

LEGISLATIVE BILL 309

Approved by the Governor May 27, 1977

Introduced by Executive Board, Marvel, 33, Chmn.

AN ACT relating to building maintenance; to adopt the Deferred Building Renewal Act; to provide for expiration; to amend sections 85-106 and 85-304, Revised Statutes Supplement, 1976; to provide duties; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. As used in this act, unless the context otherwise requires:

(1) Renewal work shall mean any deferred or preventive maintenance projects that will restore facilities and utility systems as closely as practicable to their original constructed condition as defined by the Task Force for Building Renewal. The standard of quality maintenance shall be set after consideration of the facility users, geographical location, condition, and physical analysis of each building;

(2) Deferred maintenance shall mean any measures taken to correct structural or mechanical defects that would endanger the integrity of a building or its components or allow unwanted penetration of the building by the outdoor elements, or measures taken to correct a waste of energy, including minor repairs, alteration and maintenance painting, cost of materials, hiring of building maintenance personnel, and other necessary expenses for the maintenance of roofs, exterior walls, retaining walls, foundations, flooring, ceilings, partitions, doors, building hardware, windows, plaster, structural ironwork, screens, plumbing, heating and air conditioning equipment, or electrical systems, but excluding decorative finish or furnishing, building additions, or installation of additional summer-winter air conditioning;

(3) Preventive maintenance shall mean any measures taken to prevent failures in the building systems listed in subdivision (2) of this section; and

(4) Task force shall mean the Task Force for Building Renewal.

Sec. 2. There is hereby established the Task Force for Building Renewal to implement deferred

maintenance projects in state buildings. On or before July 10, 1977, the Governor shall appoint an administrator-consultant as the chief officer of the task force. The administrator-consultant shall retain not more than four consultants to assist him in the administration of the provisions of sections 1 to 18 of this act. Each task force member shall be selected on the basis of his ability to administer and accomplish efficient building maintenance and shall have knowledge of and experience in the contracting of construction projects and the maintaining of buildings. Members shall be selected so that the task force represents diversified expertise needed for maintenance judgments and if practical, each member should reside at a location that allows efficient visitation of state-owned buildings.

Sec. 3. The compensation of the members of the task force shall be established by the Governor on a per diem basis, and they shall work the days and hours required to accomplish the task. Members of the task force shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties in the same manner and to the same extent as are full-time state employees.

Sec. 4. The agencies, boards, or commissions who are responsible for state buildings shall work toward the goal that all state structures, excepting those to be demolished within the agency's six-year capital construction plans, will be renovated to a state of good repair by the date specified in section 19 of this act.

Sec. 5. By August 15, 1977, each state agency operating or managing state-owned buildings, utilities, or grounds shall make a detailed inspection of facilities under its care to determine accurately what renewal work items exist and the probable cost and time required for doing the work. A detailed report of the findings shall be made to the Governor, listing for each building, utility, or grounds improvement, the individual work items with estimated quantities and unit prices. Such report shall also include a listing of projects needed in state-owned structures to accommodate persons with handicaps as provided in Chapter 72, article 11. The report shall state which work items are recommended to be done under contract and which are proposed to be done by agency forces with an estimate of man hours and labor costs. The Governor shall refer the report to the task force for its study and recommendations pursuant to section 6 of this act.

Sec. 6. The report required by section 5 of this act shall classify work items by urgency of need

using three classes defined as follows:

Class I - items for immediate action to provide safety and protection against costly damage;

Class II - items of imperative need to correct problems that if neglected will quickly deteriorate further into Class I items that must be done to provide efficient use of the facility or system; and

Class III - additional items necessary to fully renew the facility or system.

Each agency shall also estimate the cost of adequate scheduled and preventive maintenance and shall prepare a schedule it feels necessary to provide adequate but not excessive preventive maintenance. The agency may call on the task force for assistance in preparing such estimate.

The task force shall recommend to the Governor the classification of projects and priorities to be established for grants within the classifications. The Governor shall make such classification of projects and establish such priorities as shall be best calculated to achieve the purposes of sections 1 to 18 of this act. Any energy conservation project shall be assigned a priority of Class II or higher. The task force shall also review the list of projects needed to accommodate persons with handicaps and present to the Legislature and the Governor a plan for the removal of barriers to the handicapped.

