

## LEGISLATIVE BILL 471

Approved by the Governor March 16, 2011

Introduced by Karpisek, 32; Mello, 5.

FOR AN ACT relating to the Local Option Municipal Economic Development Act; to amend sections 18-2708, 18-2709, 18-2714, and 18-2717, Reissue Revised Statutes of Nebraska; to redefine terms; to expand and change restrictions on appropriations from local sources of revenue for the use of economic development programs; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 18-2708, Reissue Revised Statutes of Nebraska, is amended to read:

18-2708 Local sources of revenue ~~shall mean~~ means the city's property tax, ~~or the city's local option sales tax, or any other general tax levied by the city or generated from municipally owned utilities or grants, donations, or state and federal funds received by the city subject to any restrictions of the grantor, donor, or state or federal law. Funds generated from municipally owned utilities shall be used for utility-related purposes or activities associated with the economic development program as determined by the city council, including, but not limited to, load management, energy efficiency, energy conservation, incentives for load growth, line extensions, land purchase, site development, and demand side management measures.~~

Sec. 2. Section 18-2709, Reissue Revised Statutes of Nebraska, is amended to read:

18-2709 (1) Qualifying business shall mean means any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from any of the following: The manufacture of articles of commerce; the conduct of research and development; the processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to eligible activities as listed in this section; telecommunications activities, including services providing advanced telecommunications capability; or tourism-related activities.

(2) Qualifying business also means:

(a) In cities of the first and second class and villages, a business shall also be a qualifying business if it that derives its principal source of income from the construction or rehabilitation of housing;

(b) A - In cities with a population of more than two thousand five hundred inhabitants and less than ten thousand inhabitants, a business shall also be a qualifying business if it that derives its principal source of income from retail trade, except that no more than forty percent of the total revenue generated pursuant to the Local Option Municipal Economic Development Act for an economic development program in any twelve-month period and no more than twenty percent of the total revenue generated pursuant to the act for an economic development program in any five-year period, commencing from the date of municipal approval of an economic development program, shall be used by the city for or devoted to the use of retail trade businesses. For purposes of this ~~section,~~ subdivision, retail trade ~~shall mean means~~ a business which is principally engaged in the sale of goods or commodities to ultimate consumers for their own use or consumption and not for resale; and-

(c) In cities with a population of two thousand five hundred inhabitants or less, a business shall be a qualifying business even though it derives its principal source of income from activities other than those set out in this section.

(3) If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its economic development program at a level not less than its average employment in such city over the twelve-month period preceding participation.

(4) A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance.

Sec. 3. Section 18-2714, Reissue Revised Statutes of Nebraska, is amended to read:

18-2714 (1) After approval by the voters of an economic development program, the governing body of the city shall, within forty-five days after such approval, establish the economic development program by ordinance in conformity with the terms of such program as set out in the original enabling resolution.

(2) After the adoption of the ordinance establishing the economic development program, such ordinance shall only be amended (a) to conform to the provisions of any existing or future state or federal law or (b) after notice, at least one public hearing, and a two-thirds vote of the members of the governing body of the city, when necessary to accomplish the purposes of the original enabling resolution.

(3) The governing body of a city shall not amend the economic development program so as to fundamentally alter its basic structure or goals, either with regard to the qualifying businesses that are eligible to participate, the local sources of revenue used to fund the program, the uses of the funds collected, or the basic terms set out in the original enabling resolution, without submitting the proposed changes to a new vote of the registered voters of the city in the manner provided for in section 18-2713.

(4) The governing body of a city may, at any time after the adoption of the ordinance establishing the economic development program, by a two-thirds vote of the members of the governing body, repeal the ordinance in its entirety and end the economic development program, subject only to the provisions of any existing contracts relating to such program and the rights of any third parties arising from those contracts. Prior to such vote by the governing body, it shall publish notice of its intent to consider the repeal and hold a public hearing on the issue. Any funds in the custody of the city for such economic development program which are not spent or committed at the time of the repeal and any funds to be received in the future from the prior operation of the economic development program shall be placed into the general fund of the city.

Sec. 4. Section 18-2717, Reissue Revised Statutes of Nebraska, is amended to read:

18-2717 (1) No city shall appropriate from funds derived directly from local sources of revenue for all approved economic development programs, in each year during which such programs are in existence, an amount in excess of four-tenths of one percent of the taxable valuation of the city in the year in which the funds are collected.

(2) Notwithstanding the provisions of subsections (1) and (3) of this section, no city of the metropolitan or primary class shall appropriate from funds derived directly from local sources of revenue more than ~~three~~ five million dollars for all approved economic development programs in any one year, no city of the first class shall appropriate from funds derived directly from local sources of revenue more than ~~two~~ four million dollars for all approved economic development programs in any one year, and no city of the second class or village shall appropriate from funds derived directly from local sources of revenue more than ~~one~~ three million dollars for all approved economic development programs in any one year.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, no city shall appropriate from funds derived directly from local sources of revenue an amount for an economic development program in excess of the total amount approved by the voters at the election or elections in which the economic development program was submitted or amended.

(4) The restrictions on the appropriation of funds from local sources of revenue as set out in subsections (1) through (3) of this section shall apply only to the appropriation of funds derived directly from local sources of revenue. Sales tax collections in excess of the amount which may be appropriated as a result of the restrictions set out in such subsections shall be deposited in the city's economic development fund and invested as provided for in section 18-2718. Any funds in the city's economic development fund not otherwise restricted from appropriation by reason of the city's ordinance governing the economic development program or this section may be appropriated and spent for the purposes of the economic development program in any amount and at any time at the discretion of the governing body of the city subject only to section 18-2716.

(5) The restrictions on the appropriation of funds from local sources of revenue shall not apply to the reappropriation of funds which were appropriated but not expended during previous fiscal years.

Sec. 5. Original sections 18-2708, 18-2709, 18-2714, and 18-2717, Reissue Revised Statutes of Nebraska, are repealed.