

AMENDMENTS TO LB 779

Introduced by Lathrop, 12.

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

3 Section 1. Section 13-2601, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 13-2601 Sections 13-2601 to 13-2612 and section 3 of
6 this act shall be known and may be cited as the Convention Center
7 Facility Financing Assistance Act.

8 Sec. 2. Section 13-2604, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 13-2604 Any political subdivision that has acquired,
11 constructed, improved, or equipped or has approved a general
12 obligation bond issue to acquire, construct, improve, or equip
13 eligible facilities may apply to the board for state assistance.
14 The state assistance may be used to pay back amounts expended or
15 borrowed through one or more issues of bonds to be expended by
16 the political subdivision to acquire, construct, improve, and equip
17 eligible facilities until repayment in full of the amounts expended
18 or borrowed by the political subdivision, including the principal
19 of and interest on bonds, for eligible facilities. ~~The political~~
20 ~~subdivision may continue to apply to the board for continuing state~~
21 ~~assistance in reimbursing the costs of financing the acquisition,~~
22 ~~construction, improvement, and equipping of the eligible facility.~~

23 Sec. 3. The Department of Revenue may adopt and

1 promulgate rules and regulations to carry out the Convention Center
2 Facility Financing Assistance Act.

3 Sec. 4. Section 13-2704, Reissue Revised Statutes of
4 Nebraska, as amended by section 8, Legislative Bill 3, One Hundred
5 First Legislature, First Special Session, 2009, is amended to read:

6 13-2704 The Local Civic, Cultural, and Convention Center
7 Financing Fund is created. The fund shall be administered by the
8 department. Transfers may be made from the fund to the General
9 Fund at the direction of the Legislature. Any money in the Local
10 Civic, Cultural, and Convention Center Financing Fund available
11 for investment shall be invested by the state investment officer
12 pursuant to the Nebraska Capital Expansion Act and the Nebraska
13 State Funds Investment Act. The fund may be used for assistance
14 for the construction of new centers or the renovation or expansion
15 of existing centers. The fund may not be used for planning,
16 programming, marketing, advertising, and related activities. The
17 State Treasurer shall transfer fifty thousand dollars to the
18 Department of Revenue on July 1, 2010, for costs associated
19 with the administration of the Sports Arena Facility Financing
20 Assistance Act.

21 Sec. 5. Section 13-2706, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 13-2706 Any municipality, except a city that has received
24 funding under the Convention Center Facility Financing Assistance
25 Act or the Sports Arena Facility Financing Assistance Act, may
26 apply for a grant of assistance from the fund. Application shall be
27 made on forms developed by the department.

1 Sec. 6. Sections 6 to 14 of this act shall be known and
2 may be cited as the Sports Arena Facility Financing Assistance Act.

3 Sec. 7. For purposes of the Sports Arena Facility
4 Financing Assistance Act:

5 (1) Board means a board consisting of the Governor,
6 the State Treasurer, the chairperson of the Nebraska Investment
7 Council, the chairperson of the Nebraska State Board of Public
8 Accountancy, and a professor of economics on the faculty of a
9 state postsecondary educational institution appointed to a two-year
10 term on the board by the Coordinating Commission for Postsecondary
11 Education. For administrative and budget purposes only, the board
12 shall be considered part of the Department of Revenue;

13 (2) Bond means a general obligation bond, redevelopment
14 bond, lease-purchase bond, revenue bond, or combination of any such
15 bonds;

16 (3) Eligible sports arena facility means any publicly
17 owned, enclosed, and temperature-controlled building primarily used
18 for sports or recreation that has a seating capacity of at least
19 three thousand but no more than seven thousand seats and in which
20 initial occupancy occurs on or after July 1, 2010. Eligible sports
21 facility includes stadiums, arenas, dressing and locker facilities,
22 concession areas, parking facilities, and onsite administrative
23 offices connected with operating the facilities;

24 (4) General obligation bond means any bond or refunding
25 bond issued by a political subdivision and which is payable from
26 the proceeds of an ad valorem tax;

27 (5) Increase in state sales tax revenue means the amount

1 of state sales tax revenue collected by a nearby retailer during
2 the fiscal year for which state assistance is calculated minus the
3 amount of state sales tax revenue collected by the nearby retailer
4 in the fiscal year that ended immediately preceding the date of
5 occupancy of the eligible sports arena facility, except that the
6 amount of state sales tax revenue of a nearby retailer shall not be
7 less than zero;

8 (6) Nearby retailer means a retailer as defined in
9 section 77-2701.32 that is located within six hundred yards of an
10 eligible sports arena facility, measured from the facility but not
11 from any parking facility or other structure. The term includes
12 a subsequent owner of a nearby retailer operating at the same
13 location;

14 (7) New state sales tax revenue means:

15 (a) For nearby retailers that commenced collecting state
16 sales tax during the period of time beginning twenty-four months
17 prior to occupancy of the eligible sports arena facility and
18 ending twenty-four months after the occupancy of the eligible
19 sports arena facility, one hundred percent of the state sales tax
20 revenue collected by the nearby retailer and sourced under sections
21 77-2703.01 to 77-2703.04 to a location within six hundred yards of
22 the eligible sports arena facility; and

