

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB128

Hearing Date: Tuesday February 03, 2009
Committee On: Urban Affairs
Introducer: Avery
One Liner: Authorize the investment of public endowment funds by any city which is authorized by the Constitution of Nebraska to establish a charter

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Coash, Cook, Friend, Lathrop, Rogert, White
Nay:
Absent: 1 Senator McGill
Present Not Voting:

Proponents:	Representing:
Senator Avery	Introducer
Dan Anderson	Community Health Endowment
Lori Seibel	Community Health Endowment
Don Herz	City of Lincoln
Gary Krumland	League of NE Municipalities
Jack Cheloha	City of Omaha

Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

This legislation relates to the endowment funds of cities with a population in excess of five thousand inhabitants, proposing to authorize expanded investment authority for the endowment funds of such cities. It constitutes the enabling legislation for Amendment 1 adopted by the voters of Nebraska at the 2008 primary election.

The proposal presented here began its life in 2005 as LB 186, sponsored by Sen. Chris Beutler. Originally it dealt only with primary class cities.

That bill proposed to amend Sec. 15-849 which relates to the authority of the treasurer of a primary class city regarding the management of city funds, proposing to extend current authority to a broader range of potentially more lucrative investment options.

The Attorney General's office (in AG's opinion #05006) determined that there was then no constitutional authority for the exercise of the proposed expanded investment authority and that the legislation was unconstitutional.

Sen. Beutler also introduced that year LR 18CA, a proposal which would have provided the full constitutional authority for the sorts of investments contemplated by LB 186.

This "companion" legislation to LB 186 was heard on January 18, 2005 by the Urban Affairs Committee. The proposed constitutional amendment was not self-executing: it authorized the Legislature, in its discretion, to expand the investment authority granted to cities and other political subdivisions.

LR 18CA was advanced with a committee amendment that would have permitted the Legislature to authorize any or all political subdivisions to invest their public funds subject to such limitations as the legislature may prescribe by statute.

The local subdivisions would retain control over their own investment decisions but would be permitted to do so only within the boundaries prescribed by the Legislature in statute. Ultimately, an amended version of LR 18CA was amended into LB 75. The final version of LR 18CA/LB 75 reduced the scope of the new investment authority to the endowment funds of political subdivisions. The legislature could authorize the investment of these funds by the political subdivisions subject to a "prudent man"u standard with the political subdivisions operating in a fiduciary capacity with regard to the funds.

LB 75 was ultimately adopted on April 3, 2006 and placed On the ballot of the 2006 general election as Constitutional Amendment 2 (by a vote of 42-0-7).

At that election, Amendment 2 was rejected by the voters on a vote of 221,499 votes "for" to 292,456 votes "Against."

LR 6CA (2007) reintroduced precisely the language of LB 75/LR 18CA as ultimately adopted by the Legislature in 2006 and as it appeared on the statewide ballot as Amendment 2.

Basically, it provided the Legislature with the authority to authorize the investment of the public endowment funds of cities, villages, school districts, public power districts, and other political subdivisions.

In the course of floor debate, LR 6CA was amended into the form in which it appeared on the ballot on May 13, 2008. The amendment (Amendment 1) appeared on the ballot of the primary election held on May 13, 2008. It was approved by the voters on a vote of 137,047 to 99,920.

This bill constitutes the enabling legislation necessary to permit qualifying cities to take advantage of the new authority provided by the passage of Amendment 1.

It mirrors precisely the language of the constitutional provision.

By the terms Article XI, section 2, only cities with a population in excess of 5,000 persons are authorized to establish a charter (and therefore may exercise the expanded authority for the investment of endowment funds).

Explanation of amendments:

Explanation of amendments, if any:

As a technical matter the committee amendment strikes the "Charter" city language currently in the bill for a provision which specifically states that it relates to the endowment funds of cities with a population in excess of five thousand inhabitants (the population level at which a city may adopt a city charter).

This is the only change made to the original bill.

Mike Friend, Chairperson