by:

(a) Electing to either:

(i) Complete one and one-half of the triennial requirements for professional development as set forth in the rules and regulations of the board; or

(ii) Reapply under section 9 of this act; and

(b) Paying the seventy-five-dollar Class A application fee.

Sec. 11. The holder of a county highway superintendent's license shall be entitled to hold a city street superintendent's license of the same or a lower level upon payment of the application fee for that additional license. The holder of a city street superintendent's license shall be entitled to hold a county highway superintendent's license of the same or a lower level upon payment of the application fee for that additional license.

Sec. 12. Section 39-2309, Reissue Revised Statutes of Nebraska, is amended to read:

39-2309. The board of examiners may suspend or revoke any license issued under the provisions of sections ~~39-2301 to 39-2311~~ County Highway and City Street Superintendents Act for fraud or deceit in obtaining it, neglect of duty, or incompetence in the performance of duty. Such action shall only be taken after notice and hearing under the provisions of the Administrative Procedure Act.

Sec. 13. Section 39-2310, Reissue Revised Statutes of Nebraska, is amended to read:

39-2310. All funds received under the provisions of sections ~~39-2301 to 39-2310~~ County Highway and City Street Superintendents Act shall be transmitted remitted to the State Treasurer for deposit in the state treasury to the credit of to the Highway Cash Fund. Members of the Board of Examiners for County Highway and City Street Superintendents shall receive no compensation for their services as such, except that the members shall be paid their actual expenses. Expenses of the members of the board of examiners as provided in section 39-2304 shall be paid by the Department of Roads from the Highway Cash Fund.

Sec. 14. Section 39-2311, Reissue Revised Statutes of Nebraska, is amended to read:

39-2311. The board of examiners shall may adopt and promulgate rules and regulations necessary for the administration of the provisions of sections ~~39-2301 to 39-2311~~ County Highway and City Street Superintendents Act.

Sec. 15. Section 39-2502, Reissue Revised Statutes of Nebraska, is amended to read:

39-2502. An incentive payment shall be made to each county having in its employ a ~~qualified~~ county highway superintendent licensed under the ~~provisions of sections 39-2301 to 39-2311~~ County Highway and City Street Superintendents Act, during the calendar year preceding the year in which payment is made. For purposes of sections 39-2501 to 39-2510, ~~qualified~~ county highway superintendent ~~shall mean~~ means a person who actually performs ~~capable of and actually performing~~ the following duties:

- (1) Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units;
- (2) Developing an annual program for design, construction, and maintenance;
- (3) Developing an annual budget based on programmed projects and activities;
- (4) Submitting such plans, programs, and budgets to the local governing body for approval;
- (5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and
- (6) Preparing and submitting annually ~~to the Auditor of Public Accounts and~~ to the Board of Public Roads Classifications and Standards ~~the county's one-year and six-year plans for highway, road, and street improvements as set forth in sections 39-2115 to 39-2117 and 39-2119 and a report showing the actual receipts, expenditures, and accomplishments compared with those budgeted and programmed in the subdivision's county's annual plans as set forth in section 39-2120.~~

Sec. 16. Section 39-2503, Revised Statutes Supplement, 2002, is amended to read:

39-2503. The incentive payment to the various counties and municipal counties shall be based on the level of license of the county highway superintendent employed by the county and on the rural population of each county or municipal county, as determined by the most recent federal census, according to the following table:

<u>Rural Population</u>	<u>Class B License Payment</u>	<u>Class A License Payment</u>
<u>Not more than 3,000</u>	<u>\$4,500.00</u>	<u>\$9,000.00</u>
<u>3,001 to 5,000</u>	<u>\$4,875.00</u>	<u>\$9,750.00</u>
<u>5,001 to 10,000</u>	<u>\$5,250.00</u>	<u>\$10,500.00</u>
<u>10,001 to 20,000</u>	<u>\$5,625.00</u>	<u>\$11,250.00</u>
<u>20,001 to 30,000</u>	<u>\$6,000.00</u>	<u>\$12,000.00</u>
<u>30,001 and more</u>	<u>\$6,375.00</u>	<u>\$12,750.00</u>

<u>Population</u>	<u>Payment</u>
<u>Not more than 3,000</u>	<u>\$4,500.00</u>
<u>3,001 to 5,000</u>	<u>4,875.00</u>
<u>5,001 to 10,000</u>	<u>5,250.00</u>
<u>10,001 to 20,000</u>	<u>5,625.00</u>
<u>20,001 to 30,000</u>	<u>6,000.00</u>
<u>30,001 and more</u>	<u>6,375.00</u>

Sec. 17. Section 39-2504, Revised Statutes Supplement, 2002, is amended to read:

39-2504. (1) A reduced incentive payment shall be made to any county or municipal county having in its employ either (a) a licensed ~~qualified~~ county highway superintendent for only a portion of the calendar year preceding the year in which the payment is made or (b) two or more successive licensed county highway superintendents for the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the payment amounts listed in section 39-2503 as the number of full months each such a ~~qualified person~~ licensed superintendent was employed is of twelve.

(2) Any county or municipal county that contracts with for the services of a consulting engineer ~~or engineering firm~~ licensed under the County Highway and City Street Superintendents Act or any other person licensed under the act to perform the duties outlined in section 39-2502 rather than employing a ~~qualified~~ licensed county highway superintendent shall be entitled to an incentive payment equal to two-thirds the payment amount provided in section 39-2503 or two-thirds of the reduced incentive payment provided in subsection (1) of this section, as determined by the Department of Roads pursuant to section 39-2505.

