

LEGISLATIVE BILL 1059

Approved by the Governor March 30, 2016

Introduced by Crawford, 45.

A BILL FOR AN ACT relating to municipalities; to amend sections 18-2119, 18-2701, 18-2703, and 18-2714, Reissue Revised Statutes of Nebraska, and section 18-2705, Revised Statutes Supplement, 2015; to require certain disclosures under the Community Development Law and the Local Option Municipal Economic Development Act; to provide for redeveloper duties; to define and redefine terms; to provide for workforce housing plan and economic development program disclosures; to harmonize provisions; to provide severability; and to repeal the original sections.

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

Section 1. Section 18-2119, Reissue Revised Statutes of Nebraska, is amended to read:

18-2119 (1) An authority shall, by public notice by publication once each week for two consecutive weeks in a legal newspaper having a general circulation in the city, prior to the consideration of any redevelopment contract proposal relating to real estate owned or to be owned by the authority, invite proposals from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking the redevelopment of an area, or any part thereof, which the governing body has declared to be in need of redevelopment. Such notice shall identify the area, and shall state that such further information as is available may be obtained at the office of the authority. The authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The authority may accept such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of the Community Development Law if the authority has, not less than thirty days prior thereto, notified the governing body in writing of its intention to accept such redevelopment contract proposal. Thereafter, the authority may execute such redevelopment contract in accordance with the provisions of section 18-2118 and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the authority may, without regard to the foregoing provisions of this section, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of section 18-2118.

(2) In the case of any real estate owned by a redeveloper, the authority may enter into a redevelopment contract providing for such undertakings as the authority shall determine appropriate. Any such redevelopment contract relating to real estate within an enhanced employment area shall include a statement of the redeveloper's consent with respect to the designation of the area as an enhanced employment area, shall be recorded with respect to the real estate owned by the redeveloper, and shall be binding upon all future owners of such real estate.

(3)(a) Prior to entering into a redevelopment contract pursuant to this section for a redevelopment plan that includes the use of tax-increment financing as provided in section 18-2147, the authority shall require the redeveloper to certify the following to the authority:

(i) whether the redeveloper has filed or intends to file an application with the Department of Revenue to receive tax incentives under the Nebraska Advantage Act for a project located or to be located within the redevelopment project area;

(ii) whether such application includes or will include, as one of the tax incentives, a refund of the city's local option sales tax revenue; and

(iii) whether such application has been approved under the Nebraska Advantage Act.

(b) The authority may consider the information provided under subdivision (3)(a) of this section in determining whether to enter into the redevelopment contract.

Sec. 2. Section 18-2701, Reissue Revised Statutes of Nebraska, is amended to read:

18-2701 Sections 18-2701 to 18-2739 and sections 5, 6, and 8 of this act shall be known and may be cited as the Local Option Municipal Economic Development Act.

Sec. 3. Section 18-2703, Reissue Revised Statutes of Nebraska, is amended to read:

18-2703 For purposes of the Local Option Municipal Economic Development Act, the definitions found in sections 18-2703.01 to 18-2709 and section 5 of this act shall be used.

Sec. 4. Section 18-2705, Revised Statutes Supplement, 2015, is amended to read:

18-2705 (1) Economic development program means any project or program

utilizing funds derived from local sources of revenue for the purpose of providing direct or indirect financial assistance to a qualifying business or the payment of related costs and expenses or both, without regard to whether that business is identified at the time the project or program is initiated or is to be determined by specified means at some time in the future.

(2) An economic development program may include, but shall not be limited to, the following activities: Direct loans or grants to qualifying businesses for fixed assets or working capital or both; loan guarantees for qualifying businesses; grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business; grants or loans to qualifying businesses for job training; the purchase of real estate, options for such purchases, and the renewal or extension of such options; grants or loans to qualifying businesses to provide relocation incentives for new residents; the issuance of bonds as provided for in the Local Option Municipal Economic Development Act; and payments for salaries and support of city staff to implement the economic development program or the contracting of such to an outside entity.

(3) For cities of the first and second class and villages, an economic development program may also include grants or loans for the construction or rehabilitation for sale or lease of housing for persons of low or moderate income.

(4) For cities of the first and second class and villages, an economic development program may also include grants, loans, or funds for rural infrastructure development as defined in section 66-2102.

(5) For cities of the first and second class and villages, an economic development program may also include grants or loans for the construction or rehabilitation for sale or lease of housing as part of a workforce housing plan.

(6 5) An economic development program may be conducted jointly by two or more cities after the approval of the program by the voters of each participating city.

Sec. 5. Workforce housing plan means a program to construct or rehabilitate single-family housing or market rate multi-family housing which is designed to address a housing shortage that impairs the ability of the city to attract new businesses or impairs the ability of existing businesses to recruit new employees.

Sec. 6. If the proposed economic development program involves the making of grants or loans for the construction or rehabilitation for sale or lease of housing as part of a workforce housing plan, the proposed plan shall include:

(1) An assessment of current housing stock in the city, including both single-family and market rate multi-family housing;

(2) Whether the plan will also include housing for persons of low or moderate income under section 18-2710.01;

(3) Such other factors, as determined by the city, which are particularly relevant in assessing the conditions faced by existing businesses in recruiting new employees; and

(4) Such other factors, as determined by the city, which are particularly relevant in assessing the conditions faced by persons seeking new or rehabilitated housing in the city.

Sec. 7. 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 the governing body of the city (a) gives notice of and holds~~ at least one public hearing on the proposed changes, (b) approves the proposed changes by and a two-thirds vote of the members of such the governing body, and (c) except as provided in subsection (3) of this section, submits the proposed changes to a new vote of the registered voters of the city in the manner provided in section 18-2713 of the city, when necessary to accomplish the purposes of the original enabling resolution.

~~(3) A 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 is not required for the following types of amendments to an economic development program: in the manner provided for in section 18-2713.~~

(a) An amendment adding a type of qualifying business to those that are eligible to participate in the economic development program or removing a type of qualifying business from those that are eligible to participate in such program if such addition or removal is recommended by the citizen advisory review committee established under section 18-2715;

(b) An amendment making corrective changes to comply with the Local Option Municipal Economic Development Act; or

(c) An amendment making corrective changes to comply with any other

existing or future state or federal law.

(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. 8. (1) At the time that a qualifying business applies to a city to participate in an economic development program, the qualifying business shall certify the following to the city:

(a) Whether the qualifying business has filed or intends to file an application with the Department of Revenue to receive tax incentives under the Nebraska Advantage Act for the same project for which the qualifying business is seeking financial assistance under the Local Option Municipal Economic Development Act;

(b) Whether such application includes or will include, as one of the tax incentives, a refund of the city's local option sales tax revenue; and

(c) Whether such application has been approved under the Nebraska Advantage Act.

(2) The city may consider the information provided under this section in determining whether to provide financial assistance to the qualifying business under the Local Option Municipal Economic Development Act.

Sec. 9. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 10. Original sections 18-2119, 18-2701, 18-2703, and 18-2714, Reissue Revised Statutes of Nebraska, and section 18-2705, Revised Statutes Supplement, 2015, are repealed.