

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 197

Introduced by Scheer, 19.

Read first time January 13, 2015

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to sanitary and improvement districts; to
- 2 amend section 31-727, Reissue Revised Statutes of Nebraska; to
- 3 provide additional powers for certain districts subject to municipal
- 4 approval; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-727, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 31-727 (1)(a) A majority of the owners having an interest in the
4 real property within the limits of a proposed sanitary and improvement
5 district, situated in one or more counties in this state, may form a
6 sanitary and improvement district for the purposes of installing electric
7 service lines and conduits, a sewer system, a water system, an emergency
8 management warning system, a system of sidewalks, public roads, streets,
9 and highways, public waterways, docks, or wharfs, and related
10 appurtenances, contracting for water for fire protection and for resale
11 to residents of the district, contracting for police protection and
12 security services, contracting for access to the facilities and use of
13 the services of the library system of one or more neighboring cities or
14 villages, and contracting for gas and for electricity for street lighting
15 for the public streets and highways within such proposed district,
16 constructing and contracting for the construction of dikes and levees for
17 flood protection for the district, and acquiring, improving, and
18 operating public parks, playgrounds, and recreational facilities.

19 (b) The sanitary and improvement district may also contract with a
20 county within which all or a portion of such sanitary and improvement
21 district is located or a city within whose zoning jurisdiction such
22 sanitary and improvement district is located for any public purpose
23 specifically authorized in this section.

24 (c) Sanitary and improvement districts located in any county which
25 has a city of the metropolitan class within its boundaries or in any
26 adjacent county which has adopted a comprehensive plan may contract with
27 other sanitary and improvement districts to acquire, build, improve, and
28 operate public parks, playgrounds, and recreational facilities for the
29 joint use of the residents of the contracting districts.

30 (d) Nothing in this section shall authorize districts to purchase
31 electric service and resell the same.

1 (e) The district, in lieu of establishing its own water system, may
2 contract with any utilities district, municipality, or corporation for
3 the installation of a water system and for the provision of water service
4 for fire protection and for the use of the residents of the district.

5 (f) For the purposes listed in this section, such majority of the
6 owners may make and sign articles of association in which shall be stated
7 (i) the name of the district, (ii) that the district will have perpetual
8 existence, (iii) the limits of the district, (iv) the names and places of
9 residence of the owners of the land in the proposed district, (v) the
10 description of the several tracts of land situated in the district owned
11 by those who may organize the district, (vi) the name or names and the
12 description of the real estate owned by such owners as do not join in the
13 organization of the district but who will be benefited thereby, and (vii)
14 whether the purpose of the corporation is installing gas and electric
15 service lines and conduits, installing a sewer system, installing a water
16 system, installing a system of public roads, streets, and highways,
17 public waterways, docks, or wharfs, and related appurtenances,
18 contracting for water for fire protection and for resale to residents of
19 the district, contracting for police protection and security services,
20 contracting for access to the facilities and use of the services of the
21 library system of one or more neighboring cities or villages, contracting
22 for street lighting for the public streets and highways within the
23 proposed district, constructing or contracting for the construction of
24 dikes and levees for flood protection of the proposed district,
25 acquiring, improving, and operating public parks, playgrounds, and
26 recreational facilities, or, when permitted by this section, contracting
27 with other sanitary and improvement districts to acquire, build, improve,
28 and operate public parks, playgrounds, and recreational facilities for
29 the joint use of the residents of the contracting districts, contracting
30 for any public purpose specifically authorized in this section, or
31 combination of any one or more of such purposes, or all of such purposes.

1 Such owners of real estate as are unknown may also be set out in the
2 articles as such.

3 (g) No sanitary and improvement district may own or hold land in
4 excess of ten acres, unless such land so owned and held by such district
5 is actually used for a public purpose, as provided in this section,
6 within three years of its acquisition. Any sanitary and improvement
7 district which has acquired land in excess of ten acres in area and has
8 not devoted the same to a public purpose, as set forth in this section,
9 within three years of the date of its acquisition, shall devote the same
10 to a use set forth in this section or shall divest itself of such land.
11 When a district divests itself of land pursuant to this section, it shall
12 do so by sale at public auction to the highest bidder after notice of
13 such sale has been given by publication at least three times for three
14 consecutive weeks prior to the date of sale in a legal newspaper of
15 general circulation within the area of the district.

16 (2) The articles of association shall further state that the owners
17 of real estate so forming the district for such purposes are willing and
18 obligate themselves to pay the tax or taxes which may be levied against
19 all the property in the district and special assessments against the real
20 property benefited which may be assessed against them to pay the expenses
21 that may be necessary to install a sewer or water system or both a sewer
22 and water system, the cost of water for fire protection, the cost of
23 grading, changing grade, paving, repairing, graveling, regrading,
24 widening, or narrowing sidewalks and roads, resurfacing or relaying
25 existing pavement, or otherwise improving any public roads, streets, or
26 highways within the district, including protecting existing sidewalks,
27 streets, highways, and roads from floods or erosion which has moved
28 within fifteen feet from the edge of such sidewalks, streets, highways,
29 or roads, regardless of whether such flooding or erosion is of natural or
30 artificial origin, the cost of constructing public waterways, docks, or
31 wharfs, and related appurtenances, the cost of constructing or

1 contracting for the construction of dikes and levees for flood protection
2 for the district, the cost of contracting for water for fire protection
3 and for resale to residents of the district, the cost of contracting for
4 police protection and security services, the cost of contracting for
5 access to the facilities and use of the services of the library system of
6 one or more neighboring cities or villages, the cost of electricity for
7 street lighting for the public streets and highways within the district,
8 the cost of installing gas and electric service lines and conduits, the
9 cost of acquiring, improving, and operating public parks, playgrounds,
10 and recreational facilities, and, when permitted by this section, the
11 cost of contracting for building, acquiring, improving, and operating
12 public parks, playgrounds, and recreational facilities, and the cost of
13 contracting for any public purpose specifically authorized in this
14 section, as provided by law.

