

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 768

FINAL READING

Introduced by Cornett, 45; Gay, 14; Kopplin, 3; Preister, 5.

Read first time January 09, 2008

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to sanitary and improvement districts; to amend
2 section 31-727, Reissue Revised Statutes of Nebraska,
3 and section 31-740, Revised Statutes Supplement, 2007; to
4 provide for the power to contract for library services;
5 and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

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

3 31-727 (1) (a) A majority of the owners having an interest
4 in the real property within the limits of a proposed sanitary
5 and improvement district, situated in one or more counties in
6 this state, may form a sanitary and improvement district for the
7 purposes of installing electric service lines and conduits, a sewer
8 system, a water system, an emergency management warning system, a
9 system of sidewalks, public roads, streets, and highways, public
10 waterways, docks, or wharfs, and related appurtenances, contracting
11 for water for fire protection and for resale to residents of the
12 district, contracting for police protection and security services,
13 contracting for access to the facilities and use of the services
14 of the library system of one or more neighboring cities or
15 villages, and contracting for gas and for electricity for street
16 lighting for the public streets and highways within such proposed
17 district, constructing and contracting for the construction of
18 dikes and levees for flood protection for the district, and
19 acquiring, improving, and operating public parks, playgrounds, and
20 recreational facilities.

21 (b) The sanitary and improvement district may also
22 contract with a county within which all or a portion of such
23 sanitary and improvement district is located or a city within
24 whose zoning jurisdiction such sanitary and improvement district
25 is located for any public purpose specifically authorized in this

1 section.

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

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

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

16 (f) For the purposes listed in this section, such
17 majority of the owners may make and sign articles of association
18 in which shall be stated (i) the name of the district, (ii)
19 that the district will have perpetual existence, (iii) the limits
20 of the district, (iv) the names and places of residence of the
21 owners of the land in the proposed district, (v) the description
22 of the several tracts of land situated in the district owned
23 by those who may organize the district, (vi) the name or names
24 and the description of the real estate owned by such owners
25 as do not join in the organization of the district but who

1 will be benefited thereby, and (vii) whether the purpose of the
2 corporation is installing gas and electric service lines and
3 conduits, installing a sewer system, installing a water system,
4 installing a system of public roads, streets, and highways, public
5 waterways, docks, or wharfs, and related appurtenances, contracting
6 for water for fire protection and for resale to residents of the
7 district, contracting for police protection and security services,
8 contracting for access to the facilities and use of the services of
9 the library system of one or more neighboring cities or villages,
10 contracting for street lighting for the public streets and highways
11 within the proposed district, constructing or contracting for
12 the construction of dikes and levees for flood protection of
13 the proposed district, acquiring, improving, and operating public
14 parks, playgrounds, and recreational facilities, or, when permitted
15 by this section, contracting with other sanitary and improvement
16 districts to acquire, build, improve, and operate public parks,
17 playgrounds, and recreational facilities for the joint use of the
18 residents of the contracting districts, contracting for any public
19 purpose specifically authorized in this section, or combination of
20 any one or more of such purposes, or all of such purposes. Such
21 owners of real estate as are unknown may also be set out in the
22 articles as such.

23 (g) No sanitary and improvement district may own or hold
24 land in excess of ten acres, unless such land so owned and held by
25 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

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

20 (3) The articles shall propose the names of five or more
21 trustees who are (a) owners of real estate located in the proposed
22 district or (b) designees of the owners if the real estate is
23 owned by a limited partnership, a general partnership, a limited
24 liability company, a public, private, or municipal corporation, an
25 estate, or a trust. These five trustees shall serve as a board

1 of trustees until their successors are elected and qualified if
2 such district is organized. No corporation formed or hereafter
3 formed shall perform any new functions, other than those for
4 which the corporation was formed, without amending its articles of
5 association to include the new function or functions.

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

16 (5) Notwithstanding the repeal of sections 31-701 to
17 31-726.01 by Laws 1996, LB 1321:

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

22 (b) Any act or proceeding performed or conducted by
23 a sanitary and improvement district organized pursuant to such
24 repealed sections shall be deemed lawful and within the authority
25 of such sanitary and improvement district to perform or conduct

1 after August 31, 2003; and

2 (c) Any trustees of a sanitary and improvement district
3 organized pursuant to such repealed sections and lawfully elected
4 pursuant to such repealed sections or in conformity with the
5 provisions of sections 31-727 to 31-762 shall be deemed for all
6 purposes, on and after August 31, 2003, to be lawful trustees of
7 such sanitary and improvement district for the term provided by
8 such sections. Upon the expiration of the term of office of a
9 trustee or at such time as there is a vacancy in the office of any
10 such trustee prior to the expiration of his or her term, his or
11 her successors or replacement shall be elected pursuant to sections
12 31-727 to 31-762.

