

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 376

Introduced by Hansen, 26; Coash, 27; Morfeld, 46.

Read first time January 16, 2015

Committee: Executive Board

1 A BILL FOR AN ACT relating to the Deferred Building Renewal Act; to amend
2 sections 81-173, 81-174, 81-176, 81-177, 81-179, 81-180, 81-181,
3 81-182, 81-185, 81-186, 81-188, and 81-188.01, Reissue Revised
4 Statutes of Nebraska; to provide that public charitable corporations
5 are subject to the act; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 81-173, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-173 For purposes of the Deferred Building Renewal Act and
4 sections 85-106 and 85-304, unless the context otherwise requires:

5 (1) Renewal work means any (a) deferred or preventive maintenance
6 projects that will restore facilities and utility systems as closely as
7 practicable to their original constructed condition as defined by the
8 Task Force for Building Renewal, (b) projects that will bring facilities
9 into compliance with current fire safety, life safety, and hazardous
10 materials abatement requirements, and (c) projects that will bring
11 facilities into compliance with the federal Americans with Disabilities
12 Act of 1990. The standard of quality maintenance shall be set after
13 consideration of the facility users, geographical location, condition,
14 and physical analysis of each building;

15 (2) Deferred maintenance means any measures taken to: (a) Correct or
16 repair structural or mechanical defects that would endanger the integrity
17 of a building or its components or allow unwanted penetration of the
18 building by the outdoor elements; (b) correct or repair structural,
19 mechanical, or other defects in a building or its components or utility
20 systems which endanger the lives or health of state employees or the
21 general public; (c) bring a building into compliance with the federal
22 Americans with Disabilities Act of 1990; (d) correct a waste of energy,
23 including minor repairs, alteration and maintenance painting, cost of
24 materials, hiring of building maintenance personnel, and other necessary
25 expenses for the maintenance of roofs, exterior walls, retaining walls,
26 foundations, flooring, ceilings, partitions, doors, building hardware,
27 windows, plaster, structural ironwork, screens, plumbing, heating, air-
28 handling, and air conditioning equipment, or electrical systems, but
29 excluding decorative finish or furnishing or building additions; or (e)
30 conduct an energy audit;

31 (3) Preventive maintenance means any measures taken to maintain the

1 structural or mechanical integrity of a building or its components
2 including those measures listed in subdivision (2) of this section; and

3 (4) Public charitable corporation means any entity declared to be a
4 public charitable corporation by the Legislature;

5 (5) State agency means any state agency, board, or commission; and

6 (6) Task force means the Task Force for Building Renewal.

7 Sec. 2. Section 81-174, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-174 There is hereby established the Task Force for Building
10 Renewal to carry out the Deferred Building Renewal Act. The Director of
11 Administrative Services shall appoint an administrator as the chief
12 officer of the task force. The administrator shall retain not more than
13 four consultants to assist him or her in the administration of the
14 Deferred Building Renewal Act. Each task force member shall be selected
15 on the basis of his or her ability to administer and accomplish efficient
16 building maintenance and shall have knowledge of and experience in the
17 contracting of construction projects and the maintaining of buildings.
18 Members shall be selected so that the task force represents diversified
19 expertise needed for maintenance judgments and, if practical, each member
20 should reside at a location that allows efficient visitation of the
21 state-owned buildings owned by the state or public charitable
22 corporations.

23 Sec. 3. Section 81-176, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-176 The task force shall conduct a review of the plans,
26 specifications, and other construction and repair documents and ongoing
27 maintenance requirements for real property, structures, or improvements
28 that may be proposed to be made available to each any state agency or
29 public charitable corporation , board, or commission by means of gift,
30 bequest, or devise and any acquisition of real property or structures by
31 any state agency or public charitable corporation , board, or commission

1 with the proceeds of donations, gifts, bequests, devises, or grants from
2 individuals, organizations, corporations, foundations, or similar
3 entities or from nonfederal governmental agencies, if the combined
4 proceeds of such donations, gifts, bequests, devises, or grants exceed
5 two hundred fifty thousand dollars, pursuant to section 81-1108.33. The
6 task force shall submit a report of its findings and recommendations to
7 the Committee on Building Maintenance.

