

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 806

Introduced by Mello, 5.

Read first time January 07, 2016

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to cities; to adopt the Riverfront Development

2 District Act; and to provide a duty for the Revisor of Statutes.

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

1 Section 1. Sections 1 to 17 of this act shall be known and may be
2 cited as the Riverfront Development District Act.

3 Sec. 2. The Legislature finds and declares as follows:

4 (1) Cities in the United States and throughout the world have been
5 historically established along the banks of major rivers due to the role
6 rivers played as early trade routes as well as other inherent strategic
7 and economic benefits;

8 (2) As national, state, and local economies have changed over time,
9 many cities have moved away from their historic riverfronts, resulting in
10 abandonment and blight in close proximity to their central city cores;

11 (3) Many cities in this state that were established along the banks
12 of Nebraska's rivers have grown away from their riverfronts, and these
13 cities have riverfront areas in need of improvement and development but
14 lack the tools and funding necessary to improve or develop such areas;
15 and

16 (4) The purpose of the Riverfront Development District Act is to
17 provide a means by which such cities may effectively fund, manage,
18 promote, and develop riverfronts within their corporate limits.

19 Sec. 3. For purposes of the Riverfront Development District Act:

20 (1) Authority means a riverfront development authority established
21 in accordance with section 5 of this act;

22 (2) City means a city of the metropolitan, primary, first, or second
23 class;

24 (3) District means a riverfront development district established in
25 accordance with section 4 of this act; and

26 (4) River means the Missouri River, Platte River, Republican River,
27 Niobrara River, Loup River, or Elkhorn River, or any branches of the
28 Missouri River, Platte River, Republican River, Niobrara River, Loup
29 River, or Elkhorn River, but does not include any other tributaries of
30 the Missouri River, Platte River, Republican River, Niobrara River, Loup
31 River, or Elkhorn River.

1 Sec. 4. (1) A city may create a riverfront development district by
2 the adoption of an ordinance which specifies the following:

3 (a) The name of the river or rivers along which the district will be
4 created;

5 (b) The boundaries of the district, a map of which shall be
6 incorporated by reference in the ordinance;

7 (c) The qualifications and terms of office of members of the
8 authority established under section 5 of this act;

9 (d) A statement that the businesses and users of space in the
10 district shall be subject to the general business occupation tax or that
11 the real property in the district will be subject to the special
12 assessment authorized by the Riverfront Development District Act;

13 (e) The proposed method of assessment to be imposed within the
14 district or the initial rate of the occupation tax to be imposed; and

15 (f) Any penalties to be imposed for failure to pay the occupation
16 tax or special assessment.

17 (2) The ordinance shall recite that the method of raising revenue
18 shall be fair and equitable. In the use of a general business occupation
19 tax, the tax shall be based primarily on the square footage of the
20 owner's and user's place of business. In the use of a special assessment,
21 the assessment shall be based upon the special benefit to the property
22 within the district.

23 (3) The boundaries of any district created under this section shall
24 be wholly contained within the corporate limits of the city and shall not
25 extend more than one-half mile from the edge of the river or rivers along
26 which the district is created.

27 Sec. 5. (1) Following the creation of a district under section 4 of
28 this act, the mayor, with the approval of the city council, shall appoint
29 a riverfront development authority to oversee and manage the district.
30 The authority shall consist of five or more members which shall have,
31 collectively, skills, expertise, and knowledge in residential,

1 commercial, and mixed-use real estate development, financing, law, asset
2 management, economic and community development, and tourism promotion.

3 (2) The members of the authority shall select annually from among
4 themselves a chairperson, a vice-chairperson, a treasurer, and such other
5 officers as the authority may determine.

6 (3) A public official or public employee shall be eligible to be a
7 member of the authority.

8 (4) A vacancy on the authority shall be filled in the same manner as
9 the original appointment.

10 (5) Members of the authority shall serve without compensation.

11 (6) The authority shall meet in regular session according to a
12 schedule adopted by the authority and shall also meet in special session
13 as convened by the chairperson or upon written notice signed by a
14 majority of the members.

15 (7) Two or more cities which have a contiguous riverfront along the
16 same river may enter into an agreement pursuant to the Interlocal
17 Cooperation Act to create a single authority to jointly oversee and
18 manage the districts created in such cities. An agreement entered into
19 under this subsection shall contain the information required by section 4
20 of this act.