23 (b) For nearby retailers that commenced collecting state
24 sales tax prior to twenty-four months prior to occupancy of the
25 eligible sports arena facility, the increase in state sales tax
26 revenue collected by the nearby retailer and sourced under sections
27 77-2703.01 to 77-2703.04 to a location within six hundred yards of

1 the facility;

2 (8) Political subdivision means any local governmental
3 body formed and organized under state law and any joint entity
4 or joint public agency created under state law to act on behalf
5 of political subdivisions which has statutory authority to issue
6 general obligation bonds; and

7 (9) Revenue bond means any bond or refunding bond issued
8 by a political subdivision which is limited or special rather than
9 a general obligation bond of the political subdivision and which is
10 not payable from the proceeds of an ad valorem tax.

11 Sec. 8. Any political subdivision that has acquired,
12 constructed, improved, or equipped or has approved a general
13 obligation bond issue to acquire, construct, improve, or equip
14 an eligible sports arena facility may apply to the board for
15 state assistance. The state assistance shall be used to pay back
16 amounts expended or borrowed through one or more issues of bonds
17 to be expended by the political subdivision to acquire, construct,
18 improve, and equip the eligible sports arena facility. If the
19 amount of state assistance in one year exceeds that year's bond
20 repayment amount, the state assistance may be used to maintain
21 the facility or may be placed in a sinking fund established by
22 the political subdivision to pay back amounts expended or borrowed
23 through such bonds.

24 Sec. 9. (1) All applications for state assistance under
25 the Sports Arena Facility Financing Assistance Act shall be in
26 writing and shall include a certified copy of the approving action
27 of the governing body of the applicant describing the proposed

1 eligible sports arena facility and the anticipated financing.

2 (2) The application shall contain:

3 (a) A description of the proposed financing of the
4 eligible sports arena facility, including the estimated principal
5 and interest requirements for the bonds proposed to be issued in
6 connection with the facility or the amounts necessary to repay the
7 original investment by the applicant in the facility;

8 (b) Documentation of local financial commitment to
9 support the project, including all public and private resources
10 pledged or committed to the project; and

11 (c) Any other project information deemed appropriate by
12 the board.

13 (3) Upon receiving an application for state assistance,
14 the board shall review the application and notify the applicant of
15 any additional information needed for a proper evaluation of the
16 application.

17 (4) Any state assistance received pursuant to the act
18 shall be used only for public purposes.

19 Sec. 10. (1) After reviewing an application submitted
20 under section 9 of this act, the board shall hold a public hearing
21 on the application.

22 (2) The board shall give notice of the time, place, and
23 purpose of the public hearing by publication three times in a
24 newspaper of general circulation in the area where the applicant
25 is located. Such publication shall be not less than ten days
26 prior to the hearing. The notice shall describe generally the
27 eligible sports arena facility for which state assistance has been

1 requested. The applicant shall pay the cost of the notice.

2 (3) At the public hearing, representatives of the
3 applicant and any other interested persons may appear and present
4 evidence and argument in support of or in opposition to the
5 application or neutral testimony. The board may seek expert
6 testimony and may require testimony of persons whom the board
7 desires to comment on the application. The board may accept
8 additional evidence after conclusion of the public hearing.

9 Sec. 11. (1) After consideration of the application and
10 the evidence, if the board finds that the facility described in the
11 application is eligible and that state assistance is in the best
12 interest of the state, the application shall be approved.

13 (2) In determining whether state assistance is in the
14 best interest of the state, the board shall consider the fiscal and
15 economic capacity of the applicant to finance the local share of
16 the facility.

17 (3) A majority of the board members constitutes a quorum
18 for the purpose of conducting business. All actions of the board
19 shall be by a majority vote of all the board members, one of whom
20 must be the Governor.

21 Sec. 12. (1) If an application is approved, the Tax
22 Commissioner shall:

23 (a) Audit or review audits of the approved eligible
24 sports arena facility to determine the (i) state sales tax revenue
25 collected by retailers doing business at such facility on sales at
26 such facility, (ii) state sales tax revenue collected on primary
27 and secondary box office sales of admissions to such facility, and

1 (iii) new state sales tax revenue collected by nearby retailers;

2 (b) Certify annually the amount of state sales tax
3 revenue and new state sales tax revenue determined under
4 subdivision (a) of this subsection to the State Treasurer; and

5 (c) Determine if more than one facility is eligible
6 for state assistance from state sales tax revenue collected by
7 the same nearby retailers. If the Tax Commissioner has made such
8 a determination, the facility that was first determined to be
9 eligible for state assistance shall be the only facility eligible
10 to receive such funds.

11 (2) State sales tax revenue collected by retailers that
12 are doing business at an eligible sports arena facility and new
13 state sales tax revenue collected by nearby retailers shall be
14 reported on informational returns developed by the Department of
15 Revenue and provided to any such retailers by the facility. The
16 informational returns shall be submitted to the department by the
17 retailer by the twenty-fifth day of the month following the month
18 the sales taxes are collected. The Tax Commissioner shall use the
19 data from the informational returns and sales tax returns of both
20 such categories of retailers and the sports arena facility to
21 determine the appropriate amount of state sales tax revenue.

