



Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 810

Hearing Date: 2/6/2001
Committee On: Urban Affairs

Introducers: (Urban Affairs Committee)
Title: Change sanitary and improvement district formation, trustees, and fund provisions

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

7	Yes	Senators Connealy, Erdman, Hartnett, Janssen, Preister, Quandahl, and Redfield
	No	
	Present, not voting	
	Absent	

Proponents:
 Bill Stadtwald
 Larry Forman

Representing:
 RA for Urban Affairs
 Atty for SID #206

Opponents:
 none

Representing:

Neutral:
 Lynn Rex

Representing:
 League of NE Municipalities

Summary of purpose and/or changes:

The bill deals with sanitary and improvement districts, proposing to change provisions relating to the numbering or designation of SIDs and to authorize the maintenance of a separate service fee fund under the control of the district clerk.

This legislation is introduced by the Urban Affairs Committee to address two problems with sanitary and improvement districts identified by the Auditor of Public Accounts and brought to the attention of the Committee in conjunction with its 1999 interim study on Urban Affairs Committee issues and one additional issue that came to the committee from the Secretary of State’s office.

Except for the “repealed Act” issue, the bill is constituted of the provisions of LB 1367 as introduced in the 2000 legislative session (by the Urban Affairs Committee) along with the provisions of the (technical) committee amendment. LB 1367 had its public hearing on February 8 of 2000 and was advanced to general file with a committee amendment. The bill remained on general file where it died when the Legislature adjourned sine die.

The first problem addressed in the bill (from the 1999 study) is that of the consecutive numbering of sanitary and improvement districts. It is the practice for some county clerks to assign numbers to proposed SIDs prior to their formal creation with the result that some numbers are assigned to SIDs which are never formed or which are formed some considerable time after later numbered SIDs are formed.

To remedy that problem, in Section 2 of this bill, Sec. 31-730 is amended to provide that the numbers for SIDs are assigned by the district court which formally declares an SID to be formed at the time of their creation, not the county clerk. The number assigned is the next consecutive unassigned number following that of the last SID to be formed in that county.

The second problem (from the 1999 study) is that of the service fee fund. The State Auditor's office, in its evaluation of annual audit reports from SIDs has discovered that many smaller SIDs are having difficulty in complying with the requirement that the separate service fee fund be maintained by the county treasurer and that compliance is accomplished only with substantial unnecessary costs.

This bill amends Sec. 31-739 to authorize smaller SIDs to maintain separate service fee funds under their own control. Service fee funds are the funds within which are deposited all SID receipts other than those which must be deposited into the general fund or construction fund of the district. If the average weekly balance in the service fee fund for a district over the course of a full budget year does not exceed five thousand dollars, the trustees of the SID may authorize the clerk to establish an interest bearing checking account of the district to be maintained as the district's service fee fund. The county treasurer is to pay over the balance in the SID's service fee fund account to the clerk. The deposits and disbursements to and from the service fee fund could then be lawfully be made by the SID clerk from this interest bearing checking account.

Finally, it was discovered during the 2000 interim (through a communication from the Secretary of State's office) that one SID created under the Act of 1947 (which act was repealed in 1996 by the passage of LB 1321) remains in existence and therefor exists with questionable legal status.

In an attempt to regularize the situation, this bill, in section 1, amends Sec. 31-727 to ratify acts of the ostensible board of trustees of the SID since the repeal of it's enabling act, provide that the current board shall be treated as if elected under the provisions of the current (Act of 1949) SID enabling statutes, and finally, provides that from the effective date of the bill, the successors to current board members are to be elected under the current act and the SID shall operate from that date as if established under that act.

Explanation of amendments, if any:

The changes proposed in section 1 (the amendments found on pages 6 and 7, the new subdivision (5) to section 31-727) are almost certainly broader than can be accomplished constitutionally by simple legislation.

Any attempt to ratify acts of the board prior to the effective date of the act are almost certainly beyond the power of the legislature. At most, the Legislature can from the effective date of the bill: declare the SID to be considered one formed under the current act, ratify the membership of the board of trustees, and ratify acts of the board done made from the effective date of the bill.

To assist in moving the process along, the emergency clause has also been added.

Senator D. Paul Hartnett, Chairperson