15 (3) The articles shall propose the names of five or more trustees
16 who are (a) owners of real estate located in the proposed district or (b)
17 designees of the owners if the real estate is owned by a limited
18 partnership, a general partnership, a limited liability company, a
19 public, private, or municipal corporation, an estate, or a trust. These
20 five trustees shall serve as a board of trustees until their successors
21 are elected and qualified if such district is organized. No corporation
22 formed or hereafter formed shall perform any new functions, other than
23 those for which the corporation was formed, without amending its articles
24 of association to include the new function or functions.

25 (4) After the articles are signed, the same shall be filed in the
26 office of the clerk of the district court of the county in which such
27 sanitary and improvement district is located or, if such sanitary and
28 improvement district is composed of tracts or parcels of land in two or
29 more different counties, in the office of the clerk of the district court
30 for the county in which the greater portion of such proposed sanitary and
31 improvement district is located, together with a petition praying that

1 the same may be declared a sanitary and improvement district under
2 sections 31-727 to 31-762.

3 (5) Notwithstanding the repeal of sections 31-701 to 31-726.01 by
4 Laws 1996, LB 1321:

5 (a) Any sanitary and improvement district organized pursuant to such
6 sections and in existence on July 19, 1996, shall, after August 31, 2003,
7 be treated for all purposes as if formed and organized pursuant to
8 sections 31-727 to 31-762;

9 (b) Any act or proceeding performed or conducted by a sanitary and
10 improvement district organized pursuant to such repealed sections shall
11 be deemed lawful and within the authority of such sanitary and
12 improvement district to perform or conduct after August 31, 2003; and

13 (c) Any trustees of a sanitary and improvement district organized
14 pursuant to such repealed sections and lawfully elected pursuant to such
15 repealed sections or in conformity with the provisions of sections 31-727
16 to 31-762 shall be deemed for all purposes, on and after August 31, 2003,
17 to be lawful trustees of such sanitary and improvement district for the
18 term provided by such sections. Upon the expiration of the term of office
19 of a trustee or at such time as there is a vacancy in the office of any
20 such trustee prior to the expiration of his or her term, his or her
21 successors or replacement shall be elected pursuant to sections 31-727 to
22 31-762.

23 (6)(a) A sanitary and improvement district that meets the
24 requirements of this subsection shall have the additional powers provided
25 for in subdivision (b) of this subsection, subject to the approval and
26 restrictions established by a city council or village board within whose
27 zoning jurisdiction the sanitary and improvement district is located. The
28 sanitary and improvement district shall be (i) located in a county with a
29 population greater than five thousand and less than eight thousand
30 inhabitants, (ii) located in a county different from the county of the
31 municipality within whose zoning jurisdiction such sanitary and

1 improvement district is located, (iii) unable to incorporate due to its
2 close proximity to a municipality, and (iv) unable to be annexed by a
3 municipality with zoning jurisdiction because the sanitary and
4 improvement district is not adjacent or contiguous to such municipality.

5 (b) Any sanitary and improvement district that meets the
6 requirements of subdivision (1)(a) of this section shall have only the
7 following additional powers, subject to the approval and restrictions of
8 the city council or village board within whose zoning jurisdiction such
9 sanitary and improvement district is located. Such sanitary and
10 improvement district shall have the power to (i) regulate and license
11 dogs and other animals, (ii) regulate and provide for streets and
12 sidewalks, including the removal of obstructions and encroachments, (iii)
13 regulate parking on public roads and rights-of-way relating to snow
14 removal and access by emergency vehicles, and (iv) regulate the parking
15 of abandoned motor vehicles.

16 (~~7~~ 6) For the purposes of sections 31-727 to 31-762 and 31-771 to
17 31-780, unless the context otherwise requires:

18 (a) Public waterways means artificially created boat channels
19 dedicated to public use and providing access to navigable rivers or
20 streams;

21 (b) Operation and maintenance expenses means and includes, but is
22 not limited to, salaries, cost of materials and supplies for operation
23 and maintenance of the district's facilities, cost of ordinary repairs,
24 replacements, and alterations, cost of surety bonds and insurance, cost
25 of audits and other fees, and taxes;

26 (c) Capital outlay means expenditures for construction or
27 reconstruction of major permanent facilities having an expected long
28 life, including, but not limited to, street paving and curbs, storm and
29 sanitary sewers, and other utilities;

30 (d) Warrant means an investment security under article 8, Uniform
31 Commercial Code, in the form of a short-term, interest-bearing order

1 payable on a specified date issued by the board of trustees or
2 administrator of a sanitary and improvement district to be paid from
3 funds expected to be received in the future, and includes, but is not
4 limited to, property tax collections, special assessment collections, and
5 proceeds of sale of general obligation bonds;

6 (e) General obligation bond means an investment security under
7 article 8, Uniform Commercial Code, in the form of a long-term, written
8 promise to pay a specified sum of money, referred to as the face value or
9 principal amount, at a specified maturity date or dates in the future,
10 plus periodic interest at a specified rate; and

11 (f) Administrator means the person appointed by the Auditor of
12 Public Accounts pursuant to section 31-771 to manage the affairs of a
13 sanitary and improvement district and to exercise the powers of the board
14 of trustees during the period of the appointment to the extent prescribed
15 in sections 31-727 to 31-780.

16 Sec. 2. Original section 31-727, Reissue Revised Statutes of
17 Nebraska, is repealed.