

3
4 **SENATE BILL No. 655**

5
6 By Committee on Ways and Means

7
8 3-25

9
10 AN ACT concerning roads; relating to certain unopened roads; amending
11 K.S.A. 2001 Supp. 68-115 and repealing the existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2001 Supp. 68-115 is hereby amended to read as
15 follows: 68-115. (a) Except as provided by ~~subsection (b)~~ *subsections (b)*
16 *and (c)*, it shall be the duty of each and every county engineer to open
17 or cause to be opened all state and county roads and of each and every
18 township trustee to open or cause to be opened all mail routes and town-
19 ship roads which have been or may hereafter be laid out or established
20 through any part of the respective county or township. Notice of such
21 action shall be given to the owner or owners, or their agent or agents, if
22 residing in the county, or, if such owner is incapacitated, to the guardian
23 of such person, if a resident of the county, through whose inclosed or
24 cultivated lands such road is laid out or established. Such notice shall
25 direct such property owners to open such road through their lands within
26 90 days after service of such notice. If the person or persons so notified
27 do not open such road within the time stated in such notice, it shall be
28 lawful and it is hereby made the duty of such county engineer on state
29 and county roads and of such trustee on township roads and mail route
30 roads to respectively enter upon such property and open such roads. If
31 such notice is given between the March 1, and October 1, the notice shall
32 designate the next following January 1, as the time of opening such road.
33 And the county engineer or township trustee respectively shall keep the
34 same in repair, and remove or cause to be removed all obstructions that
35 may be found therein. The township trustee and the county engineer are
36 hereby authorized to enter upon any land near or adjoining such public
37 road, to dig and carry away any gravel, sand, stone, clay, gypsum or any
38 other road-building material and to purchase any timber which may be
39 necessary to improve or repair the road, and to enter upon any land
40 adjoining or lying near such road, to make such drains or ditches through
41 the same as the county engineer or township trustee deems necessary for
42 the benefit of the roads, doing as little damage to the lands as the nature
43 of the case and the public good will permit. The drains and ditches thus

1 made shall be kept open if necessary by the township trustee or county
2 engineer and shall not be obstructed by the owner or occupants of the
3 land or by any other person, under the penalty of being fined not ex-
4 ceeding \$10 for each offense.

5 The owner of any gravel, sand, stone, clay, gypsum or any other road-
6 building material taken, or the owner of the land through which ditches
7 or drains may be made, as herein provided, or the owner of the crops
8 thereon, shall be allowed a fair and reasonable compensation for the ma-
9 terial so taken or for any injuries the lands or crops may sustain in con-
10 sequence of the making of such drains or ditches. The amount of such
11 compensation shall be determined, allowed and paid by the highway com-
12 missioners in event such material is used upon a mail route or a township
13 road, and determined, allowed and paid by the board of county commis-
14 sioners of the county when such material is used upon a county or state
15 road. Such claims shall be allowed and paid in the same manner as other
16 ordinary claims against the county or township and the claimant shall have
17 the same right of appeal as is now provided by law in other cases.

18 (b) If the owner of any property adjacent to or abutting a township
19 road which has been laid out but not opened prior to the effective date
20 of this act desires to have such road opened, it shall be the duty of such
21 owner to open such road. Such property owner shall establish a main-
22 tainable road bed and drainage in accordance with the standards estab-
23 lished by the township board pursuant to K.S.A. 2001 Supp. 68-115a, *and*
24 *amendments thereto*. Thereafter, it shall be the duty of the township
25 board to maintain such road as required by subsection (a).

26 If the owner of any property adjacent to or abutting a township road
27 which has been opened prior to the effective date of this act, but such
28 road has not been maintained by the township for at least 20 years or has
29 not been regularly used by the general public and the owner desires to
30 have the road maintained for general public use, it shall be the duty of
31 such owner to establish a maintainable road bed and drainage in accord-
32 ance with the standards established by the township board pursuant to
33 K.S.A. 2001 Supp. 68-115a, *and amendments thereto*. Thereafter, it shall
34 be the duty of the township board to maintain such road as required by
35 subsection (a).

36 If there is a dispute between landowners regarding the location of a
37 township road, the county engineer shall determine the location of the
38 road.

39 (c) *If the owner of any property adjacent to or abutting a county road*
40 *which has been laid out but not opened prior to the effective date of this*
41 *act desires to have such road opened, it shall be the duty of such owner*
42 *to open such road. Such property owner shall establish a maintainable*
43 *road bed and drainage in accordance with the standards established by*

1 *the county engineer pursuant to this section. Thereafter, it shall be the*
2 *duty of the board of county commissioners to maintain such road as re-*
3 *quired by subsection (a).*

4 *If the owner of any property adjacent to or abutting a county road*
5 *which has been opened prior to the effective date of this act, but such*
6 *road has not been maintained by the county for at least 20 years or has*
7 *not been regularly used by the general public and the owner desires to*
8 *have the road maintained for general public use, it shall be the duty of*
9 *such owner to establish a maintainable road bed and drainage in accord-*
10 *ance with the standards established by the board of county commissioners*
11 *pursuant to this section. Thereafter, it shall be the duty of the board of*
12 *county commissioners to maintain such road as required by subsection*
13 *(a).*

14 *If there is a dispute between landowners regarding the location of a*
15 *county road, the county engineer shall determine the location of the road.*

16 ***(d) No provision in this section shall affect the rights of any***
17 ***property owner in a boundary dispute.***

18 Sec. 2. K.S.A. 2001 Supp. 68-115 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.

21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43