

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 534**

Introduced by Schimek, 27

Read first time January 17, 2007

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities and villages; to amend sections  
2 18-501, 18-502, 18-503, 18-504, 18-505, 18-507, 18-508,  
3 18-509, and 18-510, Reissue Revised Statutes of Nebraska,  
4 and section 16-6,109, Revised Statutes Cumulative  
5 Supplement, 2006; to change provisions relating to urban  
6 storm water drainage; to provide powers and duties  
7 for county boards; to harmonize provisions; to provide  
8 severability; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 16-6,109, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           16-6,109 The powers granted by sections 16-6,106 to  
4 16-6,109 are independent of and in addition to all other grants  
5 of powers on the same or related subjects but may be exercised  
6 jointly with or supplemented by the powers granted by existing  
7 legislation, including, but not limited to, sections 16-667 to  
8 16-672.11, 16-680, 16-683, 16-693, 18-401 to 18-411, 18-501 to  
9 18-512 and sections 2 and 11 of this act, 19-1305, 23-320.07 to  
10 23-320.13, and 31-501 to 31-553 and the Combined Improvement Act.

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

13           ~~18-510~~ For purposes of sections 18-501 to 18-512 and  
14 sections 2 and 11 of this act:

15           ~~The terms sewage (1) Sewage system, sewerage system,~~  
16 storm sewer system, and disposal plant or plants as used herein  
17 ~~are defined to mean and include any system or works above or below~~  
18 ~~ground which has for its purpose any or all of the following: The~~  
19 ~~removal, discharge, conduction, carrying, treatment, purification,~~  
20 storage, or disposal of the liquid and solid waste, and night soil,  
21 and, subject to section 11 of this act, storm water of a city or  
22 village. of a municipality. ~~It is intended that sections 18-501~~  
23 ~~to 18-512 the intent of the Legislature that such sections may be~~  
24 employed in connection with sewage projects which do not include  
25 the erection or enlargement of a sewage disposal plant; ~~-~~

1           (2) Urban area means an urban cluster or an urbanized  
2 area;

3           (3) Urban cluster means a densely settled territory that  
4 has at least two thousand five hundred but fewer than fifty  
5 thousand inhabitants; and

6           (4) Urbanized area means a statistical geographic area  
7 defined by the United States Department of Commerce, Bureau of  
8 the Census, consisting of a central place or places and adjacent  
9 densely settled territory that together contain at least fifty  
10 thousand inhabitants and have an overall population density of at  
11 least one thousand inhabitants per square mile.

12           Sec. 3. Section 18-501, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           18-501 (1) Any city or village in this state is hereby  
15 authorized to may own, construct, equip, and operate, either within  
16 or ~~without~~ outside the corporate limits of such ~~municipality,~~  
17 city or village, a sewerage system, ~~including any storm sewer~~  
18 system including the natural drainage components of such system,  
19 ~~or~~ combination storm and sanitary sewer system, and plant or  
20 plants for the treatment, purification, storage, and disposal in a  
21 sanitary manner of the liquid and solid wastes, sewage, ~~and~~ night  
22 soil, and, subject to section 11 of this act, storm water of such  
23 city or village, ~~of such municipality or~~ to extend or improve  
24 any existing storm or sanitary sewer system or combination storm  
25 and sanitary sewer system, or, subject to section 11 of this act,

1 establish storm water management programs.

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

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

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

1 required, in addition thereto, to make such levy.

2           Sec. 4. Section 18-502, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           18-502 For the purpose of owning, operating,  
5 constructing, and equipping ~~such~~ a sewage disposal plant or  
6 sewerage system, including any storm sewer system, subject to  
7 section 11 of this act, or improving or extending such existing  
8 system, ~~a municipality~~ or, subject to section 11 of this act,  
9 establishing storm water management programs and improvements, a  
10 city or village may issue revenue bonds therefor. Such revenue  
11 bonds, ~~as provided in this section,~~ shall not impose any general  
12 liability upon the ~~municipality~~ city or village but shall be  
13 secured only by the revenue ~~as hereinafter provided~~ of such utility  
14 as provided in sections 18-501 to 18-512 and sections 2 and 11 of  
15 this act. Such revenue bonds shall be sold ~~for not less than par~~  
16 ~~and~~ bear interest at a rate set by the ~~city council~~. governing  
17 body of such city or village. The amount of such revenue bonds,  
18 either issued or outstanding, shall not be included in computing  
19 the maximum amount of bonds which the said ~~municipality~~ city or  
20 village may be authorized ~~to~~ issue under its charter or any statute  
21 of this state.