8 Sec. 4. Section 81-177, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 81-177 Each state agency or public charitable corporation operating
11 or managing ~~state-owned~~ buildings, utilities, or grounds owned by the
12 state or public charitable corporation shall make a detailed inspection
13 of facilities under its care to determine accurately what renewal work
14 items exist and the probable cost and time required for doing the work. A
15 detailed report of the findings shall be made to the Governor, listing
16 for each building, utility, or grounds improvement, the individual work
17 items with estimated quantities and unit prices. Such report shall also
18 include a listing of projects needed in ~~state-owned~~ structures owned by
19 the state or public charitable corporation to accommodate persons with
20 handicaps as provided in sections 81-5,147 and 81-5,148. The report shall
21 state which work items are recommended to be done under contract and
22 which are proposed to be done by state agency or public charitable
23 corporation forces with an estimate of hours of labor and labor costs.
24 The Governor shall refer the report to the task force for its study and
25 recommendations pursuant to section 81-178.

26 Sec. 5. Section 81-179, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-179 (1) There is hereby created under the control of the
29 Governor, for allocation to building renewal projects of each state
30 agency or public charitable corporation ~~the various agencies~~, a fund to
31 be known as the Building Renewal Allocation Fund. The fund shall contain

1 the revenue from the special privilege tax as provided in section 77-2602
2 and such other money as is appropriated by the Legislature. Such
3 appropriation is declared to consist of building renewal funds which
4 shall be kept separate and distinct from the program continuation funds
5 and project construction funds.

6 (2) Separate subfunds, subprograms, projects, or accounts shall be
7 established to separately account for any expenditures on state or public
8 charitable corporation buildings or facilities to comply with the federal
9 Americans with Disabilities Act of 1990. A minimal amount of the funds
10 contained in the subfunds, subprograms, projects, or accounts may be used
11 for planning and evaluation of buildings and facilities.

12 (3) The budget division of the Department of Administrative Services
13 may administratively transfer funds to appropriate accounting entities to
14 correctly account for the operating expenditures. A separate fund, cash
15 fund, project, or other account may be administratively established for
16 such purpose.

17 (4) Any money in the fund available for investment shall be invested
18 by the state investment officer pursuant to the Nebraska Capital
19 Expansion Act and the Nebraska State Funds Investment Act.

20 Sec. 6. Section 81-180, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-180 The Building Renewal Allocation Fund, State Building Renewal
23 Assessment Fund, University Building Renewal Assessment Fund, and State
24 College Building Renewal Assessment Fund shall only be expended for the
25 purpose of building renewal work except as appropriated by the
26 Legislature to meet the cost of administering the Deferred Building
27 Renewal Act or as otherwise provided. In each fiscal year, expenditures
28 for the cost of administering the act from any one of such funds shall be
29 proportional to the revenue credited to such fund in the preceding fiscal
30 year in comparison to the total revenue credited to all of such funds in
31 such year. As applicable, each state agency or public charitable

1 corporation shall be allocated funds as directed by the Governor using
2 the system of priorities established in section 81-178. In the making of
3 allocations from such funds, the Governor shall follow a policy that
4 first considers the use of private enterprise services for deferred
5 maintenance projects while using state or public charitable corporation
6 employees primarily for the performance of preventive maintenance. When
7 such preventive maintenance is of a nature that only occasional highly
8 technical attention is scheduled, primary consideration shall be given to
9 using contractual services. The task force shall review all such
10 contracts for such services from private enterprises.

