

LEGISLATIVE BILL 97

Approved by the Governor May 09, 2017

Introduced by Crawford, 45.

A BILL FOR AN ACT relating to cities; to amend sections 19-4030 and 19-4031, Revised Statutes Cumulative Supplement, 2016; to adopt the Riverfront Development District Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 17 of this act shall be known and may be cited as the Riverfront Development District Act.

Sec. 2. The Legislature finds and declares as follows:

(1) Cities in the United States and throughout the world have been historically established along the banks of major rivers due to the role rivers played as early trade routes as well as other inherent strategic and economic benefits;

(2) As national, state, and local economies have changed over time, many cities have moved away from their historic riverfronts, resulting in abandonment and blight in many city cores;

(3) Many cities in this state that were established along the banks of Nebraska's rivers have grown away from their riverfronts, and these cities have riverfront areas in need of improvement and development but lack the tools and funding necessary to improve and develop such areas; and

(4) The purpose of the Riverfront Development District Act is to provide a means by which cities in this state may effectively fund, manage, promote, and develop riverfronts within their corporate limits.

Sec. 3. For purposes of the Riverfront Development District Act:

(1) Authority means a riverfront development authority established in accordance with section 5 of this act;

(2) City means a city of the metropolitan, primary, first, or second class;

(3) District means a riverfront development district established in accordance with section 4 of this act; and

(4) River means the Missouri River, Platte River, North Platte River, South Platte River, Republican River, Niobrara River, Loup River, North Loup River, Middle Loup River, South Loup River, Elkhorn River, North Fork of the Elkhorn River, or Big Blue River.

Sec. 4. (1) A city may create a riverfront development district by the adoption of an ordinance which specifies the following:

(a) The name of the river or rivers along which the district will be created;

(b) The boundaries of the district, a map of which shall be incorporated by reference in the ordinance;

(c) The qualifications and terms of office of members of the authority;

(d) A statement that the businesses and users of space in the district shall be subject to the general business occupation tax authorized by the Riverfront Development District Act or that the real property in the district shall be subject to the special assessment authorized by the act;

(e) The proposed method of assessment to be imposed within the district or the initial rate of the occupation tax to be imposed;

(f) Any penalties to be imposed for failure to pay the occupation tax or special assessment; and

(g) The maximum amount of bonds that may be issued by the authority pursuant to section 11 of this act.

(2) The ordinance shall recite that the method of raising revenue shall be fair and equitable. In the use of a general business occupation tax, the tax shall be based primarily on the square footage of the owner's and user's place of business. In the use of a special assessment, the assessment shall be based upon the special benefit to the property within the district.

(3) The boundaries of any district created under this section shall be wholly contained within the corporate limits of the city and shall not extend more than one-half mile from the edge of the river or rivers along which the district is created.

Sec. 5. (1) Following the creation of a district under section 4 of this act, the mayor, with the approval of the city council, shall appoint a riverfront development authority to oversee and manage the district. The authority shall consist of five or more members who collectively shall have skills, expertise, and knowledge in residential, commercial, and mixed-use real estate development, financing, law, asset management, economic and community development, and tourism promotion.

(2) The members of the authority shall select annually from among themselves a chairperson, a vice-chairperson, a treasurer, and such other officers as the authority may determine.

(3) A public official or public employee shall be eligible to be a member of the authority.

(4) A vacancy on the authority shall be filled in the same manner as the

original appointment.

(5) Members of the authority shall serve without compensation.

(6) The authority shall meet in regular session according to a schedule adopted by the authority and shall also meet in special session as convened by the chairperson or upon written notice signed by a majority of the members.

(7) Two or more cities which have a contiguous riverfront along the same river may enter into an agreement pursuant to the Interlocal Cooperation Act to create a single authority to jointly oversee and manage the districts created in such cities. An agreement entered into under this subsection shall contain the information required by section 4 of this act.

(8) An authority which oversees and manages a district bordering another state may enter into an agreement pursuant to the Interlocal Cooperation Act with a political subdivision, public agency, or quasi-public agency in such other state to jointly oversee and manage the district and any similar district or districts in such other state.

(9) Each authority created pursuant to the Riverfront Development District Act shall be deemed to be a public corporation acting in a governmental capacity and a political subdivision of the state and shall have permanent and perpetual duration until terminated and dissolved in accordance with section 17 of this act.

