

AMENDMENTS TO LB 768

Introduced by Urban Affairs.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 31-727, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 31-727 (1) (a) A majority of the owners having an interest
6 in the real property within the limits of a proposed sanitary
7 and improvement district, situated in one or more counties in
8 this state, may form a sanitary and improvement district for the
9 purposes of installing electric service lines and conduits, a sewer
10 system, a water system, an emergency management warning system, a
11 system of sidewalks, public roads, streets, and highways, public
12 waterways, docks, or wharfs, and related appurtenances, contracting
13 for water for fire protection and for resale to residents of the
14 district, contracting for police protection and security services,
15 contracting for access to the facilities and use of the services
16 of the library system of one or more neighboring cities or
17 villages, and contracting for gas and for electricity for street
18 lighting for the public streets and highways within such proposed
19 district, constructing and contracting for the construction of
20 dikes and levees for flood protection for the district, and
21 acquiring, improving, and operating public parks, playgrounds, and
22 recreational facilities.

23 (b) The sanitary and improvement district may also

1 contract with a county within which all or a portion of such
2 sanitary and improvement district is located or a city within
3 whose zoning jurisdiction such sanitary and improvement district
4 is located for any public purpose specifically authorized in this
5 section.

6 (c) Sanitary and improvement districts located in
7 any county which has a city of the metropolitan class within
8 its boundaries or in any adjacent county which has adopted a
9 comprehensive plan may contract with other sanitary and improvement
10 districts to acquire, build, improve, and operate public parks,
11 playgrounds, and recreational facilities for the joint use of the
12 residents of the contracting districts.

13 (d) Nothing in this section shall authorize districts to
14 purchase electric service and resell the same.

15 (e) The district, in lieu of establishing its own water
16 system, may contract with any utilities district, municipality, or
17 corporation for the installation of a water system and for the
18 provision of water service for fire protection and for the use of
19 the residents of the district.

20 (f) For the purposes listed in this section, such
21 majority of the owners may make and sign articles of association
22 in which shall be stated (i) the name of the district, (ii)
23 that the district will have perpetual existence, (iii) the limits
24 of the district, (iv) the names and places of residence of the
25 owners of the land in the proposed district, (v) the description
26 of the several tracts of land situated in the district owned
27 by those who may organize the district, (vi) the name or names

1 and the description of the real estate owned by such owners
2 as do not join in the organization of the district but who
3 will be benefited thereby, and (vii) whether the purpose of the
4 corporation is installing gas and electric service lines and
5 conduits, installing a sewer system, installing a water system,
6 installing a system of public roads, streets, and highways, public
7 waterways, docks, or wharfs, and related appurtenances, contracting
8 for water for fire protection and for resale to residents of the
9 district, contracting for police protection and security services,
10 contracting for access to the facilities and use of the services of
11 the library system of one or more neighboring cities or villages,
12 contracting for street lighting for the public streets and highways
13 within the proposed district, constructing or contracting for
14 the construction of dikes and levees for flood protection of
15 the proposed district, acquiring, improving, and operating public
16 parks, playgrounds, and recreational facilities, or, when permitted
17 by this section, contracting with other sanitary and improvement
18 districts to acquire, build, improve, and operate public parks,
19 playgrounds, and recreational facilities for the joint use of the
20 residents of the contracting districts, contracting for any public
21 purpose specifically authorized in this section, or combination of
22 any one or more of such purposes, or all of such purposes. Such
23 owners of real estate as are unknown may also be set out in the
24 articles as such.

25 (g) No sanitary and improvement district may own or hold
26 land in excess of ten acres, unless such land so owned and held by
27 such district is actually used for a public purpose, as provided in

1 this section, within three years of its acquisition. Any sanitary
2 and improvement district which has acquired land in excess of ten
3 acres in area and has not devoted the same to a public purpose,
4 as set forth in this section, within three years of the date
5 of its acquisition, shall devote the same to a use set forth in
6 this section or shall divest itself of such land. When a district
7 divests itself of land pursuant to this section, it shall do so by
8 sale at public auction to the highest bidder after notice of such
9 sale has been given by publication at least three times for three
10 consecutive weeks prior to the date of sale in a legal newspaper of
11 general circulation within the area of the district.

