

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 102

Introduced by Natural Resources Committee:
Schrock, 38, Chairperson; Hudkins, 21; Kopplin, 3;
Kremer, 34; McDonald, 41; Stuhr, 24; and Beutler, 28;
Preister, 5

Read first time January 6, 2005

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to storm water drainage; to amend sections
2 18-501 to 18-505 and 18-507 to 18-510, Reissue Revised
3 Statutes of Nebraska; to change provisions relating to
4 sewer system charges and fees; to authorize storm water
5 management programs for cities, counties, and natural
6 resources districts as prescribed; to provide powers and
7 duties; to harmonize provisions; to provide severability;
8 and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-510, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~18-510. The terms~~ For purposes of sections 18-501 to
4 18-512 and sections 1 and 10 of this act, sewage system, sewerage
5 system, storm sewer system, and disposal plant or plants as used
6 ~~herein are defined to~~ mean and include any system or works above or
7 below ground which has for its purpose any or all of the following:
8 The removal, discharge, conduction, carrying, treatment,
9 purification, storage, or disposal of the liquid and solid waste,
10 ~~and night soil, and storm water~~ of a ~~municipality~~ city or village.
11 It is ~~intended~~ the intent of the Legislature that such sections
12 ~~18-501 to 18-512~~ may be employed in connection with sewage projects
13 which do not include the erection or enlargement of a sewage
14 disposal plant.

15 Sec. 2. Section 18-501, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 18-501. (1) Any city or village in this state is hereby
18 authorized to own, construct, equip, and operate, either within or
19 ~~without~~ outside the corporate limits of such ~~municipality~~ city or
20 village, a sewerage system, including any storm sewer system,
21 including the natural drainage components of such system, or
22 combination storm and sanitary sewer system, and plant or plants
23 for the treatment, purification, storage, and disposal in a
24 sanitary manner of the liquid and solid wastes, sewage, and night
25 soil, and storm water of such ~~municipality~~ or city or village, to
26 extend or improve any existing storm or sanitary sewer system or
27 combination storm and sanitary sewer system, or to establish storm
28 water management programs.

1 (2) Any city or village ~~shall have~~ has authority to
 2 acquire by gift, grant, purchase, or condemnation necessary lands
 3 therefor, either within or ~~without~~ outside the corporate limits of
 4 such ~~municipality~~ city or village.

5 (3) For the purpose of owning, operating, constructing,
 6 maintaining, and equipping such sewage disposal plant and sewerage
 7 system, including any storm sewer system or combination storm and
 8 sanitary sewer system, referred to in subsections (1), (2), and (4)
 9 of this section, or improving or extending such existing system,
 10 any city or village is authorized and empowered to make a special
 11 levy of not to exceed three and five-tenths cents on each one
 12 hundred dollars upon the taxable value of all the taxable property
 13 within ~~any such municipality~~ such city or village. The proceeds of
 14 the tax may be used for any of the purposes enumerated in this
 15 section and for no other purpose.

16 (4) ~~In the event~~ If the present or proposed sewage
 17 disposal system or storm sewer system of any city or village does
 18 not comply with the provisions of any other law relating to sewer
 19 systems, sewage disposal, or water pollution, such city or village
 20 shall levy each year a tax of seven cents on each one hundred
 21 dollars of taxable valuation for such purpose until sufficient
 22 funds are available for the financing of a system in compliance
 23 with law. ~~In the event~~ If any city or village is otherwise raising
 24 funds for such purpose, equivalent to such a levy, it shall not be
 25 required, in addition thereto, to make such levy.

