



Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LB 1175

Hearing Date: February 7, 2006

Committee On: Urban Affairs

Introducer(s): (Urban Affairs Committee: Friend, Chairperson; Combs, Connealy, Cornett, Janssen, Landis, Schimek)

Title: Change provisions relating to mutual finance organizations

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

5 Yes Senators Friend, Combs, Cornett, Janssen, Landis

No

Present, not voting

2 Absent Senators Connealy, Schimek

Proponents:

Kevin Edwards
Michael Dineen
Jeff Strawn

Representing:

Papillion Fire District
Millard Suburban Fire Dist. #1
City of Papillion Fire and Rescue

Opponents:

Joe Birkel
James Templar
Paul Pedersen
Shane Weidner
Jerry Stilmock

Representing:

David City Fire Dept./Butler Co. MFO
Gering Fire Dept. Scottsbluff MFO
Lincoln County MFO/North Platte Fire Dept.
City of Norfolk
NE State Volunteer Firefighters Assoc.

Neutral:

Scott Yank

Representing:

Treasurer's Office

Summary of purpose and/or changes: This bill deals with the Mutual Finance Assistance Act, proposing to amend and adjust the provisions governing the creation and administration of mutual finance organizations, proposing to require them to truly act jointly and in common with one another, and authorizing the state treasurer to seek additional financial information in the application for funds evidencing such joint activity. The legislation is applicable to rural or suburban fire protection districts that have entered into cooperation agreements with themselves and with other first and second class cities or villages.

In 1998, with the passage of LB 1120 (introduced as LB 1119 and amended into LB 1120), the legislature adopted the Mutual Finance Assistance Act. The Act was part of a series of bills proposed by the Revenue Committee and its then Chair, Sen. Bob Wickersham, to provide an incentive for political subdivisions to merge or operate jointly and thereby reduce property tax burdens on cities and counties.

This is particularly significant for rural and suburban fire protection districts that must rely upon their counties for tax levy authority since they are not granted a specific authorization of a levy for their own use by statute.

The purpose of the act was to encourage fire districts and second class cities and villages to enter into agreements (under the Interlocal Cooperation Act or the Public Agency Act) to jointly finance one another's activities under a common property tax levy. If they created a qualifying organization under either of those acts (and qualified under the law) they would be entitled to aid in the amount of \$10.00 times the assumed population of the MFO (or the individual district if it could qualify on its own as representing 80% of the population of the county outside of the population of the metropolitan, primary, or first class cities within the county). That \$10 would be prorated if the fund was not sufficient to finance all the qualifying MFOs.

The funds for the program come from the Insurance Premiums Tax. Over \$4.8 million was to be distributed for tax year 2003 for this program.

In the course of the 2005 interim study introduced by the Urban Affairs Committee (LR 188), it came to light that some of the MFOs created to qualify for funding were not operating as unified organizations but rather solely as mechanisms for collecting state funds. The original notion of consolidated bodies budgeting and operating jointly was largely ignored.

This legislation originated with that study and is aimed at insuring that MFOs qualifying for state funds were truly operating jointly.

The bill requires that the MFOs created under the Act are truly operating and organized in conformity with either Interlocal Cooperation Act of the Joint Public Agency Act.

Additionally, each MFO making application for funds under this act is obligated to provide the State Treasurer with any additional financial information required by the Treasurer evidencing the manner in which funds under the control of the MFO had been distributed in the most immediate prior fiscal year or how the organization was proposing to distribute them in future years. Further, the evidence should show that the funds had been expended in a manner consistent with the purpose of the act.

Explanation of amendments, if any: While retaining a portion of LB 1175 (in section 7 of the committee amendment), the bulk of the committee amendment would incorporate the provisions of five other bills heard by the Urban Affairs Committee that deal with issues of municipal administration. Each of the bills was advanced by the committee on a full seven vote unanimous decision. No one testified against any of the bills.

Section 1 contains the provisions of LB 850, introduced by Sen. Beutler. That legislation applies to primary class cities (the city of Lincoln) proposing to amend Sec. 15-201.02 to authorize the purchase of real property using installment contracts or lease purchase agreements.

Section 2 contains the provisions of LB 1173 (introduced by Sen. Friend) as amended by the adopted committee amendment. This bill amends the Community Development Law, proposing to change provisions regarding tax increment (TIF) financing and the effective date of a proposal. That legislation is concerned with the determination of the effective date for the division of real estate taxes pursuant to a redevelopment plan under the Nebraska Community

Development Law (the CDL). Section 18-2147 of the CDL provides that notice of the approval of TIF for a redevelopment project be delivered to the county assessor prior to August 1 of the year in which the provision in the redevelopment plan implementing the division of real estate taxes is effective. The problem arises when a redevelopment authority or city tenders the notice to the assessor outside of the statutory timeframe. This circumstance occurs when a redevelopment plan is approved after August 1 of a particular year or when a redevelopment agreement or bond is not approved until a year subsequent to a redevelopment plan approval (a quite common circumstance). At least one county assessor has initially interpreted Section 18-2147 to mean that the effective date of the redevelopment plan is the year that the notice is given rather than the year of the passage of the redevelopment plan. The committee amendment struck the proposed new language in the original bill. First, it provides that the failure to satisfy the notice requirement of current law means that the tax increment financing division of property taxes cannot take place in any of the taxable years affected by the failure to provide the notice (with all property taxes collected going to the public bodies receiving those taxes. However, it further provides that redevelopment project valuation for the years in which TIF revenue is being set aside (the “base value” of the project) shall be the last certified valuation for the taxable year immediately prior to the effective date of the of the provision providing for the division of taxes (the application of TIF).