12 (2) The articles of association shall further state
13 that the owners of real estate so forming the district for such
14 purposes are willing and obligate themselves to pay the tax or
15 taxes which may be levied against all the property in the district
16 and special assessments against the real property benefited which
17 may be assessed against them to pay the expenses that may be
18 necessary to install a sewer or water system or both a sewer and
19 water system, the cost of water for fire protection, the cost of
20 grading, changing grade, paving, repairing, graveling, regrading,
21 widening, or narrowing sidewalks and roads, resurfacing or relaying
22 existing pavement, or otherwise improving any public roads,
23 streets, or highways within the district, including protecting
24 existing sidewalks, streets, highways, and roads from floods or
25 erosion which has moved within fifteen feet from the edge of
26 such sidewalks, streets, highways, or roads, regardless of whether
27 such flooding or erosion is of natural or artificial origin,

1 the cost of constructing public waterways, docks, or wharfs, and
2 related appurtenances, the cost of constructing or contracting
3 for the construction of dikes and levees for flood protection
4 for the district, the cost of contracting for water for fire
5 protection and for resale to residents of the district, the cost
6 of contracting for police protection and security services, the
7 cost of contracting for access to the facilities and use of the
8 services of the library system of one or more neighboring cities
9 or villages, the cost of electricity for street lighting for the
10 public streets and highways within the district, the cost of
11 installing gas and electric service lines and conduits, the cost
12 of acquiring, improving, and operating public parks, playgrounds,
13 and recreational facilities, and, when permitted by this section,
14 the cost of contracting for building, acquiring, improving, and
15 operating public parks, playgrounds, and recreational facilities,
16 and the cost of contracting for any public purpose specifically
17 authorized in this section, as provided by law.

18 (3) The articles shall propose the names of five or more
19 trustees who are (a) owners of real estate located in the proposed
20 district or (b) designees of the owners if the real estate is
21 owned by a limited partnership, a general partnership, a limited
22 liability company, a public, private, or municipal corporation, an
23 estate, or a trust. These five trustees shall serve as a board
24 of trustees until their successors are elected and qualified if
25 such district is organized. No corporation formed or hereafter
26 formed shall perform any new functions, other than those for
27 which the corporation was formed, without amending its articles of

1 association to include the new function or functions.

2 (4) After the articles are signed, the same shall be
3 filed in the office of the clerk of the district court of the
4 county in which such sanitary and improvement district is located
5 or, if such sanitary and improvement district is composed of tracts
6 or parcels of land in two or more different counties, in the office
7 of the clerk of the district court for the county in which the
8 greater portion of such proposed sanitary and improvement district
9 is located, together with a petition praying that the same may be
10 declared a sanitary and improvement district under sections 31-727
11 to 31-762.

12 (5) Notwithstanding the repeal of sections 31-701 to
13 31-726.01 by Laws 1996, LB 1321:

14 (a) Any sanitary and improvement district organized
15 pursuant to such sections and in existence on July 19, 1996,
16 shall, after August 31, 2003, be treated for all purposes as if
17 formed and organized pursuant to sections 31-727 to 31-762;

18 (b) Any act or proceeding performed or conducted by
19 a sanitary and improvement district organized pursuant to such
20 repealed sections shall be deemed lawful and within the authority
21 of such sanitary and improvement district to perform or conduct
22 after August 31, 2003; and

23 (c) Any trustees of a sanitary and improvement district
24 organized pursuant to such repealed sections and lawfully elected
25 pursuant to such repealed sections or in conformity with the
26 provisions of sections 31-727 to 31-762 shall be deemed for all
27 purposes, on and after August 31, 2003, to be lawful trustees of

1 such sanitary and improvement district for the term provided by
2 such sections. Upon the expiration of the term of office of a
3 trustee or at such time as there is a vacancy in the office of any
4 such trustee prior to the expiration of his or her term, his or
5 her successors or replacement shall be elected pursuant to sections
6 31-727 to 31-762.

