

LEGISLATIVE BILL 78

Approved by the Governor March 7, 2013

Introduced by Avery, 28; Pirsch, 4.

FOR AN ACT relating to government; to amend sections 54-1158, 54-1161, 54-1162, 54-1163, 54-1165, 54-1168, 54-1169, 54-1170, 54-1172, 81-1201.01, 81-1201.02, 81-1201.03, 81-1361, 81-1368, 81-3607, and 81-3609, Reissue Revised Statutes of Nebraska, and sections 81-1201.18, 81-12,149, 81-12,150, 81-12,155, and 81-12,164, Revised Statutes Cumulative Supplement, 2012; to eliminate the Nebraska State Airline Authority, the Livestock Auction Market Board, the Athletic Advisory Committee, the Affirmative Action Committee, the Rural Development Commission, and the Economic Development Commission; to change and provide powers and duties; to harmonize provisions; to repeal the original sections; and to outright repeal sections 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160, 81-1201.05, 81-1201.06, 81-1363, 81-1364, 81-1365, 81-1366, 81-3601, 81-3603, and 81-3604, Reissue Revised Statutes of Nebraska, and sections 81-8,139.01, 81-1201.04, 81-3602, and 81-3605, Revised Statutes Cumulative Supplement, 2012.

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

Section 1. Section 54-1158, Reissue Revised Statutes of Nebraska, is amended to read:

54-1158 As used in the Livestock Auction Market Act, unless the context otherwise requires:

(1) Accredited veterinarian means a veterinarian duly licensed by the State of Nebraska and approved by the deputy administrator of the United States Department of Agriculture in accordance with 9 C.F.R. part 161 as the regulations existed on September 1, 2001;

~~(2) Board means the Livestock Auction Market Board;~~

~~(3) (2) Department means the Department of Agriculture;~~

~~(4) (3) Designated veterinarian means an accredited veterinarian who has been designated and authorized by the State Veterinarian to make inspections of livestock at livestock auction markets as may be required by law or regulation whether such livestock is moved in interstate or intrastate commerce;~~

~~(5) (4) Director means the Director of Agriculture;~~

~~(6) (5) Livestock means cattle, calves, swine, sheep, and goats;~~

~~(7) (6) Livestock auction market means any place, establishment, or facility commonly known as a livestock auction market, sales ring, or the like, conducted or operated for compensation as an auction market for livestock, consisting of pens or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment;~~

~~(8) (7) Livestock auction market operator means any person engaged in the business of conducting or operating a livestock auction market, whether personally or through agents or employees;~~

~~(9) (8) Market license means the license for a livestock auction market authorized to be issued under the act;~~

~~(10) (9) Person means any individual, firm, association, partnership, limited liability company, or corporation; and~~

~~(11) (10) State Veterinarian means the veterinarian in charge of the Bureau of Animal Industry within the department or his or her designee, subordinate to the director.~~

Sec. 2. Section 54-1161, Reissue Revised Statutes of Nebraska, is amended to read:

54-1161 No person shall conduct or operate a livestock auction market unless he or she holds a market license therefor, upon which the current annual market license fee has been paid. Any person making application for a new market license shall do so to the ~~board~~ director in writing, verified by the applicant, on a form prescribed by the ~~board,~~ department, showing the following:

(1) The name and address of the applicant and, if the applicant is an individual, his or her social security number, with statement of the names and addresses of all persons having any financial interest in the applicant and the amount of such interest;

(2) Financial responsibility of the applicant in the form of a statement of all assets and liabilities;

(3) A legal description of the property and its exact location with a complete description of the facilities proposed to be used in connection

with such livestock auction market;

(4) The schedule of charges applicant proposes for all services proposed to be rendered; and

(5) A detailed statement of the facts upon which the applicant relies showing the general confines of the trade area proposed to be served by such livestock auction market, the benefits to be derived by the livestock industry, and the services proposed to be rendered.

Such application shall be accompanied by the annual fee as prescribed in section 54-1165.

Sec. 3. Section 54-1162, Reissue Revised Statutes of Nebraska, is amended to read:

54-1162 Upon the filing of the application as provided in section 54-1161, the director shall fix a reasonable time for the hearing at a place designated by him or her at which time a hearing shall be held on the proposed location of the livestock auction market. The director forthwith shall cause a copy of such application, together with notice of the time and place of hearing, to be served by mail not less than fifteen days prior to such hearing, upon the following:

(1) All duly organized statewide livestock associations in the state who have filed written requests with the ~~board~~ department to receive notice of such hearings and such other livestock associations as in the opinion of the director would be interested in such application; and

(2) All livestock auction market operators in the state.

