

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 78

Final Reading

Introduced by Avery, 28; Pirsch, 4.

Read first time January 10, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government; to amend sections 54-1158,
 2 54-1161, 54-1162, 54-1163, 54-1165, 54-1168, 54-1169,
 3 54-1170, 54-1172, 81-1201.01, 81-1201.02, 81-1201.03,
 4 81-1361, 81-1368, 81-3607, and 81-3609, Reissue Revised
 5 Statutes of Nebraska, and sections 81-1201.18, 81-12,149,
 6 81-12,150, 81-12,155, and 81-12,164, Revised Statutes
 7 Cumulative Supplement, 2012; to eliminate the Nebraska
 8 State Airline Authority, the Livestock Auction Market
 9 Board, the Athletic Advisory Committee, the Affirmative
 10 Action Committee, the Rural Development Commission, and
 11 the Economic Development Commission; to change and
 12 provide powers and duties; to harmonize provisions; to
 13 repeal the original sections; and to outright repeal
 14 sections 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160,
 15 81-1201.05, 81-1201.06, 81-1363, 81-1364, 81-1365,
 16 81-1366, 81-3601, 81-3603, and 81-3604, Reissue Revised

1 Statutes of Nebraska, and sections 81-8,139.01,
2 81-1201.04, 81-3602, and 81-3605, Revised Statutes
3 Cumulative Supplement, 2012.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 54-1158, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 54-1158 As used in the Livestock Auction Market Act,
4 unless the context otherwise requires:

5 (1) Accredited veterinarian means a veterinarian duly
6 licensed by the State of Nebraska and approved by the deputy
7 administrator of the United States Department of Agriculture in
8 accordance with 9 C.F.R. part 161 as the regulations existed on
9 September 1, 2001;

10 ~~(2) Board means the Livestock Auction Market Board;~~

11 ~~(3)~~ (2) Department means the Department of Agriculture;

12 ~~(4)~~ (3) Designated veterinarian means an accredited
13 veterinarian who has been designated and authorized by the State
14 Veterinarian to make inspections of livestock at livestock auction
15 markets as may be required by law or regulation whether such
16 livestock is moved in interstate or intrastate commerce;

17 ~~(5)~~ (4) Director means the Director of Agriculture;

18 ~~(6)~~ (5) Livestock means cattle, calves, swine, sheep, and
19 goats;

20 ~~(7)~~ (6) Livestock auction market means any place,
21 establishment, or facility commonly known as a livestock auction
22 market, sales ring, or the like, conducted or operated for
23 compensation as an auction market for livestock, consisting of pens
24 or other enclosures, and their appurtenances, in which livestock are
25 received, held, sold, or kept for sale or shipment;

1 ~~(8)~~—(7) Livestock auction market operator means any
2 person engaged in the business of conducting or operating a livestock
3 auction market, whether personally or through agents or employees;

4 ~~(9)~~—(8) Market license means the license for a livestock
5 auction market authorized to be issued under the act;

6 ~~(10)~~—(9) Person means any individual, firm, association,
7 partnership, limited liability company, or corporation; and

8 ~~(11)~~—(10) State Veterinarian means the veterinarian in
9 charge of the Bureau of Animal Industry within the department or his
10 or her designee, subordinate to the director.

11 Sec. 2. Section 54-1161, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 54-1161 No person shall conduct or operate a livestock
14 auction market unless he or she holds a market license therefor, upon
15 which the current annual market license fee has been paid. Any person
16 making application for a new market license shall do so to the ~~board~~
17 director in writing, verified by the applicant, on a form prescribed
18 by the ~~board, department,~~ showing the following:

19 (1) The name and address of the applicant and, if the
20 applicant is an individual, his or her social security number, with
21 statement of the names and addresses of all persons having any
22 financial interest in the applicant and the amount of such interest;

23 (2) Financial responsibility of the applicant in the form
24 of a statement of all assets and liabilities;

25 (3) A legal description of the property and its exact

1 location with a complete description of the facilities proposed to be
2 used in connection with such livestock auction market;

3 (4) The schedule of charges applicant proposes for all
4 services proposed to be rendered; and

5 (5) A detailed statement of the facts upon which the
6 applicant relies showing the general confines of the trade area
7 proposed to be served by such livestock auction market, the benefits
8 to be derived by the livestock industry, and the services proposed to
9 be rendered.