Sec. 7. There is hereby created under the control of the Governor, for allocation to building renewal projects of the various agencies, a fund to be known as the Building Renewal Allocation Fund, to consist of such money as shall be appropriated by the Legislature. Such appropriation is declared to consist of building renewal funds which shall be separate and distinct from the program continuation funds and project construction funds. Any money in such fund available for investment shall be invested by the state investment officer pursuant to Chapter 71, article 12.

Sec. 8. The Building Renewal Allocation Fund shall be expended for the purpose of building renewal work and for no other purpose. Each agency shall be allocated funds as directed by the Governor using the system of priorities established in section 6 of this act. In the making of allocations from such fund, the Governor shall follow a policy that first considers the use of private enterprise services for deferred

maintenance projects while using state employees primarily for the performance of preventive maintenance. When such preventive maintenance is of a nature that only occasional highly technical attention is scheduled, primary consideration shall be given to using contractual services.

Sec. 9. Not later than December 15 of each year, each agency shall submit to the Governor, in the form prescribed by him, a report of its proposed building renewal projects for the next fiscal year. Such report shall contain the information specified in section 5 of this act and shall constitute a request for the allocation of funds from the Building Renewal Allocation Fund. The Governor shall, with the advice of the task force, allocate from such fund the sum necessary for the accomplishment of projects approved by him. No allocation from the fund shall be made to any project for the removal of barriers to the handicapped unless such project was specifically approved by the Legislature in the making of appropriations to the fund. Allocations shall be made in a manner that assures accomplishment of Class I projects first, followed by accomplishments of Class II projects, and then accomplishment of Class III projects, unless doing so in a particular case would violate sound building renewal policies and practices. The amount of such allocation shall not be transferred to the agency but shall remain within the Building Renewal Allocation Fund subject to the control of the Governor until disbursed pursuant to sections 1 to 18 of this act.

Sec. 10. The Governor, using such staff assistance as he may desire, shall monitor the activities of the task force and the agencies. To assure adequate accomplishment of the terms of each allocation, the Governor shall assure that expert inspection of projects is made by a competent inspector from either his staff, the task force, or the agency. For the purpose of making partial payments as the work progresses, the Governor may authorize the issuance of warrants from the Building Renewal Allocation Fund upon certificates of the inspector in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuance of the project in a sum not exceeding ninety-five per cent of the cost thereof. Upon the certificate of the inspector that the project has been completed and the terms of the allocation have been complied with, the Governor shall authorize the issuance of a warrant for the balance due the contractor.

Sec. 11. No building held in trust, property of the Board of Educational Lands and Funds, nor highways or roads and revenue bond structures shall receive funds for

renewal and maintenance under sections 1 to 18 of this act.

Sec. 12. The cost of administration of the provisions of sections 1 to 18 of this act shall be paid from the Building Renewal Allocation Fund as the Legislature shall appropriate. The Governor shall each year submit a specific itemized appropriation request to cover such administrative costs.

Sec. 13. Within ten days after the effective date of this act, the Executive Board of the Legislative Council shall appoint a select committee of the Legislative Council to consist of four members of the Legislature, to be known as the Committee on Building Maintenance, to exercise oversight of the deferred and preventive maintenance activities required in sections 1 to 18 of this act. The selection of members shall be made on the basis of maintenance interest and knowledge. At least one member shall be selected from the Committee on Appropriations. On or before the sixth day of the 1979 session, the board shall appoint or reappoint members of the committee. Such committee may utilize Legislative Council staff as required or may contract for necessary expertise. Such staff shall provide close liaison with the task force, all agencies subject to sections 1 to 18 of this act, and the Governor.

Sec. 14. Such Committee on Building Maintenance shall meet as necessary, but not less than four times annually, to monitor the activities required of the task force and the agencies, boards, and commissions who are responsible for the state buildings. Such committee shall study progress and propose any necessary legislation to assure that the building assets of the state are protected through proper maintenance. The committee shall be terminated at the final adjournment of the 1981 session of the Legislature.

Sec. 15. A copy of all estimates, reports, and allocation requests required by this act shall be submitted to the Legislative Fiscal Analyst.

Sec. 16. When the estimated cost of a building renewal project is less than fifteen thousand dollars, the Governor may authorize the use of informal bidding procedures if he considers it to be in the best interest of the state.

