A BILL FOR AN ACT relating to sanitary and improvement districts; to amend sections 31-727, 31-727.03, 31-729, 31-740, 31-763, and 31-766, Reissue Revised Statutes of Nebraska; to provide authorization to contract for solid waste collection services; to provide additional powers for certain sanitary and improvement districts subject to approval as prescribed; to require acknowledgments to be obtained from purchasers of real estate within sanitary and improvement districts as prescribed; and to repeal the original sections.

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

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

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

(c) Sanitary and improvement district may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction such sanitary and improvement district is located for any public purpose specifically authorized in this section.

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

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

(f) For the purposes listed in this section, such majority of the owners may make and sign articles of association in which shall be stated (i) the name of the district, (ii) that the district will have perpetual existence, (iii) the limits of the district, (iv) the names and places of residence of the owners of the land in the proposed district, (v) the description of the several tracts of land situated in the district owned by those who may organize the district, (vi) the name or names and the description of the real estate owned by such owners as do not join in the organization of the district but who will be benefited thereby, and (vii) whether the purpose of the corporation is installing gas and electric service lines and conduits, installing a sewer system, installing a water system, installing a system of public roads, streets, and highways; public waterways, docks, or wharfs, and related appurtenances, contracting for water for fire protection and for resale to residents of the district, contracting for police protection and security services, contracting for solid waste collection services, contracting for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, contracting for street lighting for the public streets and highways within the proposed district, constructing or contracting for the construction of dikes and levees for flood protection of the proposed district, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, or, when permitted by this section, contracting with other sanitary and improvement districts to acquire, build, improve, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, contracting for any public purpose specifically authorized in this section, or combination of any one or more of such purposes, or all of such purposes. Such owners of real estate as are unknown may also be set out in the articles as such.
(g) No sanitary and improvement district may own or hold land in excess of ten acres, unless such land so owned and held by such district is actually used for a public purpose, as specifically authorized in this section, for at least three years of its acquisition. Any sanitary and improvement district which has acquired land in excess of ten acres in area and has not devoted the same to a public purpose, as set forth in this section, within three years of the date of its acquisition, shall devote the same to a use set forth in this section or shall divest itself of such land. When a district divests itself of land pursuant to this section, it shall do so by sale at public auction to the highest bidder after notice of such sale has been given by publication at least three times for three consecutive weeks prior to the date of sale in a legal newspaper of general circulation within the area of the district.

(2) If any subdivision shall have the additional powers provided for in subdivision (b) of this subsection, subject to the approval and restrictions established by the city council or village board within whose zoning jurisdiction the sanitary and improvement district is located and the county board in which a majority of the sanitary and improvement district is located, the sanitary and improvement district shall be (1) located in a county with a population less than one hundred thousand, (2) located in a county in which there is not another sanitary and improvement district, and (3) located in a county in which the subject property is not located in a sanitary and improvement district which is organized pursuant to sections 31-727 to 31-762.01; and

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

(4) The articles shall be filed in the office of the clerk of the district court of the county in which such sanitary and improvement district is located or, if such sanitary and improvement district is composed of tracts or parcels of land in two or more different counties, in the office of the clerk of the district court of the county in which such sanitary and improvement district is located, together with a petition praying that the same may be declared a sanitary and improvement district under sections 31-727 to 31-762.

(5) Notwithstanding the repeal of sections 31-781 to 31-726.01 by Laws 1996, LB 1321:

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

(b) Any act or proceeding performed or conducted by a sanitary and improvement district organized pursuant to such sections and lawfully elected pursuant to such sections and in conformity with the provisions of sections 31-727 to 31-762 shall be deemed lawful and within the authority of such sanitary and improvement district to perform or conduct after August 31, 2003; and

(c) Any trustees of a sanitary and improvement district organized pursuant to such sections and lawfully elected pursuant to such sections and in conformity with the provisions of sections 31-727 to 31-762 shall be deemed to hold their offices as if formed and organized pursuant to such sections and in existence on and after August 31, 2003, to be trustees of such sanitary and improvement district for the term provided by such sections. Upon the expiration of the term of office of a trustee or at such time as there is a vacancy in the office of any such trustee prior to the expiration of his or her term, his or her successors or replacement shall be elected to sections 31-727 to 31-762.