10 Such application shall be accompanied by the annual fee
11 as prescribed in section 54-1165.

12 Sec. 3. Section 54-1162, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 54-1162 Upon the filing of the application as provided in
15 section 54-1161, the director shall fix a reasonable time for the
16 hearing at a place designated by him or her at which time a hearing
17 shall be held on the proposed location of the livestock auction
18 market. The director forthwith shall cause a copy of such
19 application, together with notice of the time and place of hearing,
20 to be served by mail not less than fifteen days prior to such
21 hearing, upon the following:

22 (1) All duly organized statewide livestock associations
23 in the state who have filed written requests with the ~~board~~
24 department to receive notice of such hearings and such other
25 livestock associations as in the opinion of the director would be

1 interested in such application; and

2 (2) All livestock auction market operators in the state.

3 The director shall give further notice of such hearing by
4 publication of the notice thereof once in a daily or weekly newspaper
5 circulated in the city or village where such hearing is to be held,
6 as in the opinion of the director will give reasonable public notice
7 of such time and place of hearing to persons interested therein.

8 Sec. 4. Section 54-1163, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 54-1163 The hearing required by section 54-1162 shall be
11 heard by ~~two or more members of the board. If the board determines,~~
12 the director and the State Veterinarian. If the director and the
13 State Veterinarian determine, after such hearing, that the proposed
14 livestock auction market would beneficially serve the livestock
15 economy, ~~it—the department~~ shall issue a market license to the
16 applicant. In determining whether or not the application should be
17 granted or denied, ~~the board shall give~~ reasonable consideration
18 shall be given to:

19 (1) The ability of the applicant to comply with the
20 federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as
21 amended;

22 (2) The financial stability, business integrity, and
23 fiduciary responsibility of the applicant;

24 (3) The adequacy of the facilities described to permit
25 the performance of market services proposed in the application;

1 (4) The present needs for market services or additional
2 services as expressed by livestock growers and feeders in the
3 community; and

4 (5) Whether the proposed livestock auction market would
5 be permanent and continuous.

6 Sec. 5. Section 54-1165, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 54-1165 Every livestock auction market operator shall pay
9 annually, on or before August 1, a market license fee of one hundred
10 fifty dollars to the ~~board~~department for each livestock auction
11 market operated by him or her, which payment shall constitute a
12 renewal for one year. Fees so paid shall be remitted to the State
13 Treasurer for credit to the Livestock Auction Market Fund for ~~the use~~
14 ~~of the board in paying~~ the expenses of administration of the
15 Livestock Auction Market Act.

16 Sec. 6. Section 54-1168, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 54-1168 Every market license holder under the Livestock
19 Auction Market Act shall keep an accurate record of all transactions
20 conducted in the ordinary course of his or her business. Such records
21 shall be available for examination of the ~~board, director, or its his~~
22 or her duly authorized representative, in respect to a market license
23 issued under such act.

24 Sec. 7. Section 54-1169, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 54-1169 (1) The ~~board~~department may, upon its own
2 motion, whenever it has reason to believe ~~the provisions of the~~
3 Livestock Auction Market Act ~~have~~has been violated, or upon verified
4 complaint of any person in writing, investigate the actions of any
5 market license holder, and if ~~it~~the department finds probable cause
6 to do so, shall file a complaint against the market license holder
7 which shall be set down for hearing before the ~~board~~director and the
8 State Veterinarian upon fifteen days' notice served upon such market
9 license holder either by personal service upon him or her or by
10 registered or certified mail or telegram prior to such hearing.

11 (2) The director shall have the power to administer
12 oaths, certify to all official acts, and subpoena ~~and bring before~~
13 ~~the board~~ any person in this state as a witness, to compel the
14 producing of books and papers, and to take the testimony of any
15 person on deposition in the same manner as is prescribed by law in
16 the procedure before the courts of this state in civil cases.
17 Processes issued by the director shall extend to all parts of the
18 state and may be served by any person authorized to serve processes.
19 Each witness who shall appear by the order of the director at any
20 hearing ~~before the board~~ shall receive for such attendance the same
21 fees allowed by law to witnesses in civil cases appearing in the
22 district court and mileage at the same rate provided in section
23 81-1176, which amount shall be paid by the party at whose request
24 such witness is subpoenaed. When any witness has not been required to
25 attend at the request of any party, but has been subpoenaed by the

1 director, his or her fees and mileage shall be paid by the director
2 in the same manner as other expenses ~~of the board~~ are paid under the
3 Livestock Auction Market Act.