22           Sec. 5. Section 18-503, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           18-503 The governing body of ~~such municipality~~ a city  
25 or village may make all necessary rules and regulations governing

1 the use, operation, and control ~~thereof~~ of a disposal plant and  
2 sewerage system, including any storm sewer system, subject to  
3 section 11 of this act. The governing body may establish just and  
4 equitable rates or charges to be paid to it for the use of such  
5 disposal plant and sewerage system, including any such storm sewer  
6 system, by each person, firm, or corporation whose premises are  
7 served thereby. If the ~~service~~ use charge so established is not  
8 paid when due, such sum may be recovered by the ~~municipality~~ city  
9 or village in a civil action, or it may be certified to the tax  
10 assessor and assessed against the premises served, and collected  
11 or returned in the same manner as other ~~municipal~~ city or village  
12 taxes are certified, assessed, collected, and returned. Charges to  
13 be paid for the use of a storm sewer system shall be proportionate  
14 to the storm water contribution of the premises served and based  
15 upon sound engineering principles, as determined by the city or  
16 village, and may include allowances or adjustments for impervious  
17 land surfaces and land uses and credits for storm water quantity  
18 and quality best management practices. The city or village shall  
19 also establish a system of exemption from storm water charges for  
20 the property of the state and its governmental subdivisions to the  
21 extent used or being developed for use by the state or governmental  
22 subdivision for a public purpose as described in subdivision (1) (a)  
23 of section 77-202 and other property as the city or village may  
24 determine.

25           Sec. 6. Section 18-504, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           18-504 (1) Revenue bonds which are issued, as provided  
3 in section 18-502, shall not be a general obligation of the  
4 ~~municipality,~~ city or village but shall be paid only out of the  
5 revenue received from the ~~service~~ use charges as provided in  
6 section 18-503.

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

13           (3) ~~It shall be the duty of the~~ The governing body of  
14 the ~~municipality~~ to city or village shall charge rates for the  
15 ~~service~~ use of the sewerage system, including any storm sewer  
16 system, subject to section 11 of this act as referred to in  
17 subsection (1) of this section, which rates shall be sufficient, at  
18 all times, to pay the cost of operation and maintenance thereof,  
19 ~~and~~ to pay the principal of and interest upon all revenue bonds  
20 issued, under ~~the provisions of~~ section 18-502, to pay the cost  
21 of development, establishment, and implementation of storm water  
22 management programs, subject to section 11 of this act, and to  
23 carry out any covenants that may be provided in the ordinance  
24 authorizing the issuance of any such bonds.

25           (4) The holders of any of the revenue bonds or any of

1 the coupons of any revenue bonds~~7~~ issued under subsection (1) of  
2 this section, in any civil action, mandamus, or other proceeding,1  
3 may enforce and compel the performance of all duties required by  
4 this section and the covenants made by the ~~municipality~~ city or  
5 village in the ordinance providing for the issuance of such bonds,  
6 including the making and collecting of sufficient rates or charges  
7 for the specified purposes and for the proper application of the  
8 income therefrom.

9           Sec. 7. Section 18-505, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           18-505 (1) For the purpose of providing for ~~such a~~ a  
12 sewage disposal plant and sewerage system, including any storm  
13 sewer system, subject to section 11 of this act, or improving  
14 or extending ~~such an~~ an existing system, any ~~such municipality~~ city  
15 or village may also enter into a contract with any corporation  
16 organized under or authorized by the laws of this state to engage  
17 ~~in the business herein mentioned,~~ to receive and treat,1 in the  
18 manner hereinbefore mentioned~~,~~ the sewage and night soil thereof,  
19 described in section 18-501, sewage, night soil, or storm water of  
20 the city or village and to construct~~7~~ and provide the facilities  
21 and services as ~~hereinbefore~~ described in sections 18-501 to 18-507  
22 and sections 2 and 11 of this act.

23           (2)(a) Such contract may ~~also~~ authorize the corporation  
24 to charge the owners of the premises served ~~such a service rate~~  
25 ~~therefor~~ a use rate as the governing body of such ~~municipality~~

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

9           Sec. 8. Section 18-507, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           18-507 Whenever the governing body of any city or village  
12 ~~shall have~~ has ordered the installation of a sewerage system  
13 and sewage disposal plant or the improvement or extension of  
14 an existing system, including any storm sewer system, subject  
15 to section 11 of this act the fact that such order was issued  
16 shall be recited in the official minutes of the governing  
17 body. The ~~said~~ governing body shall thereupon require that  
18 plans and specifications be ~~prepared~~ of such sewerage system  
19 and sewage disposal plant, including any storm sewer system, or  
20 such improvement or extension be prepared. Upon approval of such  
21 plans, the governing body shall thereupon advertise for sealed bids  
22 for the construction of ~~said~~ the improvements once a week for  
23 three weeks in a legal paper published in or of general circulation  
24 within ~~said municipality,~~ the city or village, and the contract  
25 shall be awarded to the lowest responsible bidder.