Section 3 contains the provisions of LB 1066, introduced by Sen. Connealy. The provisions of this bill are applicable to cities of all classes and villages, proposing to amend the Municipal Proprietary Function Act to revise the annual proprietary budget statement so that the requirements for it more closely resemble those required for general budget statements under the budget act. In the words of the statute (Sec. 18-2803), a “proprietary function” means “...a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by a municipality. “Basically, these are corporate (non-governmental) activities conducted a city or village which (a) generate revenue for the municipality and (b) expend funds based primarily on customer demand (see Sec. 18-2802). The bill proposes to amend Sec. 18-2805 which prescribes the information which must be included in the annual proposed proprietary budget statement (to be prepared thirty days prior to the start of the fiscal year of each proprietary function. It removes the current requirement that the budget statement include for the immediate two prior fiscal years a description of the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation and the amount of actual expenditures. It replaces that with a requirement that the information be provided only for the immediately preceding fiscal year. The purpose of the bill is to bring the requirements of the Municipal Proprietary Function Act into line with the requirements of the general budget act so that the two operate in parallel as originally intended.

Sections 4 and 5 incorporate the provisions of LB 452 introduced by the Urban Affairs Committee in the 2005 legislative session. This bill relates to second class cities and villages, proposing to permit them to authorize city personnel, other than peace officers to issue citations for code violations. LB 452 amends state law to allow fire inspectors and building inspectors from cities of the second class and villages to issue citations for violations of fire, health, and safety codes and constructional technical codes. Under current law, Section 19-4801, fire inspectors and building inspectors from cities of the metropolitan, primary, and first classes have this authority (as granted in 1998). This bill would extend the same authority to these other classes of municipalities. The inspectors would be required to be trained by a certified law

enforcement officer in the policies and procedures for issuance of citations. The citation would be equivalent to and have the same legal effect as a citation issued in lieu of arrest or continued custody by a peace officer if the same requirements are followed. The city of the second class or village has to be enforcing a fire, health, safety, or constructional technical code to use this authority. This was added as a committee amendment to the original version of this bill, (LB 481, 2001). A version of this legislation was introduced in 2001 (as LB 481) and heard by the Urban Affairs Committee. The committee advanced the bill to general file with a proposed committee amendment. LB 78 (introduced in 2003) consisted of the provisions of LB 481 as it was amended by the committee amendment. LB 452 is a reintroduction of the original form of LB 78. LB 78 was debated on the floor early in the 2003 but was pulled from the agenda following an IPP motion which was never taken up.

Section 6 incorporates the provisions of LB 1029 introduced by Sen. Jensen. That bill proposes to amend section 31-741 to raise the estimated cost level beyond which it is necessary for an SID board of trustees to let a construction out for bids. Under current law, during the first eight years after the election of the initial board of trustees (pursuant to section 31-735) all contracts for construction work or materials or equipment purchased must be let to the lowest responsible bidder if the expense exceeds \$10,000 (ten thousand dollars). After that initial eight year period, such contracts must be let to the lowest responsible bidder if the expense exceeds \$15,000 (fifteen thousand dollars). This proposed legislation removes the two time restrictions and provides that all contracts for construction to be done or materials or equipment purchased must be let to the lowest responsible bidder if the expense is more than \$20,000 (twenty thousand dollars). It should be noted that the legislation would bring the bidding requirements right up to the formation of the SID. This is not the case with current law. The statute being amended provides that the contracts subject to bidding are those which are entered into during "...the first eight years after the election of the initial board of trustees pursuant to section 31-735..." Section 31-735 (in relevant part) states with regard to the election of the initial board of trustees that "On the first Tuesday after the second Monday in September which is at least fifteen months after the judgment of the district court creating a sanitary and improvement district and on the first Tuesday after the second Monday in September each two years thereafter, the board of trustees shall cause a special election to be held, at which election a board of trustees of five in number shall be elected...(emphasis supplied). Thus, by the existing statute, there is no bidding requirement for SIDs during the period extending for at least fifteen months after the formation of the SID (and generally probably longer). The initial members of the board of trustees of the SID are designated by name in the articles of association creating the SID (section 31-727(3)): they are not elected. These designated trustees serve in that capacity until the initial board of trustees is elected.

Section 7 contains the sole remaining section of LB 1175, section 3. By the committee amendment, sections 1 and 2 of the original bill (those sections amending sections 35-1202 and 35-1204) have been removed. The remaining provision, that amending section 35-1207, is retained. That section provides authority for the state treasurer to require of mutual finance organizations additional information regarding their past and planned expenditures of funds distributed by the state to insure that those funds are being used in a manner consistent with the act.

Senator Mike Friend, Chairperson