13 (6) For the purposes of sections 31-727 to 31-762 and
14 31-771 to 31-780, unless the context otherwise requires:

15 (a) Public waterways means artificially created boat
16 channels dedicated to public use and providing access to navigable
17 rivers or streams;

18 (b) Operation and maintenance expenses means and
19 includes, but is not limited to, salaries, cost of materials
20 and supplies for operation and maintenance of the district's
21 facilities, cost of ordinary repairs, replacements, and
22 alterations, cost of surety bonds and insurance, cost of audits and
23 other fees, and taxes;

24 (c) Capital outlay means expenditures for construction
25 or reconstruction of major permanent facilities having an expected

1 long life, including, but not limited to, street paving and curbs,
2 storm and sanitary sewers, and other utilities;

3 (d) Warrant means an investment security under article
4 8, Uniform Commercial Code, in the form of a short-term,
5 interest-bearing order payable on a specified date issued by the
6 board of trustees or administrator of a sanitary and improvement
7 district to be paid from funds expected to be received in
8 the future, and includes, but is not limited to, property tax
9 collections, special assessment collections, and proceeds of sale
10 of general obligation bonds;

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

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

22 Sec. 2. Section 31-740, Revised Statutes Supplement,
23 2007, is amended to read:

24 31-740 (1) The board of trustees or the administrator
25 of any district organized under sections 31-727 to 31-762

1 shall have power to provide for establishing, maintaining, and
2 constructing gas and electric service lines and conduits, an
3 emergency management warning system, water mains, sewers, and
4 disposal plants and disposing of drainage, waste, and sewage
5 of such district in a satisfactory manner; for establishing,
6 maintaining, and constructing sidewalks, public roads, streets,
7 and highways, including grading, changing grade, paving, repaving,
8 graveling, regravelling, widening, or narrowing roads, resurfacing
9 or relaying existing pavement, or otherwise improving any road,
10 street, or highway within the district, including protecting
11 existing sidewalks, streets, highways, and roads from floods or
12 erosion which has moved within fifteen feet from the edge of
13 such sidewalks, streets, highways, or roads, regardless of whether
14 such flooding or erosion is of natural or artificial origin;
15 for establishing, maintaining, and constructing public waterways,
16 docks, or wharfs, and related appurtenances; and for constructing
17 and contracting for the construction of dikes and levees for flood
18 protection for the district.

19 (2) The board of trustees or the administrator of any
20 district may contract for access to the facilities and use of
21 the services of the library system of one or more neighboring
22 cities or villages and for electricity for street lighting for
23 the public streets and highways within the district and shall
24 have power to provide for building, acquisition, improvement,
25 maintenance, and operation of public parks, playgrounds, and

1 recreational facilities, and, when permitted by section 31-727,
2 for contracting with other sanitary and improvement districts for
3 the building, acquisition, improvement, maintenance, and operation
4 of public parks, playgrounds, and recreational facilities for the
5 joint use of the residents of the contracting districts, and for
6 contracting for any public purpose specifically authorized in this
7 section. Power to construct clubhouses and similar facilities for
8 the giving of private parties within the zoning jurisdiction of
9 any city or village is not included in the powers granted in this
10 section. Any sewer system established shall be approved by the
11 Department of Health and Human Services.

12 (3) Prior to the installation of any of the improvements
13 or services provided for in this section, the plans or contracts
14 for such improvements or services, other than for public parks,
15 playgrounds, and recreational facilities, whether a district acts
16 separately or jointly with other districts as permitted by section
17 31-727, shall be approved by the public works department of
18 any municipality when such improvements or any part thereof or
19 services are within the area of the zoning jurisdiction of such
20 municipality. If such improvements or services are without the
21 area of the zoning jurisdiction of any municipality, plans for
22 such improvements shall be approved by the county board of the
23 county in which such improvements are located. Plans and exact
24 costs for public parks, playgrounds, and recreational facilities
25 shall be approved by resolution of the governing body of such

1 municipality or county after a public hearing. Purchases of public
2 parks, playgrounds, and recreational facilities so approved may be
3 completed and shall be valid notwithstanding any interest of any
4 trustee of the district in the transaction. Such approval shall
5 relate to conformity with the master plan and the construction
6 specifications and standards established by such municipality
7 or county. When no master plan and construction specifications
8 and standards have been established, such approval shall not be
9 required. When such improvements are within the area of the zoning
10 jurisdiction of more than one municipality, such approval shall be
11 required only from the most populous municipality, except that when
12 such improvements are furnished to the district by contract with a
13 particular municipality, the necessary approval shall in all cases
14 be given by such municipality. The municipality or county shall be
15 required to approve plans for such improvements and shall enforce
16 compliance with such plans by action in equity.