1           Sec. 9. 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  
5 in sections 18-501 to 18-507 and sections 2 and 11 of this act, or  
6 the municipality, is hereby authorized to city or village, subject  
7 to section 11 of this act, may extend the same system beyond the  
8 limits of the city or village which it serves, under the same  
9 conditions as nearly as may be possible as within such corporate  
10 limits and to charge to users of its services reasonable and fair  
11 rates consistent with those charged or which might be charged  
12 within such corporate limits and consistent with the expense of  
13 extending and maintaining the same for the users thereof outside  
14 such corporate limits at a fair return to the owner thereof. The  
15 mayor and city council of any city or the board of trustees of any  
16 village ~~shall have authority to~~ may enter into contracts with users  
17 of such sewerage system; ~~PROVIDED,~~ system, except that no contract  
18 shall call for furnishing of such service for a period in excess of  
19 twenty years.

20           Sec. 10. Section 18-509, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           18-509 (1) The mayor and city council of any city or the  
23 board of trustees of any village, in addition to other sources of  
24 revenue available to the city or village and subject to section 11  
25 of this act, may by ordinance set up a rental or use charge, to

1 be collected from users of any system of sewerage, including any  
2 storm sewer system, and provide methods for collection thereof. The  
3 charges shall be charged to each property served by the sewerage  
4 system or storm sewer system, shall be a lien upon the property  
5 served, and may be collected either from the owner or the person,  
6 firm, or corporation requesting the service. Charges to be paid for  
7 the use of a storm sewer system shall be proportionate to the storm  
8 water contribution of the premises served and based upon sound  
9 engineering principles, as established by the city or village, and  
10 may include allowances or adjustments for impervious land surfaces  
11 and land uses and credits for storm water quantity and quality  
12 best management practices. The city or village may also establish  
13 a system of exemption from storm water charges for the property of  
14 the state and its governmental subdivisions to the extent used or  
15 being developed for use by the state or governmental subdivision  
16 for a public purpose as described in subdivision (1)(a) of section  
17 77-202 and other property as the city or village may determine.

18 (2) All money raised from the charges, referred to in  
19 subsection (1) of this section, shall be used for maintenance or  
20 operation of the existing system, for payment of principal and  
21 interest on bonds issued as is provided for in section 17-925,  
22 18-502, 18-506, or 19-1305, ~~or~~ to create a reserve fund for the  
23 purpose of future maintenance or construction of a new sewer system  
24 for the city or village, or to develop, establish, and implement  
25 storm water management programs subject to section 11 of this

1 act. Any funds raised from ~~this~~ such charge shall be placed in a  
2 separate fund and not be used for any other purpose or diverted to  
3 any other fund.

4           Sec. 11. The provisions of sections 18-501 to 18-512 and  
5 section 2 of this act authorizing a city to establish use charges  
6 for a storm sewer system and the development, establishment,  
7 and implementation of storm water management programs shall be  
8 applicable only to the urban area of cities which are required  
9 by federal law to develop, establish, and implement storm water  
10 management programs and secure a storm water discharge permit under  
11 the National Pollutant Discharge Elimination System.

12           Sec. 12. A county board by resolution may establish  
13 storm water management areas and implement storm water management  
14 programs within the county. For purposes of funding the cost of  
15 capital improvements and paying the operational and maintenance  
16 costs of a county storm water management program in a county's  
17 storm water management area, (1) a county encompassing a city  
18 described in section 11 of this act or (2) a county that is  
19 required by federal law to have its own storm water management  
20 program may, by resolution of its county board, adopt a system of  
21 storm water management charges to be charged against real property  
22 in the urban area of such storm water management area and may issue  
23 revenue bonds or refunding bonds payable from the proceeds of such  
24 charges, all upon such terms as the county board by resolution  
25 determines are reasonable. Such charges shall be designed to be

1 proportionate to the storm water runoff contribution of such real  
2 property and based upon sound engineering principles that may  
3 include allowances and adjustments for impervious surface area and  
4 land uses and credits for storm water quantity and quality best  
5 management practices. Such charges shall be collected in the same  
6 manner as ad valorem taxes or in such other manner as the county  
7 board determines appropriate and shall not be deemed to be special  
8 benefit assessments. A county shall also establish a system for  
9 exemption from storm water charges for the property of the state  
10 and its governmental subdivisions to the extent used or being  
11 developed for use by the state or governmental subdivision for a  
12 public purpose as described in subdivision (1) (a) of section 77-202  
13 and other property as the city or village may determine. The county  
14 board shall provide an appeals process for aggrieved parties. A  
15 county shall not impose storm water management charges against real  
16 property that is being charged with storm water management charges  
17 by a city described in section 11 of this act. Any funds raised  
18 from the charges authorized by this section shall be placed in a  
19 separate fund and shall not be used for any purpose other than for  
20 storm water management programs.

21           Sec. 13. If any section in this act or any part of any  
22 section is declared invalid or unconstitutional, the declaration  
23 shall not affect the validity or constitutionality of the remaining  
24 portions.

25           Sec. 14. Original sections 18-501, 18-502, 18-503,

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1 18-504, 18-505, 18-507, 18-508, 18-509, and 18-510, Reissue Revised  
2 Statutes of Nebraska, and section 16-6,109, Revised Statutes  
3 Cumulative Supplement, 2006, are repealed.