The director shall give further notice of such hearing by publication of the notice thereof once in a daily or weekly newspaper circulated in the city or village where such hearing is to be held, as in the opinion of the director will give reasonable public notice of such time and place of hearing to persons interested therein.

Sec. 4. Section 54-1163, Reissue Revised Statutes of Nebraska, is amended to read:

54-1163 The hearing required by section 54-1162 shall be heard by ~~two or more members of the board. If the board determines,~~ the director and the State Veterinarian. If the director and the State Veterinarian determine, after such hearing, that the proposed livestock auction market would beneficially serve the livestock economy, ~~it~~ the department shall issue a market license to the applicant. In determining whether or not the application should be granted or denied, ~~the board shall give~~ reasonable consideration shall be given to:

(1) The ability of the applicant to comply with the federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as amended;

(2) The financial stability, business integrity, and fiduciary responsibility of the applicant;

(3) The adequacy of the facilities described to permit the performance of market services proposed in the application;

(4) The present needs for market services or additional services as expressed by livestock growers and feeders in the community; and

(5) Whether the proposed livestock auction market would be permanent and continuous.

Sec. 5. Section 54-1165, Reissue Revised Statutes of Nebraska, is amended to read:

54-1165 Every livestock auction market operator shall pay annually, on or before August 1, a market license fee of one hundred fifty dollars to the ~~board~~ department for each livestock auction market operated by him or her, which payment shall constitute a renewal for one year. Fees so paid shall be remitted to the State Treasurer for credit to the Livestock Auction Market Fund for ~~the use of the board in paying~~ the expenses of administration of the Livestock Auction Market Act.

Sec. 6. Section 54-1168, Reissue Revised Statutes of Nebraska, is amended to read:

54-1168 Every market license holder under the Livestock Auction Market Act shall keep an accurate record of all transactions conducted in the ordinary course of his or her business. Such records shall be available for examination of the ~~board,~~ director, or its his or her duly authorized representative, in respect to a market license issued under such act.

Sec. 7. Section 54-1169, Reissue Revised Statutes of Nebraska, is amended to read:

54-1169 (1) The ~~board~~ department may, upon its own motion, whenever it has reason to believe ~~the provisions of~~ the Livestock Auction Market Act ~~have~~ has been violated, or upon verified complaint of any person in writing, investigate the actions of any market license holder, and if ~~it~~ the department finds probable cause to do so, shall file a complaint against the market license holder which shall be set down for hearing before the ~~board~~ director

and the State Veterinarian upon fifteen days' notice served upon such market license holder either by personal service upon him or her or by registered or certified mail or telegram prior to such hearing.

(2) The director shall have the power to administer oaths, certify to all official acts, and subpoena and bring before the board any person in this state as a witness, to compel the producing of books and papers, and to take the testimony of any person on deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Processes issued by the director shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness who shall appear by the order of the director at any hearing before the board shall receive for such attendance the same fees allowed by law to witnesses in civil cases appearing in the district court and mileage at the same rate provided in section 81-1176, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but has been subpoenaed by the director, his or her fees and mileage shall be paid by the director in the same manner as other expenses of the board are paid under the Livestock Auction Market Act.

(3) All powers of the director as provided in this section shall likewise be applicable to hearings held on applications for the issuance of a market license.

(4) Formal finding by the board director and the State Veterinarian after due hearing that any market license holder+ (1) Has (a) has ceased to conduct a livestock auction market business, (b) + (2) has been guilty of fraud or misrepresentation as to the titles, charges, number, brands, weights, proceeds of sale, or ownership of livestock, (c) + (3) has violated any of the provisions of the Livestock Auction Market Act, + or (4) (d) has violated any of the rules or regulations adopted and published by the board, promulgated under the act, shall be sufficient cause for the suspension or revocation of the market license of the offending livestock auction market operator.