11 Sec. 7. Section 81-181, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 81-181 (1) Not later than September 15 of each even-numbered year,
14 each state agency or public charitable corporation shall submit to the
15 Governor, in the form prescribed by him or her, a report of its proposed
16 building renewal projects for the next biennium. Such report shall
17 contain the information specified in section 81-177 and shall constitute
18 a request for the allocation of funds from the Building Renewal
19 Allocation Fund. Such report shall also constitute, as applicable, a
20 request for the allocation of funds from the State Building Renewal
21 Assessment Fund, University Building Renewal Assessment Fund, or State
22 College Building Renewal Assessment Fund. The Governor shall, with the
23 advice of the task force, allocate from such funds the sum necessary for
24 the accomplishment of projects approved by him or her. Allocations from
25 the Building Renewal Allocation Fund shall be made in a manner that
26 assures accomplishment of Class I projects first, followed by
27 accomplishment of Class II projects, and then accomplishment of Class III
28 projects, unless doing so in a particular case would violate sound
29 building renewal policies and practices. The amount of such allocation
30 shall not be transferred to the state agency or public charitable
31 corporation but shall remain within, as applicable, the Building Renewal

1 Allocation Fund, State Building Renewal Assessment Fund, University
2 Building Renewal Assessment Fund, or State College Building Renewal
3 Assessment Fund subject to the control of the Governor until disbursed
4 consistent with the provisions of the Deferred Building Renewal Act.

5 (2) The University of Nebraska and the state colleges may include in
6 their reports under subsection (1) of this section their proposed
7 building renovation projects that have received approval of the
8 Coordinating Commission for Postsecondary Education, if required pursuant
9 to section 85-1414, for the coming biennium as authorized by section
10 81-188.03 or 81-188.05, as applicable, which shall constitute requests
11 for allocation of funds for such proposed projects from the University
12 Building Renewal Assessment Fund or the State College Building Renewal
13 Assessment Fund, as applicable. The Governor, with the advice of the task
14 force, shall allocate from the University Building Renewal Assessment
15 Fund or the State College Building Renewal Assessment Fund, as
16 applicable, the sum necessary for the accomplishment of the renovation
17 projects approved by him or her. Such allocations shall not be
18 transferred to the University of Nebraska or the state college or
19 colleges making the request but shall remain in the University Building
20 Renewal Assessment Fund or the State College Building Renewal Assessment
21 Fund, as applicable, subject to the control of the Governor until
22 disbursed pursuant to the Deferred Building Renewal Act.

23 Sec. 8. Section 81-182, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-182 The Governor, using such staff assistance as he or she may
26 desire, shall monitor the activities of the task force and each state
agency or public charitable corporation ~~the agencies~~. To assure adequate
27 accomplishment of the terms of each allocation, the Governor shall assure
28 that expert inspection of projects is made by a competent inspector from
29 either his or her staff, the task force, or the state agency or public
30 charitable corporation. For the purpose of making partial payments as the

1 work progresses, the Governor may authorize the issuance of warrants from
2 the Building Renewal Allocation Fund, State Building Renewal Assessment
3 Fund, University Building Renewal Assessment Fund, and State College
4 Building Renewal Assessment Fund upon certificates of the inspector in
5 charge showing the amount of work completed and materials necessarily
6 purchased and delivered for the orderly and proper continuance of the
7 project in a sum not exceeding ninety-five percent of the cost thereof.
8 Upon the certificate of the inspector that the project has been completed
9 and the terms of the allocation have been complied with, the Governor
10 shall authorize the issuance of a warrant for the balance due the
11 contractor.