Sec. 6. (1) Except as provided in subsection (2) of this section, an authority shall have the following powers:

(a) To adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;

(b) To sue and be sued in its own name and plead and be impleaded in all civil actions;

(c) To procure insurance or guarantees from the state or federal government of the payments of any debts or parts thereof incurred by the authority and to pay premiums in connection therewith;

(d) To invest money of the authority in instruments, obligations, securities, or property determined proper by the authority and name and use depositories for its money;

(e) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, agreements under the Interlocal Cooperation Act for the joint exercise of powers under the Riverfront Development District Act;

(f) To create and implement plans for improvements and redevelopment within the boundaries of the district in conjunction with the city or other public or private entities;

(g) To develop, manage, and coordinate public activities and events taking place within the boundaries of the district;

(h) To acquire, construct, maintain, and operate public offstreet parking facilities for the benefit of the district;

(i) To improve any public place or facility within the boundaries of the district, including landscaping, physical improvements for decoration or security purposes, and plantings;

(j) To construct or install pedestrian shopping malls or plazas, sidewalks or moving sidewalks, parks, meeting and display facilities, bus stop shelters, lighting, benches or other seating furniture, sculptures, trash receptacles, shelters, fountains, skywalks, pedestrian and vehicular overpasses and underpasses, and any other useful or necessary public improvements within the boundaries of the district;

(k) To construct, install, and maintain boardwalks, barges, docks, and wharves;

(l) To lease, acquire, construct, reconstruct, extend, maintain, or repair parking lots or parking garages, both above and below ground, or other facilities for the parking of vehicles within the boundaries of the district;

(m) To maintain, repair, and reconstruct any improvements or facilities authorized in the Riverfront Development District Act;

(n) To enforce parking regulations and the provision of security within the boundaries of the district;

(o) To employ such agents and employees, permanent or temporary, as necessary;

(p) To fix, charge, and collect fees and charges for services provided by the authority;

(q) To fix, charge, and collect rents and leasehold payments for the use of real property of the authority;

(r) To grant or acquire a license, easement, lease, as lessor or as lessee, or option with respect to real property of the authority;

(s) To make recommendations to the city as to the use of any occupation tax funds collected under section 12 of this act or any special assessment funds collected under section 13 of this act;

(t) To administer the use of occupation tax funds or special assessment funds if directed by the mayor and city council; and

(u) To do all other things necessary or convenient to achieve the objectives and purposes of the authority.

(2) The city creating an authority may, by ordinance, limit the powers that may be exercised by such authority.

Sec. 7. (1) An authority may acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper.

(2) An authority may accept transfers of real property or interests in

real property from political subdivisions upon such terms and conditions as agreed to by the authority and the political subdivision.

(3) An authority may convey, exchange, sell, transfer, grant, release and demise, pledge, and hypothecate any and all interests in, upon, or to real property of the authority.

(4) An authority shall hold all property acquired in its own name and shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

(5) An authority shall not own or hold real property located outside the boundaries of the district which it oversees and manages.

(6) An authority shall not rent or lease any of its real property for residential use.

Sec. 8. The real property owned by an authority and the authority's income and operations are exempt from all taxation by the state or any political subdivision thereof, except that purchases by an authority shall be subject to state and local sales and use taxes.

Sec. 9. (1) No member of an authority or employee of an authority shall acquire any interest, direct or indirect, in real property located within the boundaries of any district overseen and managed by the authority.

(2) No member of an authority or employee of an authority shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by the authority.

Sec. 10. An authority may receive funding through grants and loans from the city that created the authority, from other municipalities, from the state, from the federal government, and from other public and private sources.

Sec. 11. (1) An authority shall have the power to issue bonds for any of its corporate purposes, the principal and interest of which are payable from its revenue generally. Any of such bonds shall be secured by a pledge of any revenue of the authority or by a mortgage of any property owned by the authority.

(2) The bonds issued by an authority are hereby declared to have all the qualities of negotiable instruments under the Uniform Commercial Code.

(3) The bonds of an authority and the income therefrom shall at all times be exempt from all taxes imposed by the state or any political subdivision thereof.