26 Sec. 3. Section 18-502, Reissue Revised Statutes of
 27 Nebraska, is amended to read:

28 18-502. For the purpose of owning, operating,

1 constructing, and equipping such sewage disposal plant or sewerage
 2 system, including any storm sewer system, ~~or~~ improving or extending
 3 such existing system, or establishing storm water management
 4 programs and improvements, a ~~municipality~~ city or village may issue
 5 revenue bonds therefor. Such revenue bonds, ~~as provided in this~~
 6 ~~section,~~ shall not impose any general liability upon the
 7 ~~municipality~~ city or village but shall be secured only by the
 8 revenue ~~as hereinafter provided~~ of such utility as provided in
 9 sections 18-501 to 18-512 and section 1 of this act. Such revenue
 10 bonds shall be ~~sold for not less than par and~~ bear interest at a
 11 rate set by the ~~city council~~ governing body of such city or
 12 village. The amount of such revenue bonds, either issued or
 13 outstanding, shall not be included in computing the maximum amount
 14 of bonds which the ~~said municipality~~ city or village may be
 15 authorized to issue under its charter or any statute of this state.

16 Sec. 4. Section 18-503, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 18-503. The governing body of such ~~municipality~~ city or
 19 village may make all necessary rules and regulations governing the
 20 use, operation, and control ~~thereof~~ of a disposal plant and
 21 sewerage system, including any storm sewer system. The governing
 22 body may establish just and equitable rates or charges to be paid
 23 to it for the use of such disposal plant and sewerage system,
 24 including any storm sewer system, by each person, firm, or
 25 corporation whose premises are served thereby. If the ~~service~~ use
 26 charge so established is not paid when due, such sum may be
 27 recovered by the ~~municipality~~ city or village in a civil action, or
 28 it may be certified to the tax assessor and assessed against the

1 premises served, and collected or returned in the same manner as
2 other ~~municipal~~ city or village taxes are certified, assessed,
3 collected, and returned. Charges to be paid for the use of a storm
4 sewer system shall be proportionate to the storm water contribution
5 of the premises served and based upon sound engineering principles,
6 as determined by the city or village, and may include allowances or
7 adjustments for impervious land surfaces and land uses and credits
8 for storm water quantity and quality best management practices.
9 The city or village may also establish a system of exemption from
10 storm water charges for property exempt from property taxes under
11 section 77-202.

12 Sec. 5. Section 18-504, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 18-504. (1) Revenue bonds which are issued, as provided
15 in section 18-502, shall not be a general obligation of the
16 ~~municipality,~~ city or village but shall be paid only out of the
17 revenue received from the ~~service~~ use charges as provided in
18 section 18-503.

19 (2) If a ~~service~~ use rate is charged, as a part of the
20 revenue, as provided in subsection (1) of this section, to be paid
21 as ~~herein~~ provided in this section, such portion thereof as may be
22 deemed sufficient shall be set aside as a sinking fund for the
23 payment of the interest on ~~said bonds,~~ such bonds and the principal
24 thereof at maturity.

25 (3) It shall be the duty of the governing body of the
26 ~~municipality~~ city or village to charge rates for the ~~service~~ use of
27 the sewerage system, including any storm sewer system, as referred
28 to in subsection (1) of this section, which rates shall be

1 sufficient, at all times, to pay the cost of operation and
 2 maintenance thereof, and to pay the principal of and interest upon
 3 all revenue bonds issued, ~~under the provisions of~~ section 18-502,
 4 to pay the cost of development, establishment, and implementation
 5 of storm water management programs, and to carry out any covenants
 6 that may be provided in the ordinance authorizing the issuance of
 7 any such bonds.

8 (4) The holders of any of the revenue bonds or any of the
 9 coupons of any revenue bonds, issued under subsection (1) of this
 10 section, in any civil action, mandamus, or other proceeding, may
 11 enforce and compel the performance of all duties required by this
 12 section and the covenants made by the ~~municipality~~ city or village
 13 in the ordinance providing for the issuance of such bonds,
 14 including the making and collecting of sufficient rates or charges
 15 for the specified purposes and for the proper application of the
 16 income therefrom.

17 Sec. 6. Section 18-505, Reissue Revised Statutes of
 18 Nebraska, is amended to read:

19 18-505. (1) For the purpose of providing for such sewage
 20 disposal plant and sewerage system, including any storm sewer
 21 system, or improving or extending such existing system, any such
 22 ~~municipality~~ city or village may also enter into a contract with
 23 any corporation organized under or authorized by the laws of this
 24 state ~~to engage in the business herein mentioned,~~ to receive and
 25 treat, in the manner ~~hereinbefore mentioned,~~ the sewage and night
 26 soil thereof, described in section 18-501, sewage, night soil, or
 27 storm water of the city or village and to construct, and provide
 28 the facilities and services ~~as hereinbefore described~~ in sections

1 18-501 to 18-507 and section 1 of this act.