(6) (a) A sanitary and improvement district that meets the requirements of this subsection shall have the additional powers provided for in subdivision (b) of this subsection, subject to the approval and restrictions established by the city council or village board within whose zoning jurisdiction the sanitary and improvement district is located and the county board in which a majority of the sanitary and improvement district is located. The sanitary and improvement district shall be (1) located in a county with a population less than one hundred thousand, (2) located in a county in which there is not another sanitary and improvement district, and (3) located in a county in which the subject property is not located in a sanitary and improvement district which is organized pursuant to sections 31-727 to 31-762.01; and
hundred thousand inhabitants, (ii) located predominately in a county different from the county of the municipality within whose zoning jurisdiction such sanitary and improvement district is located, (iii) unable to incorporate due to its close proximity to a municipality, and (iv) unable to be annexed by a municipality with zoning jurisdiction because the sanitary and improvement district is not adjacent or contiguous to such municipality.

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

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

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

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

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

(d) Warrant means an investment security under article 8, Uniform Commercial Code, in the form of a short-term, interest-bearing order payable on a specified date issued by the board of trustees or administrator of a sanitary and improvement district to be paid from funds expected to be received in the future, and includes, but is not limited to, property tax collections, special assessment collections, and proceeds of sale of general obligation bonds;

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

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

Sec. 2. Section 31-727.03, Reissue Revised Statutes of Nebraska, is amended to read:

(1) On or before December 31 of each year, the clerk of each sanitary and improvement district shall file with the register of deeds or, if none, the county clerk of the county or counties in which the sanitary and improvement district is located a statement updated each December 31 containing the following information:

(a) The names of the members of the current board of trustees of the district;

(b) The names of the current attorney, accountant, and fiscal agent of the district;

(c) The warrant and the bond principal indebtedness of the district as of the preceding June 30. Such statement shall contain an acknowledgment that the warrant and indebtedness are reflective of such date; and

(d) The current bond tax levy and the current operating levy of the district, as described in section 31-739, as of December 31.

For any late filing of the statement, the sanitary and improvement district shall be assessed a late fee of ten dollars per day, not to exceed a total of three hundred dollars for each late filing.

(2) The real estate broker or salesperson or, if none, the owner shall distribute the most recent statement filed in accordance with this section to any prospective purchaser of any real estate located within a sanitary and improvement district.

(3) The real estate broker or salesperson or, if none, the owner shall obtain an acknowledgment from any purchaser of any real estate located within a sanitary and improvement district that the purchaser understands: (a) The property is located within a sanitary and improvement district; (b) sanitary and improvement districts are located outside the corporate limits of any municipality; (c) residents of sanitary and improvement districts are not eligible to vote in municipal elections; and (d) owners of property located within sanitary and improvement districts have limited access to services provided by nearby municipalities until and unless the property is annexed by the municipality. Such acknowledgment may be obtained separately from the disclosure required under section 76-2,120.

(4) The statement shall be distributed and the acknowledgment obtained on or before the date on which the purchaser becomes obligated to purchase such real estate. The exclusive remedy for failure to provide such statements and
obtain such acknowledgments shall be an action for damages, and any such failure shall not affect title to the real estate or the validity of the conveyance.