12 Sec. 9. Section 81-185, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-185 The Executive Board of the Legislative Council shall appoint
15 a select committee of the Legislative Council to consist of six members
16 of the Legislature, to be known as the Committee on Building Maintenance,
17 to exercise oversight of the deferred and preventive maintenance
18 activities required in the Deferred Building Renewal Act. The selection
19 of members shall be made on the basis of maintenance interest and
20 knowledge. At least two members shall be selected from the Committee on
21 Appropriations, one of whom shall be the chairperson of the Committee on
22 Appropriations. On or before the sixth day of each regular legislative
23 session, the board shall appoint or reappoint members of the committee.
24 Such committee may utilize Legislative Council staff as required or may
25 contract for necessary expertise. Such staff shall provide close liaison
26 with the task force, each state agency or public charitable corporation
27 ~~all agencies~~ subject to the act, and the Governor.

28 Sec. 10. Section 81-186, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 81-186 The Committee on Building Maintenance shall meet as
31 necessary, but not less than four times annually, to monitor the

1 activities required of the task force and the state agencies or public
2 charitable corporations the agencies, boards, and commissions who are
3 responsible for the state and public charitable corporation buildings and
4 to review the proposed rental charges as provided in sections 81-1108.17
5 and 81-1108.22. The committee shall study progress and propose any
6 necessary legislation to assure that the state-owned buildings owned by
7 the state or public charitable corporations are protected through proper
8 maintenance.

9 Sec. 11. Section 81-188, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-188 A report of the findings of any energy audit conducted under
12 the Deferred Building Renewal Act shall be sent electronically to the
13 state agency or public charitable corporation operating or managing the
14 state-owned building, utility, or ground owned by the state or public
15 charitable corporation on which the audit was conducted and the Committee
16 on Building Maintenance of the Legislature.

17 Sec. 12. Section 81-188.01, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-188.01 (1) The State Building Renewal Assessment Fund is created.
20 The fund shall be under the control of the Governor for allocation to
21 building renewal projects of each state agency or public charitable
corporation the various agencies and shall be administered in a manner
23 consistent with the administration of the Building Renewal Allocation
24 Fund pursuant to the Deferred Building Renewal Act. No amounts accruing
25 to the State Building Renewal Assessment Fund shall be expended in any
26 manner for purposes other than as provided in this section or as
27 appropriated by the Legislature to meet the cost of administering the
28 act. Transfers may be made from the fund to the General Fund at the
29 direction of the Legislature.

30 (2) Revenue credited to the State Building Renewal Assessment Fund
31 shall include amounts derived from charges assessed pursuant to

1 subdivision (4)(b) of section 81-1108.17 and such other revenue as may be
2 incident to the administration of the fund.

3 (3) Amounts appropriated from the fund shall be expended to conduct
4 renewal work as defined in section 81-173 and to complete other
5 improvements incident to such renewal work as deemed necessary or
6 appropriate by the task force. From amounts accruing to the fund as the
7 result of depreciation charges assessed pursuant to subdivision (4)(b) of
8 section 81-1108.17, expenditures for capital improvements shall be
9 limited to improvements to only those facilities for which such charges
10 have been assessed and remitted. From amounts accruing to the fund as the
11 result of depreciation charges assessed pursuant to section 81-188.02
12 prior to July 1, 2011, expenditures for capital improvement projects
13 shall be limited to exclude (a) capital improvement projects relating to
14 facilities, structures, or buildings owned, leased, or operated by the
15 (i) University of Nebraska, (ii) Nebraska state colleges, (iii)
16 Department of Aeronautics, (iv) Department of Roads, (v) Game and Parks
17 Commission, or (vi) Board of Educational Lands and Funds and (b) capital
18 improvement projects relating to facilities, structures, or buildings for
19 which depreciation charges are assessed pursuant to subdivision (4)(b) of
20 section 81-1108.17.

21 (4) Any money in the fund available for investment shall be invested
22 by the state investment officer pursuant to the Nebraska Capital
23 Expansion Act and the Nebraska State Funds Investment Act.

24 Sec. 13. Original sections 81-173, 81-174, 81-176, 81-177, 81-179,
25 81-180, 81-181, 81-182, 81-185, 81-186, 81-188, and 81-188.01, Reissue
26 Revised Statutes of Nebraska, are repealed.