2 (2) (a) Such contract may ~~also~~ authorize the corporation
3 to charge the owners of the premises served ~~such a service rate~~
4 ~~therefor~~ a use rate as the governing body of such ~~municipality~~ city
5 or village may determine to be just and reasonable, or (b) the
6 ~~municipality~~ city or village may (i) contract to pay the ~~said~~
7 corporation a flat rate for such service, and pay ~~therefor~~ for the
8 service out of its general fund or the proceeds of any tax levy
9 applicable to the purposes of such contract, or (ii) assess the
10 owners of the property served a reasonable charge ~~therefor~~ for the
11 service to be collected as ~~hereinbefore~~ provided in section 18-503
12 and paid into a fund to be used to defray such contract charges.

13 Sec. 7. Section 18-507, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 18-507. Whenever the governing body of any city or
16 village ~~shall have~~ has ordered the installation of a sewerage
17 system and sewage disposal plant or the improvement or extension of
18 an existing system, including any storm sewer system, the fact that
19 such order was issued shall be recited in the official minutes of
20 the governing body. The ~~said~~ governing body shall thereupon
21 require that plans and specifications ~~be prepared~~ of such sewerage
22 system and sewage disposal plant, including any storm sewer system,
23 or such improvement or extension be prepared. Upon approval of
24 such plans, the governing body shall thereupon advertise for sealed
25 bids for the construction of ~~said~~ the improvements once a week for
26 three weeks in a legal paper published in or of general circulation
27 within ~~said municipality~~, the city or village and the contract
28 shall be awarded to the lowest responsible bidder.

1 Sec. 8. Section 18-508, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-508. The owner of any sewerage system or sewage
4 disposal plant, including any storm sewer system, provided for in
5 sections 18-501 to 18-507, and section 1 of this act, or the
6 ~~municipality~~, city or village, is hereby authorized to extend the
7 same beyond the limits of the city or village which it serves,
8 under the same conditions as nearly as may be as within such
9 corporate limits and to charge to users of its services reasonable
10 and fair rates consistent with those charged or which might be
11 charged within such corporate limits and consistent with the
12 expense of extending and maintaining the same for the users thereof
13 outside such corporate limits at a fair return to the owner
14 thereof. The mayor and city council of any city or the board of
15 trustees of any village shall have authority to enter into
16 contracts with users of such ~~sewerage~~ system, except that +
17 ~~PROVIDED~~, no contract shall call for furnishing of such service for
18 a period in excess of twenty years.

19 Sec. 9. Section 18-509, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 18-509. (1) The mayor and city council of any city or
22 the board of trustees of any village, in addition to other sources
23 of revenue available to the city or village, may by ordinance set
24 up a rental or use charge, to be collected from users of any system
25 of sewerage, including any storm sewer system, and provide methods
26 for collection thereof. The charges shall be charged to each
27 property served by the sewerage system or storm sewer system, shall
28 be a lien upon the property served, and may be collected either

1 from the owner or the person, firm, or corporation requesting the
2 service. Charges to be paid for the use of a storm sewer system
3 shall be proportionate to the storm water contribution of the
4 premises served and based upon sound engineering principles, as
5 established by the city or village, and may include allowances or
6 adjustments for impervious land surfaces and land uses and credits
7 for storm water quantity and quality best management practices.
8 The city or village may also establish a system of exemption from
9 storm water charges for property exempt from property taxes under
10 section 77-202.

11 (2) All money raised from the charges, referred to in
12 subsection (1) of this section, shall be used for maintenance or
13 operation of the existing system, for payment of principal and
14 interest on bonds issued as is provided for in section 17-925,
15 18-502, 18-506, or 19-1305, ~~ex~~ to create a reserve fund for the
16 purpose of future maintenance or construction of a new sewer system
17 for the city or village, or to develop, establish, and implement
18 storm water management programs. Any funds raised from ~~this~~ such
19 charge shall be placed in a separate fund and not be used for any
20 other purpose or diverted to any other fund.

