

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 863

Introduced by Cornett, 45.

Read first time January 11, 2010

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities of the first class; to amend section
2 31-744, Reissue Revised Statutes of Nebraska, and section
3 16-130, Revised Statutes Supplement, 2009; to change
4 provisions relating to annexation; to provide duties for
5 sanitary and improvement districts; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 16-130, Revised Statutes Supplement,
2 2009, is amended to read:

3 16-130 (1) The provisions of this section shall govern
4 annexation by a city of the first class located in whole or in part
5 within the boundaries of a county having a population in excess of
6 one hundred thousand inhabitants but less than two hundred thousand
7 inhabitants.

8 (2) Except as provided in sections 13-1111 to 13-1120 and
9 subject to this section, the mayor and city council of a city of
10 the first class described in subsection (1) of this section may
11 by ordinance at any time include within the corporate limits of
12 such city any contiguous or adjacent lands, lots, tracts, streets,
13 or highways as are urban or suburban in character and in such
14 direction as may be deemed proper. Such grant of power shall not
15 be construed as conferring power upon the mayor and city council to
16 extend the limits of such a city over any agricultural lands which
17 are rural in character.

18 (3) The invalidity of the annexation of any tract of land
19 in one ordinance shall not affect the validity of the remaining
20 tracts of land which are annexed by the ordinance and which
21 otherwise conform to state law.

22 (4) Any owner of property contiguous or adjacent to such
23 a city may by petition request that such property be included
24 within the corporate limits of such city.

25 (5) Notwithstanding the requirements of this section, the

1 mayor and city council are not required to approve any petition
2 requesting annexation or any resolution or ordinance proposing to
3 annex land pursuant to this section.

4 (6) Not later than fourteen days prior to the public
5 hearing before the planning commission on a proposed annexation
6 by the city, the city clerk shall send notice of the proposed
7 annexation by certified mail, return receipt requested, to any
8 of the following entities serving customers in such city or in
9 the area proposed for annexation: Any natural gas public utility
10 as defined in section 66-1802; any natural gas utility owned or
11 operated by the city; any metropolitan utilities district; any
12 public power district; any public power and irrigation district;
13 any municipality; any sanitary and improvement district; any
14 electric cooperative; and any other governmental entity providing
15 electric service. Such notice shall include a copy of the proposed
16 annexation ordinance, the date, time, and place of the public
17 hearing before the planning commission on the proposed annexation
18 ordinance, and a map showing the boundaries of the area proposed
19 for annexation.

20 (7) Upon receipt of the notice of proposed annexation, a
21 sanitary and improvement district which includes any of the land
22 proposed to be annexed shall obtain approval from the city council
23 prior to entering into, amending, or extending any contract.

24 ~~(7)~~ (8) Prior to the final adoption of the annexation
25 ordinance, the minutes of the city council meeting at which such

1 final adoption was considered shall reflect formal compliance with
2 the provisions of subsection (6) of this section.

3 ~~(8)~~ (9) No additional or further notice beyond that
4 required by subsection (6) of this section shall be necessary in
5 the event (a) that the scheduled city council public hearing on
6 the proposed annexation is adjourned, continued, or postponed until
7 a later date or (b) that subsequent to providing such notice the
8 ordinance regarding such proposed annexation was amended, changed,
9 or rejected by action of the city council prior to formal passage
10 of the annexation ordinance.

11 ~~(9)~~ (10) Except for a willful or deliberate failure to
12 cause notice to be given, no annexation decision made by a city
13 either to accept or reject a proposed annexation, either in whole
14 or in part, shall be void, invalidated, or affected in any way
15 because of any irregularity, defect, error, or failure on the part
16 of the city or its employees to cause notice to be given as
17 required by this section if a reasonable attempt to comply with
18 this section was made.

19 ~~(10)~~ (11) Except for a willful or deliberate failure to
20 cause notice to be given, the city and its employees shall not
21 be liable for any damage to any person resulting from any failure
22 to cause notice to be given as required by this section when a
23 reasonable attempt was made to provide such notice. No action for
24 damages resulting from the failure to cause notice to be provided
25 as required by this section shall be filed more than one year

1 following the date of the formal acceptance or rejection of the
2 proposed annexation, either in whole or in part, by the city
3 council.

4 ~~(11)~~ (12) No action to challenge the validity of the
5 acceptance or rejection of a proposed annexation on the basis of
6 this section shall be filed more than one year following the date
7 of the formal acceptance or rejection of the annexation by the city
8 council.