7 (6) For the purposes of sections 31-727 to 31-762 and
8 31-771 to 31-780, unless the context otherwise requires:

9 (a) Public waterways means artificially created boat
10 channels dedicated to public use and providing access to navigable
11 rivers or streams;

12 (b) Operation and maintenance expenses means and
13 includes, but is not limited to, salaries, cost of materials
14 and supplies for operation and maintenance of the district's
15 facilities, cost of ordinary repairs, replacements, and
16 alterations, cost of surety bonds and insurance, cost of audits and
17 other fees, and taxes;

18 (c) Capital outlay means expenditures for construction
19 or reconstruction of major permanent facilities having an expected
20 long life, including, but not limited to, street paving and curbs,
21 storm and sanitary sewers, and other utilities;

22 (d) Warrant means an investment security under article
23 8, Uniform Commercial Code, in the form of a short-term,
24 interest-bearing order payable on a specified date issued by the
25 board of trustees or administrator of a sanitary and improvement
26 district to be paid from funds expected to be received in
27 the future, and includes, but is not limited to, property tax

1 collections, special assessment collections, and proceeds of sale
2 of general obligation bonds;

3 (e) General obligation bond means an investment security
4 under article 8, Uniform Commercial Code, in the form of a
5 long-term, written promise to pay a specified sum of money,
6 referred to as the face value or principal amount, at a specified
7 maturity date or dates in the future, plus periodic interest at a
8 specified rate; and

9 (f) Administrator means the person appointed by the
10 Auditor of Public Accounts pursuant to section 31-771 to manage
11 the affairs of a sanitary and improvement district and to exercise
12 the powers of the board of trustees during the period of the
13 appointment to the extent prescribed in sections 31-727 to 31-780.

14 Sec. 2. Section 31-740, Revised Statutes Supplement,
15 2007, is amended to read:

16 31-740 (1) The board of trustees or the administrator
17 of any district organized under sections 31-727 to 31-762
18 shall have power to provide for establishing, maintaining, and
19 constructing gas and electric service lines and conduits, an
20 emergency management warning system, water mains, sewers, and
21 disposal plants and disposing of drainage, waste, and sewage
22 of such district in a satisfactory manner; for establishing,
23 maintaining, and constructing sidewalks, public roads, streets,
24 and highways, including grading, changing grade, paving, repaving,
25 graveling, regaveling, widening, or narrowing roads, resurfacing
26 or relaying existing pavement, or otherwise improving any road,
27 street, or highway within the district, including protecting

1 existing sidewalks, streets, highways, and roads from floods or
2 erosion which has moved within fifteen feet from the edge of
3 such sidewalks, streets, highways, or roads, regardless of whether
4 such flooding or erosion is of natural or artificial origin;
5 for establishing, maintaining, and constructing public waterways,
6 docks, or wharfs, and related appurtenances; and for constructing
7 and contracting for the construction of dikes and levees for flood
8 protection for the district.

9 (2) The board of trustees or the administrator of any
10 district may contract for access to the facilities and use of
11 the services of the library system of one or more neighboring
12 cities or villages and for electricity for street lighting for
13 the public streets and highways within the district and shall
14 have power to provide for building, acquisition, improvement,
15 maintenance, and operation of public parks, playgrounds, and
16 recreational facilities, and, when permitted by section 31-727,
17 for contracting with other sanitary and improvement districts for
18 the building, acquisition, improvement, maintenance, and operation
19 of public parks, playgrounds, and recreational facilities for the
20 joint use of the residents of the contracting districts, and for
21 contracting for any public purpose specifically authorized in this
22 section. Power to construct clubhouses and similar facilities for
23 the giving of private parties within the zoning jurisdiction of
24 any city or village is not included in the powers granted in this
25 section. Any sewer system established shall be approved by the
26 Department of Health and Human Services.