Sec. 8. Section 54-1170, Reissue Revised Statutes of Nebraska, is amended to read:

54-1170 The board director shall keep a complete transcript of all proceedings and evidence presented in any hearing before it, under the Livestock Auction Market Act. The applicant for a market license, any protestant formally appearing in the hearing before the board for such market license, the holder of any market license suspended or revoked, or any party to a transfer application may appeal the order, of the board, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 9. Section 54-1172, Reissue Revised Statutes of Nebraska, is amended to read:

54-1172 Salaries and expenses of employees, costs of hearings, and all other costs of the board in the administration of the Livestock Auction Market Act shall be paid from the Livestock Auction Market Fund which is hereby created. Any money in the Livestock Auction Market Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. Section 81-1201.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-1201.01 As used in sections 81-1201.01 to 81-1201.22, unless the context otherwise requires:

- ~~(1) Commission shall mean the Economic Development Commission;~~
- ~~(2) (1) Community Development Block Grant shall mean means the grants distributed pursuant to the Housing and Community Development Act of 1974 as amended by the Housing and Urban-Rural Recovery Act of 1983;~~
- ~~(3) (2) Department shall mean means the Department of Economic Development;~~
- ~~(4) (3) Director shall mean means the Director of Economic Development;~~
- ~~(5) (4) Economic articulation shall mean means the creation of economic activities which will provide inputs to and markets for other businesses in the state;~~
- ~~(6) (5) Educational institutions shall mean means nonprofit public and private colleges, community colleges, state colleges, and universities in the state; and~~
- ~~(7) (6) Value-adding industry shall mean means an economic enterprise that adds value through processing, fabrication, or other means to goods or services.~~

Sec. 11. Section 81-1201.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-1201.02 There is hereby created an executive department of state

government to be known as the Department of Economic Development, and a ~~commission to be known as the Economic Development Commission~~. The purpose of the department and the ~~commission shall be~~ is to maintain and develop the economy of the state to provide opportunities for the people which will enhance and expand the quality of their lives. The department and the ~~commission~~ shall promote the:

- (1) Expansion of personal income through the development of business and employment opportunities which afford sufficient compensation to ensure an adequate standard of living for the people of the state;
- (2) Development of an economy that contributes to and enhances the environmental quality of the state;
- (3) Development of a stable economy within the state;
- (4) Development of economic health and opportunities throughout the communities and counties of the state;
- (5) Development of an economy which is capable of providing the necessary revenue for state government, local governments, and other political subdivisions of the state and in this way minimize the tax burden faced by all taxpayers of the state; and
- (6) Structuring of the department and its staff as a nonpolitical, professionally managed division of state government.

Sec. 12. Section 81-1201.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-1201.03 The chief executive officer of the department shall be the Director of Economic Development who shall be appointed by the Governor with the consent of a majority of the Legislature. The director shall administer the affairs of the department and shall serve at the pleasure of the Governor. The director shall have equal rank with the heads of other state departments, and his or her salary shall be fixed by the Governor, ~~with the advice of the commission~~. The director shall employ a deputy director with significant and extensive professional experience in the field of economic development. The director shall employ division directors and such other assistants, professional staff, and other employees as he or she deems necessary to effectively carry out sections 81-1201.01 to 81-1201.20 within the appropriations the Legislature provides.

Sec. 13. Section 81-1201.18, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-1201.18 (1) The department shall administer the Community Development Block Grant Program. In addition to the performance review requirements in section 81-1201.10, the department shall develop an ongoing program of monitoring the impact of grants on the communities receiving the grants. The monitoring program shall include, but not be limited to, the following information: ~~(1)~~ (a) The status of the project for which such grant was awarded; ~~(2)~~ (b) the grant amount; ~~(3)~~ (c) the local government contribution; ~~(4)~~ (d) the private financial contribution; ~~(5)~~ (e) the goals and objectives of the grant; and ~~(6)~~ (f) the impact of the grant relative to the goals and objectives of the grant.

(2) The department, ~~in consultation with the commission~~, shall determine community development objectives, state priorities, and guidelines for the distribution of funds for community development projects within the Community Development Block Grant Program, which shall conform to the objectives as set forth in the Housing and Community Development Act of 1974, as amended, and which shall:

- (a) Include statistical community need factors, ~~as selected by the commission~~, and
- (b) Require that grant applicants submit evidence of a community assessment process for the project, which assessment process the ~~commission~~ department shall design.

(3) To the extent possible, the Community Development Block Grant funds shall be allocated on a need and competitive basis.

Sec. 14. Section 81-12,149, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-12,149 (1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement. The plan shall set forth selection criteria to be used to

determine priorities of the fund which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development, ~~in consultation with the Economic Development Commission,~~ shall submit the plan to the Governor for approval.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

Sec. 15. Section 81-12,150, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-12,150 The Department of Economic Development, ~~in consultation with the Economic Development Commission,~~ shall adopt and promulgate rules and regulations to carry out the Site and Building Development Act.

