

LEGISLATIVE BILL 739

Approved by the Governor June 4, 1993

Introduced by Beutler, 28; Ashford, 6

AN ACT relating to the Game and Parks Commission; to state intent; to provide powers and duties for the commission relating to recreational trails; and to create a fund.

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

Section 1. It is the public policy of the State of Nebraska that (1) abandoned railroad rights-of-way should be kept intact for future possible use as recreation, conservation, communications, and transportation corridors and (2) the laws of the State of Nebraska should be construed to effectuate this policy.

Sec. 2. (1) Pursuant to the National Trails System Act, 16 U.S.C. 1241 et seq., the Game and Parks Commission is hereby authorized and directed to accept as a gift, when and if offered, from any present or future owner the entire right-of-way of the Chicago and Northwestern Railroad which lies between milepost 83.3 and milepost 404.5 in Nebraska. In the event a portion of the right-of-way continues in actual rail service, the Game and Parks Commission is authorized and directed to accept as a gift the remaining section. So long as the integrity of the right-of-way as an interim recreational trail and for future rail use is not disturbed, the Game and Parks Commission is authorized to lease and to grant easement rights on the right-of-way. All revenue collected from such leases shall be remitted to the State Treasurer for credit to the Cowboy Trail Fund and shall be used for the development and maintenance of the Cowboy Trail. The commission shall hold the right-of-way for interim trail use as a state recreational trail, to preserve wildlife habitat, and to provide a conservation, communications, utilities, and transportation corridor and for other uses approved by the commission and allowed by the National Trails System Act. The commission shall keep in good repair all crossings over the trail in accordance with its legal obligations, including all the grading, bridges, ditches, and culverts that may be necessary for such crossings within the right-of-way.

(2) The right-of-way may be accepted without any further legislative action or approval of the Governor but only if the State of Nebraska is indemnified in a manner satisfactory to the Game and Parks Commission against the costs of remedial action and environmental cleanup for conditions arising prior to conveyance to the state and the title is free and clear of all liens and mortgage or deed of trust encumbrances.

(3) The commission may accept money from any public or private source for gift-acceptance costs, for the development and maintenance of the trail, or for other uses consistent with the purposes

stated in this section. The commission may use funds available in the Trail Development Assistance Fund to carry out this section as provided in section 37-1503. Any money from the Trail Development Assistance Fund so used shall be transferred to the Cowboy Trail Fund.

(4) There is hereby created the Cowboy Trail Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276. Money accepted or transferred pursuant to subsection (3) of this section shall be remitted to the State Treasurer for credit to the fund.

(5) The commission may enter into an agreement with any public entity at any time for the development and maintenance of the trail pursuant to this section.

(6) This section shall not be construed to limit the power of eminent domain of the state or its agencies or of any political subdivision.

Sec. 3. If any portions of the right-of-way accepted under section 2 of this act are not immediately developed as a recreational trail or for habitat, the Game and Parks Commission shall use its best efforts to lease undeveloped portions of the right-of-way, with first priority to adjacent landowners, for the purposes stated in such section or for other purposes which are not inconsistent with the purposes of this act until such time as a recreational trail or habitat may be developed. Any lease or use allowed shall be subject to all prescriptions of the National Trails System Act.

Sec. 4. The Game and Parks Commission shall have the same responsibility with regard to division fences as a private landowner as provided in sections 34-101 to 34-117, except that in those areas where a recreational trail is developed, the commission shall have the same responsibility as a railroad as provided in sections 74-601 to 74-604.

Sec. 5. If the right-of-way or any portion thereof is used as a recreational trail pursuant to sections 2 and 3 of this act, appropriate sanitary facilities shall be provided along the trail for the use of persons using the trail. Camping or open fires shall be prohibited on such right-of-way or portion thereof.

Sec. 6. If the right-of-way or portion thereof is used as a trail or for other purposes as provided in sections 2 and 3 of this act, the Game and Parks Commission shall adopt and promulgate rules and regulations to carry out the purposes of this act.