Sec. 3. Section 31-729, Reissue Revised Statutes of Nebraska, is amended to read:

31-729 All owners of real estate situated in the proposed district who have not signed the articles of association and who may object to the organization of the district or to any one or more of the proposed trustees shall, on or before the time in which they are required to answer, file any such objection in writing, stating (1) why such sanitary and improvement district should not be organized and declared a public corporation in this state, (2) why their land will not be benefited by the installation of a sewer or water system, or both a sewer and water system, a system of sidewalks, public roads, streets, and highways, public waterways, docks or wharfs, and related appurtenances, and gas and electricity for street lighting for the public streets and highways within the district, by the contracting for solid waste collection services, by the construction or contracting for the construction of dikes and levees for flood protection for the district, gas or electric service lines and conduits, and water for fire protection or other public purposes, health and property of the owners protected, by the acquisition, improvement, and operation of public parks, playgrounds, and recreational facilities, and, where permitted by section 31-727, by the contracting with other sanitary and improvement districts for the building, acquisition, improvement, and operation of public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, (3) why their land should not be embraced in the limits of such district, and (4) their objections if any to any one or more of the proposed trustees.

Sec. 4. Section 31-740, Reissue Revised Statutes of Nebraska, is amended to read:

31-740 (1) The board of trustees or the administrator of any district organized under sections 31-727 to 31-762 shall have power to provide for establishing, maintaining, and constructing gas and electric service lines and conduits, an emergency management warning system, water mains, sewers, and drain lines, drainage, sewage disposal facilities, yard or garage storage areas, and sidewalks, streets, highways, including grading, changing grade, paving, repaving, graveling, regrading, widening, or narrowing roads, resurfacing or relaying existing pavement, or otherwise improving any road, street, or highway within the district, including protecting existing sidewalks, streets, highways, and roads from flooding or erosion which parceled within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin; for establishing, maintaining, and constructing public waterways, docks, or wharfs, and related appurtenances; and for constructing and contracting for the construction of dikes and levees for flood protection for the district.

(2) The board of trustees or any district may contract for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, for solid waste collection, and for electricity for street lighting for the public streets and highways within the district and shall have power to provide for building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities, and, when permitted by section 31-727, for contracting with other sanitary and improvement districts for the building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, and for contracting for any public purpose specifically authorized in this section. Power to construct clubhouses and similar facilities for the giving of private parties within the zoning jurisdiction of any city or village is not included in the powers granted in this section. Any sewer system established shall be approved by the Department of Health and Human Services. Any contract entered into on or after the effective date of this act for solid waste collection services shall include a provision that, in the event the district is annexed in whole or in part by a city or a village, the contract shall be canceled and voided upon such annexation as to the annexed areas.

(3) Prior to the installation of any of the improvements or services provided for in this section, the plans or contracts for such improvements or services, other than for public parks, playgrounds, and recreational facilities, whether a district acts separately or jointly with other districts and within the county or county in which such improvements or services are located and by the department of any municipality when such improvements or any part thereof or services are within the area of the zoning jurisdiction of such municipality. If such improvements or services are without the area of the zoning jurisdiction of any municipality, plans for such improvements shall be approved by the board of trustees of the county in which such improvements are located and the exact costs for public parks, playgrounds, and recreational facilities shall be approved by resolution of the governing body of such municipality or county after a public hearing. Purchases of public parks, playgrounds, and recreational facilities so approved may be completed and shall be valid notwithstanding any interest of any trustee of the district in the transaction. Such approval shall relate to conformity with the master plan and the construction specifications and standards established by such municipality or
counties. Where no master plan and construction specifications and standards have been established, such approval shall not be required. When such improvements are within the jurisdiction of more than one city, the necessary approval of such district and county shall be required only from the most populous municipality, except that when such improvements are furnished to the district by contract with a particular municipality, the necessary approval shall in all cases be given by such municipality. The municipality or county shall be required to approve plans for such improvements and shall enforce compliance with such plans by action in equity.