21 (8) An authority which oversees and manages a district bordering
22 another state may enter into an agreement pursuant to the Interlocal
23 Cooperation Act with a political subdivision, public agency, or quasi-
24 public agency in such state to jointly oversee and manage the district
25 and any similar district or districts in such state.

26 (9) Each authority created pursuant to the Riverfront Development
27 District Act shall be deemed to be a public corporation acting in a
28 governmental capacity and a political subdivision of the state and shall
29 have permanent and perpetual duration until terminated and dissolved in
30 accordance with section 16 of this act.

31 Sec. 6. An authority shall have the following powers:

1 (1) To adopt, amend, and repeal bylaws for the regulation of its
2 affairs and the conduct of its business;

3 (2) To sue and be sued in its own name and plead and be impleaded in
4 all civil actions;

5 (3) To procure insurance or guarantees from the state or federal
6 government of the payments of any debts or parts thereof incurred by the
7 authority and to pay premiums in connection therewith;

8 (4) To invest money of the authority in instruments, obligations,
9 securities, or property determined proper by the authority and name and
10 use depositories for its money;

11 (5) To enter into contracts and other instruments necessary,
12 incidental, or convenient to the performance of its duties and the
13 exercise of its powers, including, but not limited to, agreements under
14 the Interlocal Cooperation Act for the joint exercise of powers under the
15 Riverfront Development District Act;

16 (6) To make and execute contracts and other instruments necessary or
17 convenient to the exercise of the powers of the authority;

18 (7) To create and implement plans for improvements and redevelopment
19 within the boundaries of the district, either on its own or in
20 conjunction with the city or other public and private entities;

21 (8) To develop, manage, and coordinate public activities and events
22 taking place within the boundaries of the district;

23 (9) To acquire, construct, maintain, and operate public offstreet
24 parking facilities for the benefit of the district;

25 (10) To improve any public place or facility within the boundaries
26 of the district, including landscaping, physical improvements for
27 decoration or security purposes, and plantings;

28 (11) To construct or install pedestrian shopping malls or plazas,
29 sidewalks or moving sidewalks, parks, meeting and display facilities, bus
30 stop shelters, lighting, benches or other seating furniture, sculptures,
31 trash receptacles, shelters, fountains, skywalks, pedestrian and

1 vehicular overpasses and underpasses, and any other useful or necessary
2 public improvements within the boundaries of the district;

3 (12) To lease, acquire, construct, reconstruct, extend, maintain, or
4 repair parking lots or parking garages, both above and below ground, or
5 other facilities for the parking of vehicles within the boundaries of the
6 district;

7 (13) To maintain, repair, and reconstruct any improvements or
8 facilities authorized in the Riverfront Development District Act;

9 (14) To enforce parking regulations and the provision of security
10 within the boundaries of the district;

11 (15) To employ such agents and employees, permanent or temporary, as
12 necessary;

13 (16) To fix, charge, and collect fees and charges for services
14 provided by the authority;

15 (17) To fix, charge, and collect rents and leasehold payments for
16 the use of real property of the authority;

17 (18) To grant or acquire a license, easement, lease, as lessor and
18 as lessee, or option with respect to real property of the authority;

19 (19) To make recommendations to the city as to the use of any
20 occupation tax funds collected under section 11 of this act or any
21 special assessment funds collected under section 12 of this act;

22 (20) To administer the use of occupation tax funds or special
23 assessment funds if directed by the mayor and city council; and

24 (21) To do all other things necessary or convenient to achieve the
25 objectives and purposes of the authority.

26 Sec. 7. (1) An authority may acquire real property or interests in
27 real property by gift, devise, transfer, exchange, foreclosure, purchase,
28 or otherwise on terms and conditions and in a manner the authority
29 considers proper.

30 (2) An authority may accept transfers of real property or interests
31 in real property from political subdivisions upon such terms and

1 conditions as agreed to by the authority and the political subdivision.

2 (3) An authority may convey, exchange, sell, transfer, grant,
3 release and demise, pledge, and hypothecate any and all interests in,
4 upon, or to real property of the authority.