(3) Any county or municipal county that contracts with another county or municipal county or with any city or village for the ~~employment~~ services of a ~~qualified~~ licensed county highway superintendent as provided in section 39-2114, shall be entitled to the incentive payment provided in

section 39-2503 or the reduced incentive payment provided in subsection (1) of this section.

Sec. 18. Section 39-2512, Revised Statutes Supplement, 2002, is amended to read:

39-2512. An incentive payment shall be made to each municipality or municipal county having in its employ a qualified city street superintendent licensed under the provisions of sections 39-2301 to 39-2311 County Highway and City Street Superintendents Act, during the calendar year preceding the year in which payment is made. For purposes of sections 39-2511 to 39-2520, qualified city street superintendent shall mean means a person capable of and actually performing who actually performs the following duties:

- (1) Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units;
- (2) Developing an annual program for design, construction, and maintenance;
- (3) Developing an annual budget based on programmed projects and activities;
- (4) Submitting such plans, programs, and budgets to the local governing body for approval;
- (5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and

(6) Preparing and submitting annually to the Auditor of Public Accounts and to the Board of Public Roads Classifications and Standards the one-year and six-year plans of the municipality or municipal county for highway, road, and street improvements as set forth in sections 39-2115 to 39-2117 and 39-2119 and a report showing the actual receipts, expenditures, and accomplishments compared with those budgeted and programmed in the subdivision's annual plans of the municipality or municipal county as set forth in section 39-2120.

Sec. 19. Section 39-2513, Revised Statutes Supplement, 2002, is amended to read:

39-2513. The incentive payment to the various municipalities or municipal counties shall be based on the level of license of the city street superintendent employed by the municipality or municipal counties and on the population of each municipality or urbanized area of each municipal county, as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119, according to the following table:

<u>Population</u>	<u>Class B License Payment</u>	<u>Class A License Payment</u>
<u>Not more than 500</u>	<u>\$300.00</u>	<u>\$600.00</u>
<u>501 to 1,000</u>	<u>\$500.00</u>	<u>\$1,000.00</u>
<u>1,001 to 2,500</u>	<u>\$1,500.00</u>	<u>\$3,000.00</u>
<u>2,501 to 5,000</u>	<u>\$2,000.00</u>	<u>\$4,000.00</u>
<u>5,001 to 10,000</u>	<u>\$3,000.00</u>	<u>\$6,000.00</u>
<u>10,001 to 20,000</u>	<u>\$3,500.00</u>	<u>\$7,000.00</u>
<u>20,001 to 40,000</u>	<u>\$3,750.00</u>	<u>\$7,500.00</u>
<u>40,001 to 200,000</u>	<u>\$4,000.00</u>	<u>\$8,000.00</u>
<u>200,001 and more</u>	<u>\$4,250.00</u>	<u>\$8,500.00</u>

<u>Population</u>	<u>Payment</u>
<u>Not more than 500</u>	<u>\$ 300.00</u>
<u>501 to 1,000</u>	<u>500.00</u>
<u>1,001 to 2,500</u>	<u>1,500.00</u>
<u>2,501 to 5,000</u>	<u>2,000.00</u>
<u>5,001 to 10,000</u>	<u>3,000.00</u>
<u>10,001 to 20,000</u>	<u>3,500.00</u>
<u>20,001 to 40,000</u>	<u>3,750.00</u>
<u>40,001 to 200,000</u>	<u>4,000.00</u>
<u>200,001 and more</u>	<u>4,250.00</u>

Sec. 20. Section 39-2514, Revised Statutes Supplement, 2002, is amended to read:

39-2514. (1) A reduced incentive payment shall be made to any municipality or municipal county having in its employ either (a) a qualified licensed city street superintendent for only a portion of the calendar year preceding the year in which the payment is made or (b) two or more successive licensed city street superintendents for the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the payment amounts listed in section 39-2513 as the number of full months each such a qualified person licensed superintendent was employed is of twelve.

(2) Any municipality or municipal county that contracts with for the services of a consulting engineer or engineering firm licensed under the

County Highway and City Street Superintendents Act or any other person licensed under the act to perform the duties outlined in section 39-2512 rather than employing a ~~qualified~~ licensed city street superintendent shall be entitled to an incentive payment as provided in section 39-2513 or to the reduced incentive payment provided in subsection (1) of this section, as determined by the Department of Roads pursuant to section 39-2515.

(3) Any municipality or municipal county that contracts with another municipality, county, or municipal county for the ~~employment~~ services of a ~~qualified~~ licensed city street superintendent as provided in section 39-2114, shall be entitled to the incentive payment provided in section 39-2513 or the reduced incentive payment provided in subsection (1) of this section.

Sec. 21. This act becomes operative on January 1, 2004.

Sec. 22. Original sections 39-2301, 39-2302, 39-2304 to 39-2311, and 39-2502, Reissue Revised Statutes of Nebraska, and sections 39-2503, 39-2504, and 39-2512 to 39-2514, Revised Statutes Supplement, 2002, are repealed.

Sec. 23. The following section is outright repealed: Section 39-2303, Reissue Revised Statutes of Nebraska.