27 (3) Prior to the installation of any of the improvements

1 or services provided for in this section, the plans or contracts
2 for such improvements or services, other than for public parks,
3 playgrounds, and recreational facilities, whether a district acts
4 separately or jointly with other districts as permitted by section
5 31-727, shall be approved by the public works department of
6 any municipality when such improvements or any part thereof or
7 services are within the area of the zoning jurisdiction of such
8 municipality. If such improvements or services are without the
9 area of the zoning jurisdiction of any municipality, plans for
10 such improvements shall be approved by the county board of the
11 county in which such improvements are located. Plans and exact
12 costs for public parks, playgrounds, and recreational facilities
13 shall be approved by resolution of the governing body of such
14 municipality or county after a public hearing. Purchases of public
15 parks, playgrounds, and recreational facilities so approved may be
16 completed and shall be valid notwithstanding any interest of any
17 trustee of the district in the transaction. Such approval shall
18 relate to conformity with the master plan and the construction
19 specifications and standards established by such municipality
20 or county. When no master plan and construction specifications
21 and standards have been established, such approval shall not be
22 required. When such improvements are within the area of the zoning
23 jurisdiction of more than one municipality, such approval shall be
24 required only from the most populous municipality, except that when
25 such improvements are furnished to the district by contract with a
26 particular municipality, the necessary approval shall in all cases
27 be given by such municipality. The municipality or county shall be

1 required to approve plans for such improvements and shall enforce
2 compliance with such plans by action in equity.

3 (4) The district may construct its sewage disposal plant
4 and other sewerage or water improvements, or both, in whole or
5 in part, inside or outside the boundaries of the district and may
6 contract with corporations or municipalities for disposal of sewage
7 and use of existing sewerage improvements and for a supply of water
8 for fire protection and for resale to residents of the district.
9 It may also contract with any corporation, public power district,
10 electric membership or cooperative association, or municipality for
11 access to the facilities and use of the services of the library
12 system of one or more neighboring cities or villages, for the
13 installation, maintenance, and cost of operating a system of street
14 lighting upon the public streets and highways within the district,
15 for installation, maintenance, and operation of a water system,
16 or for the installation, maintenance, and operation of electric
17 service lines and conduits, and to provide water service for fire
18 protection and use by the residents of the district. It may also
19 contract with any corporation, municipality, or other sanitary and
20 improvement district, as permitted by section 31-727, for building,
21 acquiring, improving, and operating public parks, playgrounds,
22 and recreational facilities for the joint use of the residents
23 of the contracting parties. It may also contract with a county
24 within which all or a portion of such sanitary and improvement
25 district is located or a city within whose zoning jurisdiction the
26 sanitary and improvement district is located for intersection and
27 traffic control improvements, which improvements serve or benefit

1 the district and which may be within or without the corporate
2 boundaries of the district, and for any public purpose specifically
3 authorized in this section.

4 (5) Each sanitary and improvement district shall have the
5 books of account kept by the board of trustees of the district
6 examined and audited by a certified public accountant or a public
7 accountant for the year ending June 30 and shall file a copy of the
8 audit with the office of the Auditor of Public Accounts by December
9 31 of the same year. Such audits may be waived by the Auditor of
10 Public Accounts upon proper showing by the district that the audit
11 is unnecessary. Such examination and audit shall show (a) the gross
12 income of the district from all sources for the previous year,
13 (b) the amount spent for access to the facilities and use of the
14 services of the library system of one or more neighboring cities
15 or villages, (c) the amount spent for sewage disposal, ~~(e)~~ (d) the
16 amount expended on water mains, ~~(d)~~ (e) the gross amount of sewage
17 processed in the district, ~~(e)~~ (f) the cost per thousand gallons of
18 processing sewage, ~~(f)~~ (g) the amount expended each year for (i)
19 maintenance and repairs, (ii) new equipment, (iii) new construction
20 work, and (iv) property purchased, ~~(g)~~ (h) a detailed statement of
21 all items of expense, ~~(h)~~ (i) the number of employees, ~~(i)~~ (j) the
22 salaries and fees paid employees, ~~(j)~~ (k) the total amount of taxes
23 levied upon the property within the district, and ~~(k)~~ (l) all other
24 facts necessary to give an accurate and comprehensive view of the
25 cost of carrying on the activities and work of such sanitary and
26 improvement district. The reports of all audits provided for in
27 this section shall be and remain a part of the public records in