5 (4) An authority shall hold all property acquired by the authority
6 in its own name and maintain all of its real property in accordance with
7 the laws and ordinances of the jurisdiction in which the real property is
8 located.

9 (5) An authority shall not own or hold real property located outside
10 the boundaries of the district which it oversees and manages.

11 (6) An authority shall not rent or lease any of its real property
12 for residential use.

13 Sec. 8. The real property of an authority and the authority's
14 income and operations are exempt from all taxation by the state or any
15 political subdivision thereof.

16 Sec. 9. An authority may receive funding through grants and loans
17 from the city that created the authority, from other municipalities, from
18 the state, from the federal government, and from other public and private
19 sources.

20 Sec. 10. (1) An authority shall have the power to issue bonds for
21 any of its corporate purposes, the principal and interest of which are
22 payable from its revenue generally. Any of such bonds shall be secured by
23 a pledge of any revenue of the authority or by a mortgage of any property
24 owned by the authority.

25 (2) The bonds issued by an authority are hereby declared to have all
26 the qualities of negotiable instruments under the Uniform Commercial
27 Code.

28 (3) The bonds of an authority and the income therefrom shall at all
29 times be exempt from all taxes imposed by the state or any political
30 subdivision thereof.

31 (4) Bonds issued by an authority shall be authorized by resolution

1 of the authority and shall be limited obligations of the authority. The
2 principal and interest, costs of issuance, and other costs incidental
3 thereto shall be payable by any revenue of the authority or by the
4 disposition of any assets of the authority. Any refunding bonds issued
5 shall be payable from any source described in this subsection or from the
6 investment of any of the proceeds of the refunding bonds and shall not
7 constitute an indebtedness or pledge of the general credit of any city
8 within the meaning of any constitutional or statutory limitation of
9 indebtedness and shall contain a recital to that effect. Bonds of the
10 authority shall be issued in such form, shall be in such denominations,
11 shall bear interest, shall mature in such manner, and shall be executed
12 by one or more members of the authority as provided in the resolution
13 authorizing the issuance thereof. Such bonds may be subject to redemption
14 at the option of and in the manner determined by the authority in the
15 resolution authorizing the issuance thereof.

16 (5) Bonds issued by the authority shall be issued, sold, and
17 delivered in accordance with the terms and provisions of a resolution
18 adopted by the authority. The authority may sell such bonds in such
19 manner, either at public or private sale, and for such price as it may
20 determine to be in the best interests of the authority. The resolution
21 issuing bonds shall be published in a newspaper in or of general
22 circulation within the city that created the authority.

23 (6) Neither the members of the authority nor any person executing
24 the bonds shall be liable personally on any such bonds by reason of the
25 issuance thereof. Such bonds or other obligations of an authority shall
26 not be a debt of any city and shall so state on their face, nor shall any
27 city nor any revenue or any property of any city be liable for such bonds
28 or other obligations except as provided in the Riverfront Development
29 District Act.

30 Sec. 11. (1) A city may levy a general business occupation tax upon
31 the businesses and users of space within a district for the purpose of

1 paying all or any part of the total costs and expenses of such district.
2 Notice of a hearing on any such tax levied under the Riverfront
3 Development District Act shall be given to the businesses and users of
4 space of such district, and appeals may be taken, in the manner provided
5 in section 13 of this act.

6 (2) Any occupation tax imposed pursuant to this section shall make a
7 reasonable classification of businesses, users of space, or kinds of
8 transactions for purposes of imposing such tax, except that no occupation
9 tax shall be imposed on any transaction which is subject to tax under
10 section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602,
11 or 77-4008 or which is exempt from tax under section 77-2704.24. The
12 collection of a tax imposed pursuant to this section shall be made and
13 enforced in such manner as the city council shall by ordinance determine
14 to produce the required revenue. The city council may provide that
15 failure to pay the tax imposed pursuant to this section shall constitute
16 a violation of the ordinance and subject the violator to a fine or other
17 punishment as provided by ordinance.