9 Sec. 2. Section 31-744, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 31-744 ~~Whenever~~ (1) The board of trustees shall propose
12 a resolution whenever the board of trustees or the administrator
13 deems it advisable or necessary to: ~~(1) to build,~~

14 (a) Build, reconstruct, purchase, or otherwise acquire a
15 water system, an emergency management warning system, a sanitary
16 sewer system, a sanitary and storm sewer or sewage disposal plant,
17 pumping stations, sewer outlets, gas or electric service lines
18 and conduits constructed or to be constructed in whole or in
19 part inside or outside of the district, a system of sidewalks,
20 public roads, streets, and highways wholly within the district,
21 public waterways, docks, or wharfs, and related appurtenances,
22 wholly within the district, or a public park or parks, playgrounds,
23 and recreational facilities wholly within the district; 7 ~~(2) to~~
24 ~~contract~~

25 (b) Contract, as permitted by section 31-740, with the

1 county or city within whose zoning jurisdiction the sanitary
2 and improvement district is located for intersection and traffic
3 control improvements which serve or benefit the district and are
4 located within or without the corporate boundaries of the district;
5 ~~or (3) to contract,~~

6 (c) Contract, as permitted by section 31-727, with
7 other sanitary and improvement districts for acquiring,
8 building, improving, and operating public parks, playgrounds, and
9 recreational facilities for the joint use of the residents of the
10 contracting districts; or ~~or (4) to contract~~

11 (d) Contract for the installation and operation of a
12 water system. ~~the~~

13 (2) (a) The board of trustees shall declare the
14 advisability and necessity therefor in a proposed resolution,
15 which resolution, in the case of pipe sewer construction, shall
16 state the kinds of pipe proposed to be used, shall include cement
17 concrete pipe and vitrified clay pipe and any other material
18 deemed suitable, shall state the size or sizes and kinds of sewers
19 proposed to be constructed, and shall designate the location and
20 terminal points thereof.

21 (b) If it is proposed to construct a water system,
22 disposal plants, pumping stations, outlet sewers, gas or electric
23 service lines and conduits, or a system of sidewalks, public roads,
24 streets, or highways or public waterways, docks, or wharfs, to
25 construct or contract for the construction of dikes and levees for

1 flood protection for the district or public parks, playgrounds,
2 or recreational facilities, or to contract, as permitted by
3 section 31-727, with other sanitary and improvement districts
4 for acquiring, building, improving, and operating public parks,
5 playgrounds, and recreational facilities for the joint use of the
6 residents of the contracting districts, the resolution shall refer
7 to the plans and specifications thereof which have been made and
8 filed before the publication of such resolution by the engineer
9 employed for such purpose.

10 (c) If it is proposed to purchase or otherwise acquire
11 a water system, a sanitary sewer system, a sanitary or storm
12 water sewer, sewers, sewage disposal plant, pumping stations, sewer
13 outlets, gas or electric service lines and conduits, or public
14 parks, playgrounds, or recreational facilities or to contract, as
15 permitted by section 31-727, with other sanitary and improvement
16 districts for acquiring, building, improving, and operating public
17 parks, playgrounds, and recreational facilities for the joint use
18 of the residents of the contracting districts, the resolution shall
19 state the price and conditions of the purchase or how such facility
20 is being acquired.

21 (d) If it is proposed to contract for the installation
22 and operation of a water system for fire protection and for the use
23 of the residents of the district, to contract for the construction
24 of dikes and levees for flood protection for the district or gas
25 or electric service lines and conduits, to contract with a county

1 within which all or a portion of such sanitary and improvement
2 district is located or a city within whose zoning jurisdiction
3 the sanitary and improvement district is located for any public
4 purpose specifically authorized in this section, or to contract, as
5 permitted by section 31-727, with other sanitary and improvement
6 districts for acquiring, building, improving, and operating public
7 parks, playgrounds, and recreational facilities for the joint use
8 of the residents of the contracting districts, the resolution shall
9 state the principal terms of the proposed agreement and how the
10 cost thereof is to be paid.

11 (e) When gas or electric service lines and conduits
12 are among the improvements that are proposed to be constructed,
13 purchased, or otherwise acquired or contracted for, and no
14 construction specifications and standards therefor have been
15 established by the municipality having zoning jurisdiction over
16 the area where such improvements are to be located, or when
17 such service lines and conduits are not to be located within
18 any municipality's area of zoning jurisdiction, the plans and
19 specifications for and the method of construction of such service
20 lines and conduits shall be approved by the supplier of gas or
21 electricity within whose service or customer area they are to be
22 located.

23 (f) The engineer shall also make and file, prior to the
24 publication of such resolution, an estimate of the total cost of
25 the proposed improvement. The proposed resolution shall state the

1 amount of such estimated cost.

2 (3) The board of trustees or the administrator shall
3 assess, to the extent of special benefits, the cost of such
4 improvements upon properties specially benefited thereby, except
5 that if the improvement consists of the replacement of an existing
6 facility, system, or improvement that poses an existing threat
7 to public health and safety affecting no more than one hundred
8 existing homes, the cost of such improvements may be paid for by
9 an issue of general obligation bonds under section 31-755. The
10 resolution shall state the outer boundaries of the district or
11 districts in which it is proposed to make special assessments.

12 (4) If a sanitary and improvement district is notified by
13 a city council that the city is proposing to annex land under the
14 authority of section 16-130 and the land includes a portion of the
15 district, the district shall not proceed with a resolution under
16 this section until it is approved by the city council.

17 Sec. 3. Original section 31-744, Reissue Revised Statutes
18 of Nebraska, and section 16-130, Revised Statutes Supplement, 2009,
19 are repealed.