17 (4) The district may construct its sewage disposal plant
18 and other sewerage or water improvements, or both, in whole or
19 in part, inside or outside the boundaries of the district and may
20 contract with corporations or municipalities for disposal of sewage
21 and use of existing sewerage improvements and for a supply of water
22 for fire protection and for resale to residents of the district.
23 It may also contract with any corporation, public power district,
24 electric membership or cooperative association, or municipality for
25 access to the facilities and use of the services of the library

1 system of one or more neighboring cities or villages, for the
2 installation, maintenance, and cost of operating a system of street
3 lighting upon the public streets and highways within the district,
4 for installation, maintenance, and operation of a water system,
5 or for the installation, maintenance, and operation of electric
6 service lines and conduits, and to provide water service for fire
7 protection and use by the residents of the district. It may also
8 contract with any corporation, municipality, or other sanitary and
9 improvement district, as permitted by section 31-727, for building,
10 acquiring, improving, and operating public parks, playgrounds,
11 and recreational facilities for the joint use of the residents
12 of the contracting parties. It may also contract with a county
13 within which all or a portion of such sanitary and improvement
14 district is located or a city within whose zoning jurisdiction the
15 sanitary and improvement district is located for intersection and
16 traffic control improvements, which improvements serve or benefit
17 the district and which may be within or without the corporate
18 boundaries of the district, and for any public purpose specifically
19 authorized in this section.

20 (5) Each sanitary and improvement district shall have the
21 books of account kept by the board of trustees of the district
22 examined and audited by a certified public accountant or a public
23 accountant for the year ending June 30 and shall file a copy of the
24 audit with the office of the Auditor of Public Accounts by December
25 31 of the same year. Such audits may be waived by the Auditor of

1 Public Accounts upon proper showing by the district that the audit
2 is unnecessary. Such examination and audit shall show (a) the gross
3 income of the district from all sources for the previous year,
4 (b) the amount spent for access to the facilities and use of the
5 services of the library system of one or more neighboring cities
6 or villages, (c) the amount spent for sewage disposal, ~~(e)~~ (d) the
7 amount expended on water mains, ~~(d)~~ (e) the gross amount of sewage
8 processed in the district, ~~(e)~~ (f) the cost per thousand gallons of
9 processing sewage, ~~(f)~~ (g) the amount expended each year for (i)
10 maintenance and repairs, (ii) new equipment, (iii) new construction
11 work, and (iv) property purchased, ~~(g)~~ (h) a detailed statement of
12 all items of expense, ~~(h)~~ (i) the number of employees, ~~(i)~~ (j) the
13 salaries and fees paid employees, ~~(j)~~ (k) the total amount of taxes
14 levied upon the property within the district, and ~~(k)~~ (l) all other
15 facts necessary to give an accurate and comprehensive view of the
16 cost of carrying on the activities and work of such sanitary and
17 improvement district. The reports of all audits provided for in
18 this section shall be and remain a part of the public records in
19 the office of the Auditor of Public Accounts. The expense of such
20 audits shall be paid out of the funds of the district. The Auditor
21 of Public Accounts shall be given access to all books and papers,
22 contracts, minutes, bonds, and other documents and memoranda of
23 every kind and character of such district and be furnished all
24 additional information possessed by any present or past officer or
25 employee of any such district, or by any other person, that is

1 essential to the making of a comprehensive and correct audit.

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

11 (7) Whenever the sanitary sewer system or any part
12 thereof of a sanitary and improvement district is directly or
13 indirectly connected to the sewerage system of any city, such
14 city, without enacting an ordinance or adopting any resolution for
15 such purpose, may collect such city's applicable rental or use
16 charge from the users in the sanitary and improvement district and
17 from the owners of the property served within the sanitary and
18 improvement district. The charges of such city shall be charged to
19 each property served by the city sewerage system, shall be a lien
20 upon the property served, and may be collected from the owner or
21 the person, firm, or corporation using the service. If the city's
22 applicable rental or service charge is not paid when due, such sum
23 may be recovered by the municipality in a civil action or it may be
24 assessed against the premises served in the same manner as special
25 taxes or assessments are assessed by such city and collected

1 and returned in the same manner as other municipal special taxes
2 or assessments are enforced and collected. When any such tax or
3 assessment is levied, it shall be the duty of the city clerk to
4 deliver a certified copy of the ordinance to the county treasurer
5 of the county in which the premises assessed are located and such
6 county treasurer shall collect the same as provided by law and
7 return the same to the city treasurer. Funds of such city raised
8 from such charges shall be used by it in accordance with laws
9 applicable to its sewer service rental or charges. The governing
10 body of any city may make all necessary rules and regulations
11 governing the direct or indirect use of its sewerage system by
12 any user and premises within any sanitary and improvement district
13 and may establish just and equitable rates or charges to be paid
14 to such city for use of any of its disposal plants and sewerage
15 system. The board of trustees shall have power, in connection with
16 the issuance of any warrants or bonds of the district, to agree to
17 make a specified minimum levy on taxable property in the district
18 to pay, or to provide a sinking fund to pay, principal and interest
19 on warrants and bonds of the district for such number of years
20 as the board may establish at the time of making such agreement
21 and shall also have power to agree to enforce, by foreclosure
22 or otherwise as permitted by applicable laws, the collection of
23 special assessments levied by the district. Such agreements may
24 contain provisions granting to creditors and others the right to
25 enforce and carry out the agreements on behalf of the district and

1 its creditors.

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

12 Sec. 3. Original section 31-727, Reissue Revised Statutes
13 of Nebraska, and section 31-740, Revised Statutes Supplement, 2007,
14 are repealed.