4 (3) All powers of the director as provided in this
5 section shall likewise be applicable to hearings held on applications
6 for the issuance of a market license.

7 (4) Formal finding by the ~~board~~ director and the State
8 Veterinarian after due hearing that any market license holder: ~~(1)~~
9 ~~Has~~ (a) has ceased to conduct a livestock auction market business,
10 (b) ; ~~(2)~~ has been guilty of fraud or misrepresentation as to the
11 titles, charges, number, brands, weights, proceeds of sale, or
12 ownership of livestock, (c) ; ~~(3)~~ has violated any of the provisions
13 of the Livestock Auction Market Act, ; ~~(4)~~ (d) has violated any of
14 the rules or regulations adopted and ~~published by the board,~~
15 promulgated under the act, shall be sufficient cause for the
16 suspension or revocation of the market license of the offending
17 livestock auction market operator.

18 Sec. 8. Section 54-1170, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 54-1170 The ~~board~~ director shall keep a complete
21 transcript of all proceedings and evidence presented in any hearing
22 ~~before it.~~ under the Livestock Auction Market Act. The applicant for
23 a market license, any protestant formally appearing in the hearing
24 ~~before the board~~ for such market license, the holder of any market
25 license suspended or revoked, or any party to a transfer application

1 may appeal the order, ~~of the board,~~ and the appeal shall be in
2 accordance with the Administrative Procedure Act.

3 Sec. 9. Section 54-1172, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 54-1172 Salaries and expenses of employees, costs of
6 hearings, and all other costs of ~~the board in the~~ administration of
7 the Livestock Auction Market Act shall be paid from the Livestock
8 Auction Market Fund which is hereby created. Any money in the
9 Livestock Auction Market Fund available for investment shall be
10 invested by the state investment officer pursuant to the Nebraska
11 Capital Expansion Act and the Nebraska State Funds Investment Act.

12 Sec. 10. Section 81-1201.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-1201.01 As used in sections 81-1201.01 to 81-1201.22,
15 unless the context otherwise requires:

16 ~~(1) Commission shall mean the Economic Development~~
17 ~~Commission;~~

18 ~~(2) (1) Community Development Block Grant shall mean~~
19 means the grants distributed pursuant to the Housing and Community
20 Development Act of 1974 as amended by the Housing and Urban-Rural
21 Recovery Act of 1983;

22 ~~(3) (2) Department shall mean~~ means the Department of
23 Economic Development;

24 ~~(4) (3) Director shall mean~~ means the Director of
25 Economic Development;

1 ~~(5)~~(4) Economic articulation ~~shall mean~~ means the
2 creation of economic activities which will provide inputs to and
3 markets for other businesses in the state;

4 ~~(6)~~(5) Educational institutions ~~shall mean~~ means
5 nonprofit public and private colleges, community colleges, state
6 colleges, and universities in the state; and

7 ~~(7)~~(6) Value-adding industry ~~shall mean~~ means an
8 economic enterprise that adds value through processing, fabrication,
9 or other means to goods or services.

10 Sec. 11. Section 81-1201.02, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-1201.02 There is hereby created an executive
13 department of state government to be known as the Department of
14 Economic Development, ~~and a commission to be known as the Economic~~
15 ~~Development Commission.~~ The purpose of the department ~~and the~~
16 ~~commission shall be~~ is to maintain and develop the economy of the
17 state to provide opportunities for the people which will enhance and
18 expand the quality of their lives. The department ~~and the commission~~
19 shall promote the:

20 (1) Expansion of personal income through the development
21 of business and employment opportunities which afford sufficient
22 compensation to ensure an adequate standard of living for the people
23 of the state;

24 (2) Development of an economy that contributes to and
25 enhances the environmental quality of the state;

1 (3) Development of a stable economy within the state;

2 (4) Development of economic health and opportunities
3 throughout the communities and counties of the state;

4 (5) Development of an economy which is capable of
5 providing the necessary revenue for state government, local
6 governments, and other political subdivisions of the state and in
7 this way minimize the tax burden faced by all taxpayers of the state;
8 and

9 (6) Structuring of the department and its staff as a
10 nonpolitical, professionally managed division of state government.