Sec. 17. On or before June 30, 1980, the Governor shall cause a transition of activities in deferred and preventive maintenance back to each agency responsible for state-owned structures.

Sec. 18. Sections 1 to 18 of this act shall be known and may be cited as the Deferred Building Renewal Act.

Sec. 19. Sections 1 to 18 of this act shall expire on July 1, 1980, except as provided in section 14 of this act.

Sec. 20. That section 85-106, Revised Statutes Supplement, 1976, be amended to read as follows:

85-106. The Board of Regents shall have power (1) to enact laws for the government of the university; (2) to elect a president, vice presidents, chancellors, vice chancellors, deans, associate deans, assistant deans, directors, associate directors, assistant directors, professors, associate professors, assistant professors, instructors, other members of the faculty staff, and employees generally of the university, and to provide for academic tenure for professors, associate professors, and assistant professors; (3) to prescribe the duties of such persons, not inconsistent with section 85-1,105; (4) to fix their compensation; (5) to provide, in its discretion, retirement benefits for present and future employees of the university, subject to the following: (a) The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary contributions for both past service and future service being treated in the university budget in the same way as any other operating expense, (b) the maximum university contribution under any such retirement plan shall not exceed the sum of (i) six per cent of each university employee's salary or wage earnings for any calendar year before any agreement for reduction of salary or wage earnings, and (ii) pursuant to an agreement for reduction of salary or wage earnings, the amount of the reduction of salary or wage earnings, (c) each employee's contribution shall at least equal the university's contribution under subdivision (5) (b) (i) of this section to any such retirement fund; Provided, that in lieu of making such contribution, each such employee may enter into an agreement for reduction of salary or wages for the purchase by the Board of Regents of an annuity contract for such employee, under the provisions of the Technical Amendments Act of 1958 to the Internal Revenue Code, as amended, but the amount of the reduction of salary or wages allowable under this subdivision may not include credit for service prior to March 29, 1972, (d) the retirement benefits of any employee for service prior to September 1, 1961 shall be those provided under the retirement plan then in force which benefits shall not be abridged; Provided, that such retirement benefits shall become fully vested in the

event of an employee's termination of employment, if such an employee shall have at least ten years of service at the date of termination, and (e) the investment of retirement funds shall be pursuant to sections 72-1237 to 72-1259, but no change in the type of investment of such funds shall be made without the prior approval of the Board of Regents; (6) to equalize and provide for uniform benefits for all present and future employees, including group life insurance, group hospital-medical insurance, group long-term disability income insurance and retirement benefits; (7) to provide, through the University Extension Division, for the holding of classes at various localities throughout the state avoiding unnecessary duplication of courses offered by other educational institutions in such localities; (8) to remove the president, vice presidents, chancellors, vice chancellors, deans, associate deans, assistant deans, directors, associate directors, assistant directors, professors, associate professors, assistant professors, instructors, other members of the faculty staff, and employees generally, when the interests of the university shall require it; and (9) to pay expenses for recruitment of academic, administrative, professional, and managerial personnel; and (10) shall have the duty to institute a continuing program of preventive maintenance and a program of deferred maintenance consistent with the provisions of sections 1 to 18 of this act.

Sec. 21. That section 85-304, Revised Statutes Supplement, 1976, be amended to read as follows:

85-304. The board shall have the power:

(1) To appoint a president and such other persons as may be required for each school;

(2) To fix their compensation and prescribe their duties;

(3) To remove all persons appointed, but the affirmative votes of four members of the board shall be necessary to remove a president or an assistant during the time for which such persons were appointed;

(4) Through an extension division to provide for holding of classes at various localities throughout the state, avoiding unnecessary duplication of courses offered by other educational institutions in such localities;

(5) To acquire real and personal property and dispose of the same whenever any of the state colleges will be benefited thereby, but no grounds upon which any

buildings of any of the state colleges are located shall be disposed of without the consent of the Legislature;

(6) To pay expenses for recruitment of academic, administrative, professional, and managerial personnel; and

(7) To provide benefits for all present and future employees, including group life insurance, group hospital-medical insurance, and group long-term disability income insurance; and

(8) Shall have the duty to institute a continuing program of preventive maintenance and a program of deferred maintenance consistent with the provisions of sections 1 to 18 of this act.

Sec. 22. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 23. That original sections 85-106 and 85-304, Revised Statutes Supplement, 1976, are repealed.

Sec. 24. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.