22 (3) The Department of Revenue may adopt and promulgate
23 rules and regulations to carry out the Sports Arena Facility
24 Financing Assistance Act.

25 Sec. 13. (1) Upon the annual certification under section
26 12 of this act, the State Treasurer shall transfer after the
27 audit the amount certified to the Sports Arena Facility Support

1 Fund which is hereby created. Any money in the fund available
2 for investment shall be invested by the state investment officer
3 pursuant to the Nebraska Capital Expansion Act and the Nebraska
4 State Funds Investment Act.

5 (2) It is the intent of the Legislature to appropriate
6 from the fund money to be distributed to any political subdivision
7 for which an application for state assistance under the Sports
8 Arena Facility Financing Assistance Act has been approved an amount
9 not to exceed seventy percent of the state sales tax revenue
10 collected by retailers doing business at eligible sports arena
11 facilities on sales at such facilities and state sales tax revenue
12 collected on primary and secondary box office sales of admissions
13 to such facilities and new state sales tax revenue collected
14 by nearby retailers and sourced under sections 77-2703.01 to
15 77-2703.04 to a location within six hundred yards of the eligible
16 facility.

17 (3) The total amount of state assistance approved for an
18 eligible sports arena facility shall not (a) exceed seventy-five
19 million dollars for any one approved project or (b) be paid out for
20 more than twenty years after the issuance of the first bond for the
21 sports arena facility.

22 (4) State assistance to the political subdivision shall
23 no longer be available upon the retirement of the bonds issued
24 to acquire, construct, improve, or equip the facility or any
25 subsequent bonds that refunded the original issue or when state
26 assistance reaches the amount determined under subsection (3) of
27 this section, whichever comes first.

1 (5) State assistance shall not be used for an operating
2 subsidy or other ancillary facility.

3 (6) The thirty percent of state sales tax revenue
4 remaining after the appropriation in subsection (2) of this section
5 shall be appropriated by the Legislature to the Local Civic,
6 Cultural, and Convention Center Financing Fund.

7 (7) Any municipality that has applied for and received a
8 grant of assistance under the Local Civic, Cultural, and Convention
9 Center Financing Act may not receive state assistance under the
10 Sports Arena Facility Financing Assistance Act.

11 Sec. 14. (1) The applicant political subdivision may
12 issue from time to time its bonds and refunding bonds to
13 finance and refinance the acquisition, construction, improving,
14 and equipping of eligible sports arena facilities and appurtenant
15 public facilities that are a part of the same project. The bonds
16 may be sold by the applicant in such manner and for such price
17 as the applicant determines, at a discount, at par, or at a
18 premium, at private negotiated sale or at public sale, after
19 notice published prior to the sale in a legal newspaper having
20 general circulation in the political subdivision or in such other
21 medium of publication as the applicant deems appropriate. The
22 bonds shall have a stated maturity of twenty years or less and
23 shall bear interest at such rate or rates and otherwise be issued
24 in accordance with the respective procedures and with such other
25 terms and provisions as are established, permitted, or authorized
26 by applicable state laws and home rule charters for the type of
27 bonds to be issued. Such bonds may be secured as to payment in

1 whole or in part by a pledge, as shall be determined by the
2 applicant, from the income, proceeds, and revenue of the eligible
3 sports arena facilities financed with proceeds of such bonds, from
4 the income, proceeds, and revenue of any of its eligible sports
5 arena facilities, or from its revenue and income, including its
6 sales, use, or occupation tax revenue, fees, or receipts, as may be
7 determined by the applicant. The applicant may further secure the
8 bonds by a mortgage or deed of trust encumbering all or any portion
9 of the eligible sports arena facilities and by a bond insurance
10 policy or other credit support facility. No general obligation
11 bonds, except refunding bonds, shall be issued until authorized by
12 greater than fifty percent of the applicant's electors voting on
13 the question as to their issuance at any election as defined in
14 section 32-108. The face of the bonds shall plainly state that the
15 bonds and the interest thereon shall not constitute nor give rise
16 to an indebtedness, obligation, or pecuniary liability of the state
17 nor a charge against the general credit, revenue, or taxing power
18 of the state. Bonds of the applicant are declared to be issued
19 for an essential public and governmental purpose and, together with
20 interest thereon and income therefrom, shall be exempt from all
21 state income taxes.

22 (2) All payments to political subdivisions under the
23 Sports Arena Facility Financing Assistance Act are made subject to
24 specific appropriation for such purpose.

25 Sec. 15. This act becomes operative on July 1, 2010.

26 Sec. 16. Original sections 13-2601, 13-2604, and 13-2706,
27 Reissue Revised Statutes of Nebraska, and section 13-2704, Reissue

1 Revised Statutes of Nebraska, as amended by section 8, Legislative
2 Bill 3, One Hundred First Legislature, First Special Session, 2009,
3 are repealed.

4 Sec. 17. Since an emergency exists, this act takes effect
5 when passed and approved according to law.