11 Sec. 12. Section 81-1201.03, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-1201.03 The chief executive officer of the department
14 shall be the Director of Economic Development who shall be appointed
15 by the Governor with the consent of a majority of the Legislature.
16 The director shall administer the affairs of the department and shall
17 serve at the pleasure of the Governor. The director shall have equal
18 rank with the heads of other state departments, and his or her salary
19 shall be fixed by the Governor, ~~with the advice of the commission.~~

20 The director shall employ a deputy director with significant and
21 extensive professional experience in the field of economic
22 development. The director shall employ division directors and such
23 other assistants, professional staff, and other employees as he or
24 she deems necessary to effectively carry out sections 81-1201.01 to
25 81-1201.20 within the appropriations the Legislature provides.

1 Sec. 13. Section 81-1201.18, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 81-1201.18 (1) The department shall administer the
4 Community Development Block Grant Program. In addition to the
5 performance review requirements in section 81-1201.10, the department
6 shall develop an ongoing program of monitoring the impact of grants
7 on the communities receiving the grants. The monitoring program shall
8 include, but not be limited to, the following information: ~~(1)-(a)~~
9 The status of the project for which such grant was awarded; ~~(2)-(b)~~
10 the grant amount; ~~(3)-(c)~~ the local government contribution; ~~(4)-(d)~~
11 the private financial contribution; ~~(5)-(e)~~ the goals and objectives
12 of the grant; and ~~(6)-(f)~~ the impact of the grant relative to the
13 goals and objectives of the grant.

14 (2) The department, ~~in consultation with the commission,~~
15 shall determine community development objectives, state priorities,
16 and guidelines for the distribution of funds for community
17 development projects within the Community Development Block Grant
18 Program, which shall conform to the objectives as set forth in the
19 Housing and Community Development Act of 1974, as amended, and which
20 shall:

21 (a) Include statistical community need factors; ~~as~~
22 ~~selected by the commission;~~ and

23 (b) Require that grant applicants submit evidence of a
24 community assessment process for the project, which assessment
25 process the ~~commission~~ department shall design.

1 (3) To the extent possible, the Community Development
2 Block Grant funds shall be allocated on a need and competitive basis.

3 Sec. 14. Section 81-12,149, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 81-12,149 (1) During each calendar year in which funds
6 are available from the Site and Building Development Fund for use by
7 the Department of Economic Development, the department shall allocate
8 a specific amount of funds, not less than forty percent, to
9 nonmetropolitan areas. For purposes of this section, nonmetropolitan
10 areas means counties with fewer than one hundred thousand inhabitants
11 according to the most recent federal decennial census. In selecting
12 projects to receive fund assistance, the department shall develop a
13 qualified action plan by January 1 of each even-numbered year. The
14 plan shall give first priority to financially viable projects that
15 have an agreement with a business that will locate a site within
16 ninety days of the signed agreement. The plan shall set forth
17 selection criteria to be used to determine priorities of the fund
18 which are appropriate to local conditions, including the community's
19 immediate need for site and building development, proposed increases
20 in jobs and investment, private dollars leveraged, level of local
21 government support and participation, and repayment, in part or in
22 whole, of financial assistance awarded by the fund. The Director of
23 Economic Development, ~~in consultation with the Economic Development~~
24 ~~Commission~~, shall submit the plan to the Governor for approval.

25 (2) The department shall fund in order of priority as

1 many applications as will utilize available funds less actual
2 administrative costs of the department in administering the program.
3 In administering the program the department may contract for services
4 or directly provide funds to other governmental entities or
5 instrumentalities.

6 Sec. 15. Section 81-12,150, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 81-12,150 The Department of Economic Development,~~in~~
9 ~~consultation with the Economic Development Commission,~~ shall adopt
10 and promulgate rules and regulations to carry out the Site and
11 Building Development Act.

12 Sec. 16. Section 81-12,155, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 81-12,155 In selecting projects to receive financial
15 assistance under the Business Innovation Act, the department shall
16 develop a qualified action plan by January 1 of each even-numbered
17 year. The plan shall set forth selection criteria to be used to
18 determine priorities which are appropriate to local conditions and
19 the state's economy, including the state's immediate need for
20 innovation development, proposed increases in jobs and investment,
21 private dollars leveraged, industry support and participation, and
22 repayment, in part or in whole, of financial assistance awarded under
23 the act. ~~The Economic Development Commission~~ department shall submit
24 the plan to the Governor for approval.