Sec. 16. Section 81-12,155, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-12,155 In selecting projects to receive financial assistance under the Business Innovation Act, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall set forth selection criteria to be used to determine priorities which are appropriate to local conditions and the state's economy, including the state's immediate need for innovation development, proposed increases in jobs and investment, private dollars leveraged, industry support and participation, and repayment, in part or in whole, of financial assistance awarded under the act. The ~~Economic Development Commission~~ department shall submit the plan to the Governor for approval.

Sec. 17. Section 81-12,164, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-12,164 The department, ~~in consultation with the Economic Development Commission,~~ may adopt and promulgate rules and regulations to carry out the Business Innovation Act, including application procedures.

Sec. 18. Section 81-1361, Reissue Revised Statutes of Nebraska, is amended to read:

81-1361 Each agency shall submit a plan for that agency to the office ~~and the Affirmative Action Committee~~ for review and shall work with the administrator to insure effectiveness of the plan. Each agency shall annually update its plan based on guidelines developed by the administrator.

Sec. 19. Section 81-1368, Reissue Revised Statutes of Nebraska, is amended to read:

81-1368 Each agency plan shall be reviewed by the office and approved or disapproved after submission. In every case when noncompliance is indicated, efforts shall be made to secure compliance through a corrective action plan. A specific commitment shall be put forth in writing. The commitment shall indicate the precise action to be taken and dates for completion. The time period allowed shall be no longer than thirty calendar days to effect the desired change. If an agency's plan does not comply with the rules and regulations adopted and promulgated by the office or if the agency's goals and timetables are not being met, the office shall meet with the director of the agency to discuss the deficiencies. ~~If an agreement cannot be reached in the informal meeting, the agency's noncompliance shall be reviewed by the Affirmative Action Committee.~~ Agency directors shall take responsibility for all noncompliance within their particular agency. In all cases when such corrective action plan does not resolve the noncompliance, the Affirmative Action Committee office shall report such noncompliance to the Governor. Such report shall be in writing and shall be made available to the news media at the same time that it is submitted to the Governor. The Governor shall take appropriate action to resolve the noncompliance elements and issues which were cited by the office, ~~and the Affirmative Action Committee.~~

Sec. 20. Section 81-3607, Reissue Revised Statutes of Nebraska, is amended to read:

81-3607 The Nebraska Development Network Program is created in the ~~Rural Development Commission.~~ The commission Department of Economic Development. The department shall administer the program and may contract for services to carry out the purposes of the Nebraska Development Network Program.

Sec. 21. Section 81-3609, Reissue Revised Statutes of Nebraska, is amended to read:

81-3609 The Legislature finds and declares:

(1) That it is a benefit to the state and in the best interest

of the citizens of Nebraska to deliver economic and community development services in an integrated and coordinated system through increased community, state, and federal cooperation and collaboration;

(2) That the Partnership for Rural Nebraska is recognized as a strategic partnership between the State of Nebraska, the University of Nebraska, and the United States Department of Agriculture, the purpose of which is to provide a formal structure of organizational collaboration and delivery of rural economic and community development resources and programs to Nebraska's rural communities;

(3) That the Partnership for Rural Nebraska has earned national recognition as a model for cooperative and collaborative delivery of services; and

(4) That it encourages the continued participation of the State of Nebraska, through the Department of Economic Development, ~~the Rural Development Commission,~~ and the University of Nebraska, in the Partnership for Rural Nebraska.

Sec. 22. Original sections 54-1158, 54-1161, 54-1162, 54-1163, 54-1165, 54-1168, 54-1169, 54-1170, 54-1172, 81-1201.01, 81-1201.02, 81-1201.03, 81-1361, 81-1368, 81-3607, and 81-3609, Reissue Revised Statutes of Nebraska, and sections 81-1201.18, 81-12,149, 81-12,150, 81-12,155, and 81-12,164, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 23. The following sections are outright repealed: Sections 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160, 81-1201.05, 81-1201.06, 81-1363, 81-1364, 81-1365, 81-1366, 81-3601, 81-3603, and 81-3604, Reissue Revised Statutes of Nebraska, and sections 81-8,139.01, 81-1201.04, 81-3602, and 81-3605, Revised Statutes Cumulative Supplement, 2012.