21 Sec. 10. The provisions of sections 18-501 to 18-512 and
22 section 1 of this act authorizing a city to establish use charges
23 for a storm sewer system and the development, establishment, and
24 implementation of storm water management programs shall be
25 applicable only to cities which are required by federal law to
26 develop, establish, and implement storm water management programs
27 and secure a storm water discharge permit under the National
28 Pollutant Discharge Elimination System.

1 Sec. 11. A county board by resolution may establish
2 storm water management areas and implement storm water management
3 programs within the county. For purposes of funding the cost of
4 capital improvements and paying the operational and maintenance
5 costs of a county storm water management program in a county's
6 storm water management area, (1) a county encompassing a city
7 described in section 10 of this act or (2) a county that is
8 required by federal law to have its own storm water management
9 program may, by resolution of its county board, adopt a system of
10 storm water management charges to be charged against real property
11 in such storm water management area and may issue revenue bonds or
12 refunding bonds payable from the proceeds of such charges, all upon
13 such terms as the county board by resolution determines are
14 reasonable. Such charges shall be designed to be proportionate to
15 the storm water runoff contribution of such real property and based
16 upon sound engineering principles that may include allowances and
17 adjustments for impervious surface area and land uses and credits
18 for storm water quantity and quality best management practices.
19 Such charges shall be collected in the same manner as ad valorem
20 taxes or in such other manner as the county board determines
21 appropriate and shall not be deemed to be special benefit
22 assessments. A county may also establish a system for exemption
23 from storm water charges for property exempt from property taxes
24 under section 77-202. The county board shall provide an appeals
25 process for aggrieved parties. A county shall not impose storm
26 water management charges against real property that is being
27 charged with storm water management charges by a city described in
28 section 10 of this act. Any funds raised from the charges

1 authorized by this section shall be placed in a separate fund and
2 shall not be used for any purpose other than for storm water
3 management programs.

4 Sec. 12. The board of directors of a natural resources
5 district may by resolution establish storm water management areas
6 and implement storm water management programs within the district.
7 For purposes of funding the cost of capital improvements and paying
8 the operational and maintenance costs of a storm water management
9 program in a natural resources district's storm water management
10 area, a natural resources district encompassing a city described in
11 section 10 of this act may, by resolution of its board of
12 directors, adopt a system of storm water management charges and
13 impose such charges against real property in such storm water
14 management area and issue revenue bonds or refunding bonds payable
15 from the proceeds of such charges, all upon such terms as the board
16 of directors, by resolution, determines are reasonable. Such
17 charges shall be designed to be proportionate to the storm water
18 runoff contribution of such real property and based upon sound
19 engineering principles and may include allowances and adjustments
20 for impervious surface area and land uses and credits for storm
21 water quantity and quality best management practices. Such charges
22 shall be collected in the same manner as ad valorem taxes or in
23 such other manner as determined appropriate by the board and shall
24 not be deemed to be special benefit assessments. A district may
25 also establish a system for exemption from storm water charges for
26 properties exempt from property taxes under section 77-202. The
27 board shall provide an appeals process for aggrieved parties. A
28 natural resources district shall not impose storm water management

1 charges against real property that is being charged with storm
2 water management charges or charges for the use of a storm sewer
3 system by a county or by a city described in section 10 of this act
4 or a county encompassing any such city. Any funds raised from the
5 charges authorized by this section shall be placed in a separate
6 fund and shall not be used for any purpose other than for storm
7 water management programs.

8 Sec. 13. If any section of this act or any part of any
9 section is declared invalid or unconstitutional, the declaration
10 shall not affect the validity or constitutionality of the remaining
11 portions.

12 Sec. 14. Original sections 18-501 to 18-505 and 18-507
13 to 18-510, Reissue Revised Statutes of Nebraska, are repealed.