25 Sec. 17. Section 81-12,164, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 81-12,164 The department, ~~in consultation with the~~
3 ~~Economic Development Commission~~, may adopt and promulgate rules and
4 regulations to carry out the Business Innovation Act, including
5 application procedures.

6 Sec. 18. Section 81-1361, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-1361 Each agency shall submit a plan for that agency
9 to the office ~~and the Affirmative Action Committee~~ for review and
10 shall work with the administrator to insure effectiveness of the
11 plan. Each agency shall annually update its plan based on guidelines
12 developed by the administrator.

13 Sec. 19. Section 81-1368, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-1368 Each agency plan shall be reviewed by the office
16 and approved or disapproved after submission. In every case when
17 noncompliance is indicated, efforts shall be made to secure
18 compliance through a corrective action plan. A specific commitment
19 shall be put forth in writing. The commitment shall indicate the
20 precise action to be taken and dates for completion. The time period
21 allowed shall be no longer than thirty calendar days to effect the
22 desired change. If an agency's plan does not comply with the rules
23 and regulations adopted and promulgated by the office or if the
24 agency's goals and timetables are not being met, the office shall
25 meet with the director of the agency to discuss the deficiencies. If

1 ~~an agreement cannot be reached in the informal meeting, the agency's~~
2 ~~noncompliance shall be reviewed by the Affirmative Action Committee.~~
3 Agency directors shall take responsibility for all noncompliance
4 within their particular agency. In all cases when such corrective
5 action plan does not resolve the noncompliance, the ~~Affirmative~~
6 ~~Action Committee~~ office shall report such noncompliance to the
7 Governor. Such report shall be in writing and shall be made available
8 to the news media at the same time that it is submitted to the
9 Governor. The Governor shall take appropriate action to resolve the
10 noncompliance elements and issues which were cited by the office, ~~and~~
11 ~~the Affirmative Action Committee.~~

12 Sec. 20. Section 81-3607, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-3607 The Nebraska Development Network Program is
15 created in the ~~Rural Development Commission.~~ ~~The commission~~
16 Department of Economic Development. The department shall administer
17 the program and may contract for services to carry out the purposes
18 of the Nebraska Development Network Program.

19 Sec. 21. Section 81-3609, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-3609 The Legislature finds and declares:

22 (1) That it is a benefit to the state and in the best
23 interest of the citizens of Nebraska to deliver economic and
24 community development services in an integrated and coordinated
25 system through increased community, state, and federal cooperation

1 and collaboration;

2 (2) That the Partnership for Rural Nebraska is recognized
3 as a strategic partnership between the State of Nebraska, the
4 University of Nebraska, and the United States Department of
5 Agriculture, the purpose of which is to provide a formal structure of
6 organizational collaboration and delivery of rural economic and
7 community development resources and programs to Nebraska's rural
8 communities;

9 (3) That the Partnership for Rural Nebraska has earned
10 national recognition as a model for cooperative and collaborative
11 delivery of services; and

12 (4) That it encourages the continued participation of the
13 State of Nebraska, through the Department of Economic Development,
14 ~~the Rural Development Commission,~~ and the University of Nebraska, in
15 the Partnership for Rural Nebraska.

16 Sec. 22. Original sections 54-1158, 54-1161, 54-1162,
17 54-1163, 54-1165, 54-1168, 54-1169, 54-1170, 54-1172, 81-1201.01,
18 81-1201.02, 81-1201.03, 81-1361, 81-1368, 81-3607, and 81-3609,
19 Reissue Revised Statutes of Nebraska, and sections 81-1201.18,
20 81-12,149, 81-12,150, 81-12,155, and 81-12,164, Revised Statutes
21 Cumulative Supplement, 2012, are repealed.

22 Sec. 23. The following sections are outright repealed:
23 Sections 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160, 81-1201.05,
24 81-1201.06, 81-1363, 81-1364, 81-1365, 81-1366, 81-3601, 81-3603, and
25 81-3604, Reissue Revised Statutes of Nebraska, and sections

- 1 81-8,139.01, 81-1201.04, 81-3602, and 81-3605, Revised Statutes
- 2 Cumulative Supplement, 2012.