(4) The district may construct its sewage disposal plant and other sewerage or water improvements, or both, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewage improvement systems and for a supply of water for fire protection and for resale to residents of the district. It may also contract with any corporation, public power district, electric membership or cooperative association, or municipality for access to the facilities and use of the services of the library system of one or more neighboring cities or villages. For solid waste collection services, for the installation, maintenance, and cost of operating a system of street lighting upon the public streets and highways within the district, for installation, maintenance, and operation of a water system, or for the installation, maintenance, and operation of electric service lines and conduits, and to provide water service for fire protection and use by the residents of the district. It may also contract with any corporation, municipality, or other sanitary and improvement district, as permitted by section 31-727, for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting parties. It may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction the sanitary and improvement district is located for intersection and traffic control improvements, which improvements serve or benefit the district and which may be within or without the corporate boundaries of the district, and for any public purpose specifically authorized in this section. All contracts with the district shall be supported by the books of account kept by the board of trustees of the district examined and audited by a certified public accountant or a public accountant for the year ending June 30 and shall file a copy of the audit with the office of the Auditor of Public Accounts by December 31 of the same year. Such audits may be waived by the Auditor of Public Accounts upon proper showing by the district that the audit is unnecessary. The audit shall show and examine all accounts of the district from all sources for the previous year, (b) the amount spent for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, (c) the amount spent for solid waste collection services, (d) the amount spent for sewage disposal, (e) the amount expended on water mains, (f) the gross amount of sewage processed in the district, (g) the cost per thousand gallons of processing sewage, (h) the amount expended each year for (i) maintenance and repairs, (ii) new equipment, (iii) new construction work, and (iv) property purchased, (i) a detailed statement of all items of expense, (j) the number of employees, (k) the salaries and fees paid employees, (l) the total amount of taxes assessed by such city and collected by the property within the district, and (m) all other facts necessary to give an accurate and comprehensive view of the cost of carrying on the activities and work of such sanitary and improvement district. The reports of all audits provided for in this section shall be and remain a part of the public records in the office of the Auditor of Public Accounts and shall be paid out of the funds of the district. The Auditor of Public Accounts shall be given access to all books and papers, contracts, minutes, bonds, and other documents and memoranda of every kind and character of such district and be furnished all additional information possessed by any present or past officer or employee of any such district, or by any other person, that is essential to the making of a comprehensive and correct audit.

(5) If any sanitary improvement district fails or refuses to cause such annual audit to be made of all of its functions, activities, and transactions for the fiscal year within a period of six months following the close of such year, no such waiver will be permitted. The Auditor of Public Accounts shall, after due notice and a hearing to show cause by such district, appoint a certified public accountant or public accountant to conduct the annual audit of the district and the fee for such audit shall become a lien against the district.

(6) If any sanitary and improvement district fails or refuses to cause such annual audit to be made of all of its functions, activities, and transactions for the fiscal year within a period of six months following the close of such year, no such waiver will be permitted. The Auditor of Public Accounts shall, after due notice and a hearing to show cause by such district, appoint a certified public accountant or public accountant to conduct the annual audit of the district and the fee for such audit shall become a lien against the district.

(7) Whenever the sanitary sewer system or any part thereof of a sanitary and improvement district is directly or indirectly connected to the sewerage system of any city, such city, without enacting an ordinance or adopting any resolution for such purpose, may collect such city’s applicable rental or use charge from the users in the sanitary and improvement district and from the owners of the property served within the sanitary and improvement district. The city shall be charged to each property served by the city sewerage system, shall be a lien upon the property served, and may be collected from the owner or the person, firm, or corporation using the service. If the city’s applicable rental or service charge is not paid when due, such sum may be recovered by the municipality in a civil action or it may be assessed against the premises served in the same manner as special taxes or assessments are assessed by such city and collected and returned in the same manner as other municipal special taxes or assessments are enforced and collected. When
any such tax or assessment is levied, it shall be the duty of the city clerk to deliver a certified copy of the ordinance to the county treasurer of the county in which the premises are located and such copy shall be deemed sufficient to void all liens or assessment imposed thereon. The board of trustees shall have power, in connection with the issuance of any warrants or bonds of the district, to agree to make a specified minimum levy on taxable property in the district to pay, in full, a sinking fund to pay, principal and interest on warrants and bonds of the district for such number of years as the board may establish at the time of making such agreement and shall also have power to agree to enforce, by foreclosure or otherwise as permitted by applicable laws, the collection of special assessments levied by the district. Such agreements may contain provisions for the merger of the district with the city or village, or to provide for the surrender of the right to use any part of the district as if it were a part of the city or village and the district as if it were the property of the city or village. Any special assessments which the district was authorized to levy, assess, or revalue or reassess, but which were not levied, assessed, or revalued, or reassessed, shall be void for the merger, for improvements made by it or in the process of construction or contracted for may be levied, assessed, or revalued or reassessed by the annexing city or village to the same extent as the district may have levied or assessed but for the merger. Nothing in this section; provided, nothing herein contained shall authorize the annexing city or village to revoke any resolution or finding by the district in regard to special benefits or increase any assessments made by the district, but such city or village shall be bound by all such findings or orders and assessments to the same extent as the district would be bound. No; and provided further, that no district so annexed shall have power to levy any special assessments after the effective date of such annexation.