18 Sec. 12. (1) A city may levy a special assessment against the real
19 estate located in a district, to the extent of the special benefit
20 thereto, for the purpose of paying all or any part of the total costs and
21 expenses of such district. The amount of each special assessment shall be
22 determined by the city council sitting as a board of equalization.
23 Assessments shall be levied in accordance with the method of assessment
24 proposed in the ordinance creating the district. If the city council
25 finds that the proposed method of assessment does not provide a fair and
26 equitable method of apportioning costs, then it may assess the costs
27 under such method as the city council finds to be fair and equitable.
28 Notice of a hearing on any such tax levied under the Riverfront
29 Development District Act shall be given to the landowners in such
30 district, and appeals may be taken, in the manner provided in section 13
31 of this act.

1 (2) All special assessments levied under the act shall be liens on
2 the property and shall be certified for collection and collected in the
3 same manner as special assessments for improvements and street
4 improvement districts of the city are collected.

5 Sec. 13. Notice of a hearing on any general business occupation tax
6 shall be given to the businesses and users of space of such district and
7 notice of a hearing on any special assessments to be levied shall be
8 given to the landowners in such district by publication of the
9 description of the land, the initial amount of the occupation tax to be
10 levied or the amount proposed to be assessed, and the general purpose for
11 which such occupation tax or special assessment is to be levied one time
12 each week for three weeks in a newspaper in or of general circulation in
13 the city. The notice shall provide the date, time, and place of hearing
14 to hear any objections or protests by landowners in the district as to
15 the amount of assessment made against their land or protests by
16 businesses and users of space of the district as to the initial amount of
17 occupation tax to be levied. A direct appeal to the district court of the
18 county in which such city is located may be taken from the decision of
19 the city council in the same manner and under like terms and conditions
20 as appeals may be taken from the amount of special assessments levied in
21 street improvement districts in such city as now provided by law.

22 Sec. 14. If, subsequent to the levy of taxes or assessments, the
23 use of any parcel of land shall change so that, had the new use existed
24 at the time of making such levy, the assessment or levy on such parcel
25 would have been higher than the levy or assessment actually made, an
26 additional assessment or levy may be made on such parcel by the city
27 council taking into consideration the new and changed use of the
28 property. Reassessments or changes in the rate of levy of assessments or
29 taxes may be made by the city council after notice and hearing as
30 provided in section 13 of this act. The city council shall adopt a
31 resolution of intention to change the rate of levy at least fifteen days

1 prior to the hearing required for changes, which shall specify the
2 proposed change and shall give the time and place of the hearing. The
3 levy of any additional assessment or tax shall not reduce or affect in
4 any manner the assessments previously levied.

5 Sec. 15. (1) The authority shall cause minutes and a record to be
6 kept of all its proceedings. Meetings of the authority shall be subject
7 to the Open Meetings Act.

8 (2) All of an authority's records and documents shall be considered
9 public records for purposes of sections 84-712 to 84-712.09.

10 (3) The authority shall provide quarterly reports to the city that
11 created the authority on the authority's activities pursuant to the
12 Riverfront Development District Act. The authority shall also provide an
13 annual report to the city that created the authority and to the Urban
14 Affairs Committee of the Legislature by January 31 of each year
15 summarizing the authority's activities for the prior calendar year. The
16 report submitted to the committee shall be submitted electronically.

17 Sec. 16. (1) A district or an authority may be dissolved sixty
18 calendar days after a resolution of dissolution is approved by the city
19 council of the city that created the district or authority. Notice of
20 consideration of a resolution of dissolution shall be given by publishing
21 such notice in a newspaper in or of general circulation within the city
22 that created the district or authority. Such notice shall also be sent by
23 certified mail to the trustee of any outstanding bonds of the authority.

24 (2) Upon dissolution of an authority, all real property, personal
25 property, and other assets of the authority shall become the assets of
26 the city that created the authority.

27 (3) Upon dissolution of a district, any proceeds of the occupation
28 tax or the special assessment relating to such district shall be subject
29 to disposition as the city council shall determine.

30 Sec. 17. (1) No member of an authority or employee of an authority
31 shall acquire any interest, direct or indirect, in real property located

1 within the boundaries of any district overseen and managed by the
2 authority.

3 (2) No member of an authority or employee of an authority shall have
4 any interest, direct or indirect, in any contract or proposed contract
5 for materials or services to be furnished or used by the authority.

6 Sec. 18. The Revisor of Statutes shall assign sections 1 to 17 of
7 this act to Chapter 19.