1 the office of the Auditor of Public Accounts. The expense of such
2 audits shall be paid out of the funds of the district. The Auditor
3 of Public Accounts shall be given access to all books and papers,
4 contracts, minutes, bonds, and other documents and memoranda of
5 every kind and character of such district and be furnished all
6 additional information possessed by any present or past officer or
7 employee of any such district, or by any other person, that is
8 essential to the making of a comprehensive and correct audit.

9 (6) If any sanitary and improvement district fails or
10 refuses to cause such annual audit to be made of all of
11 its functions, activities, and transactions for the fiscal year
12 within a period of six months following the close of such fiscal
13 year, unless such audit has been waived, the Auditor of Public
14 Accounts shall, after due notice and a hearing to show cause by
15 such district, appoint a certified public accountant or public
16 accountant to conduct the annual audit of the district and the fee
17 for such audit shall become a lien against the district.

18 (7) Whenever the sanitary sewer system or any part
19 thereof of a sanitary and improvement district is directly or
20 indirectly connected to the sewerage system of any city, such
21 city, without enacting an ordinance or adopting any resolution for
22 such purpose, may collect such city's applicable rental or use
23 charge from the users in the sanitary and improvement district and
24 from the owners of the property served within the sanitary and
25 improvement district. The charges of such city shall be charged to
26 each property served by the city sewerage system, shall be a lien
27 upon the property served, and may be collected from the owner or

1 the person, firm, or corporation using the service. If the city's
2 applicable rental or service charge is not paid when due, such sum
3 may be recovered by the municipality in a civil action or it may be
4 assessed against the premises served in the same manner as special
5 taxes or assessments are assessed by such city and collected
6 and returned in the same manner as other municipal special taxes
7 or assessments are enforced and collected. When any such tax or
8 assessment is levied, it shall be the duty of the city clerk to
9 deliver a certified copy of the ordinance to the county treasurer
10 of the county in which the premises assessed are located and such
11 county treasurer shall collect the same as provided by law and
12 return the same to the city treasurer. Funds of such city raised
13 from such charges shall be used by it in accordance with laws
14 applicable to its sewer service rental or charges. The governing
15 body of any city may make all necessary rules and regulations
16 governing the direct or indirect use of its sewerage system by
17 any user and premises within any sanitary and improvement district
18 and may establish just and equitable rates or charges to be paid
19 to such city for use of any of its disposal plants and sewerage
20 system. The board of trustees shall have power, in connection with
21 the issuance of any warrants or bonds of the district, to agree to
22 make a specified minimum levy on taxable property in the district
23 to pay, or to provide a sinking fund to pay, principal and interest
24 on warrants and bonds of the district for such number of years
25 as the board may establish at the time of making such agreement
26 and shall also have power to agree to enforce, by foreclosure
27 or otherwise as permitted by applicable laws, the collection of

1 special assessments levied by the district. Such agreements may
2 contain provisions granting to creditors and others the right to
3 enforce and carry out the agreements on behalf of the district and
4 its creditors.

5 (8) The board of trustees or administrator shall have
6 power to sell and convey real and personal property of the district
7 on such terms as it or he or she shall determine, except that real
8 estate shall be sold to the highest bidder at public auction after
9 notice of the time and place of the sale has been published for
10 three consecutive weeks prior to the sale in a newspaper of general
11 circulation in the county. The board of trustees or administrator
12 may reject such bids and negotiate a sale at a price higher than
13 the highest bid at the public auction at such terms as may be
14 agreed.

15 Sec. 3. Original section 31-727, Reissue Revised Statutes
16 of Nebraska, and section 31-740, Revised Statutes Supplement, 2007,
17 are repealed.