Any contract entered into on or after the effective date of this act by a sanitary and improvement district for solid waste collection services shall, upon annexation of such district by a city or village, be canceled and voided.

Sec. 6. Section 31-766, Reissue Revised Statutes of Nebraska, is amended to read:

### 31-766 (1) If only a part of the territory within any sanitary and improvement district, any road improvement district, or any fire protection district is annexed by a city or village, the road improvement district or fire protection district trustees or administrator, or road improvement district acting through its trustees or administrator and the city or village acting through its governing body may agree between themselves as to the division of the assets, liabilities, maintenance, contracts, or other obligations of the district for a change in the boundaries of the district so as to exclude the portion annexed by the city or village or may agree upon a monetary settlement for the city or village. The division of the assets, liabilities, maintenance, contracts, or other obligations of the district shall be equitable, shall be proportionate to the value of the portion of the district annexed and to the valuation of the portion of the district remaining following annexation, and shall, to the greatest extent feasible, reflect the actual impact of the annexation on the ability of the district to perform its duties and responsibilities within its new boundaries following annexation. In the event a merger is agreed upon, the city or village shall have all the rights, privileges, duties, and obligations as provided in sections 31-763 to 31-766 when the city annexes the entire territory within the district, and the trustees or administrator shall be relieved of all further duties and liabilities and their bonds exonerated as provided in section 31-764. No agreement between the district and the city or village shall be effective until...
submitted to and approved by the district court of the county in which the
major portion of the district is located. No agreement shall be approved which
may prejudice the rights of any bondholder or creditor of the district or
employee under contract to the district. The court may authorize or direct
amendments to the agreement before approving the same. If the district and city
or village do not agree upon the proper adjustment of all matters growing out
of the annexation of a part of the territory located within the district, the
district, the annexing city or village, any bondholder or creditor of the
district, or any employee under contract to the district may apply to the
district court of the county where the major portion of the district is located
for an adjustment of all matters growing out of or in any way connected with
the annexation of such territory, and after a hearing thereon the court may
enter an order or decree fixing the rights, duties, and obligations of the
parties. In every case such decree or order shall require a change of the
district boundaries so as to exclude from the district that portion of the
territory of the district which has been annexed. Such change of boundaries
shall become effective on the date of entry of such decree. Only the district
and the city or village shall be necessary parties to such an action. Any
bondholder or creditor of the district or any employee under contract to the
district whose interests may be adversely affected by the annexation may
intervene in the action pursuant to section 25-328. The decree when entered
shall be binding on the parties the same as though the parties had voluntarily
agreed thereto. Nothing contained in this section shall authorize any district
to levy any special assessments within the annexed area after the effective
date of annexation.

(2) Any contract entered into on or after the effective date of this act
by a sanitary and improvement district for solid waste collection services
shall, upon annexation of all or part of such district by a city or village, be
canceled and voided as to the annexed areas.

Sec. 7. Original sections 31-727, 31-727.03, 31-729, 31-740, 31-763, and
31-766, Reissue Revised Statutes of Nebraska, are repealed.