



Ninety-Ninth Legislature - Second Session - 2006
Committee Statement
LR 272CA

Hearing Date: January 31, 2006
Committee On: Urban Affairs

Introducer(s): (Connealy)

Title: Constitutional amendment to remove the requirement that property be blighted for purposes of rehabilitating, acquiring, or redeveloping such property through use of debt

Roll Call Vote – Final Committee Action:

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

Vote Results:

- | | | |
|---|---------------------|--|
| 6 | Yes | Senators Friend, Connealy, Combs, Cornett, Janssen, Landis |
| | No | |
| 1 | Present, not voting | Senator Schimek |
| | Absent | |
-

Proponents:

Ken Bunger
Steve Sorum
Gary Hedman
Loran Schmit
James Ericksen
Gary Krumland

Representing:

North Platte Economic Development Corp.
NE Ethanol Board
Southern Public Power District
Self
Individual
League of NE Municipalities

Opponents:

None

Representing:

Neutral:

Ken Johnson Jr.
Beth Bazyn Ferrell

Representing:

City of Omaha
NE Association of County Officials

Summary of purpose and/or changes: This legislation is a constitutional amendment resolution relating to tax increment financing proposing to amend Article VIII, Section 12 to remove the current requirement that property subject to tax increment financing (TIF) be “substandard and blighted”.

The proposal would repeal the current requirement that property in a redevelopment project be “substandard and blighted” as “determined by law” before tax increment financing authority could be exercised and applied to the property in the redevelopment project.

It should be noted, however, that the language has broader implications than merely removing the “substandard and blighted” requirement.

The current provisions of this section of the State Constitution grant broad discretion to cities to designate land suitable for tax increment financing and it has long been argued that the authority granted insulates cities from review by any state governmental agency regarding such determinations: city determination on suitability for TIF financing are only subject to court review.

The proposed constitutional amendment would in large measure return the authority to the legislature to determine the terms and conditions upon which tax increment financing authority could be exercised. Indeed, since it specifies that the Legislature “may” authorize cities to use TIF, it is clear that the Legislature’s authority would even extend to denial of TIF authority if it chose to do so.

At the very least, there would be a requirement that the Legislature adopt enabling legislation before the new broader authority authorized by the constitutional amendment could be exercised.

Explanation of amendments, if any: The committee amendments do not so much change the provisions of the original resolution as refine and clarify them.

First, to the list of currently “qualifying” purposes for the use of tax increment financing (rehabilitating, acquiring, or redeveloping property) is added “developing” to make clear that the new authority granted by the amendment is broader than current law (underlining the disconnect from the current requirement that qualifying property be substandard and blighted).

Second, the new language provides that the use of the authority granted by this constitutional provision can only be exercised within the ambit of a legislatively defined and established grant of authority (which is discretionary with the Unicameral).

Third, the amendment expands the authority to use TIF to counties and also to cities beyond their boundaries. Cities and villages are authorized to use TIF within their zoning jurisdictions. It would be for the legislature to determine the restrictions on the extent of county authority within areas of city jurisdiction.

Finally, the amendment would grant the authority to extend the repayment schedule for TIF from the current fifteen up to thirty years (as the legislature would provide).

Explanation of amendments, if any:

Senator Mike Friend, Chairperson