(4) Bonds issued by an authority shall be authorized by resolution of the authority and shall be limited obligations of the authority. The principal and interest, costs of issuance, and other costs incidental thereto shall be payable by any revenue of the authority or by the disposition of any assets of the authority. Any refunding bonds issued shall be payable from any source described in this subsection or from the investment of any of the proceeds of the refunding bonds and shall not constitute an indebtedness or pledge of the general credit of any city within the meaning of any constitutional or statutory limitation of indebtedness and shall contain a recital to that effect. Bonds of the authority shall be issued in such form, shall be in such denominations, shall bear interest, shall mature in such manner, and shall be executed by one or more members of the authority as provided in the resolution authorizing the issuance thereof. Such bonds may be subject to redemption at the option of and in the manner determined by the authority in the resolution authorizing the issuance thereof.

(5) Bonds issued by the authority shall be issued, sold, and delivered in accordance with the terms and provisions of a resolution adopted by the authority. The authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be in the best interests of the authority. The resolution authorizing the issuance of bonds shall be published in a newspaper in or of general circulation within the city that created the authority.

(6) Neither the members of the authority nor any person executing the bonds shall be liable personally on any such bonds by reason of the issuance thereof. Such bonds or other obligations of an authority shall not be a debt of any city and shall so state on their face, and no city nor any revenue or any property of any city shall be liable for such bonds or other obligations except as provided in the Riverfront Development District Act.

Sec. 12. (1) A city may levy a general business occupation tax upon the businesses and users of space within a district for the purpose of paying all or any part of the total costs and expenses of such district. Notice of a hearing on any such tax levied under the Riverfront Development District Act shall be given to the businesses and users of space of such district, and appeals may be taken, in the manner provided in section 14 of this act.

(2) Any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The collection of a tax imposed pursuant to this section shall be made and enforced in such manner as the city council shall by ordinance determine to produce the required revenue. The city council may provide that failure to pay the tax imposed pursuant to this section shall constitute a violation of the ordinance and subject the violator to a fine or other punishment as provided by ordinance.

(3) If any part of a riverfront development district overlaps with a business improvement district in which a general business occupation tax is already being levied pursuant to section 19-4031, the city creating the

riverfront development district shall not impose the riverfront development district's occupation tax within the overlapping area.

Sec. 13. (1) A city may levy a special assessment against the real estate located in a district, to the extent of the special benefit thereto, for the purpose of paying all or any part of the total costs and expenses of such district. The amount of each special assessment shall be determined by the city council sitting as a board of equalization. Assessments shall be levied in accordance with the method of assessment proposed in the ordinance creating the district. If the city council finds that the proposed method of assessment does not provide a fair and equitable method of apportioning costs, then it may assess the costs under such method as the city council finds to be fair and equitable. Notice of a hearing on any such tax levied under the Riverfront Development District Act shall be given to the landowners in such district, and appeals may be taken, in the manner provided in section 14 of this act.

(2) All special assessments levied under the act shall be liens on the property and shall be certified for collection and collected in the same manner that special assessments for improvements in street improvement districts of the city are collected.

(3) If any part of a riverfront development district overlaps with a business improvement district in which a special assessment is already being levied pursuant to section 19-4030, the city creating the riverfront development district shall not impose the riverfront development district's special assessment within the overlapping area.

Sec. 14. (1) Notice of a hearing on any general business occupation tax to be levied under the Riverfront Development District Act shall be given to the businesses and users of space in such district by publication of a description of the businesses and users of space who will be subject to the occupation tax, the amount of the occupation tax proposed to be levied, and the general purpose for which such occupation tax is to be levied one time each week for three weeks in a newspaper in or of general circulation in the city.

(2) Notice of a hearing on any special assessments to be levied under the act shall be given to the landowners in such district by publication of the description of the land, the amount proposed to be assessed, and the general purpose for which such assessment is to be made one time each week for three weeks in a newspaper in or of general circulation in the city.

(3) Notice under this section shall provide the date, time, and place of hearing to hear any objections or protests by landowners in the district as to the amount of assessment made against their land or by businesses and users of space in the district as to the amount of occupation tax to be levied against them. A direct appeal to the district court of the county in which such city is located may be taken from the decision of the city council in the same manner and under like terms and conditions as appeals may be taken from the amount of special assessments levied in street improvement districts in such city as now provided by law.

Sec. 15. If, subsequent to the levy of taxes or assessments, the use of any parcel of land shall change so that, had the new use existed at the time of making such levy, the assessment or levy on such parcel would have been higher than the levy or assessment actually made, an additional assessment or levy may be made on such parcel by the city council taking into consideration the new and changed use of the property. Reassessments or changes in the rate of levy of assessments or taxes may be made by the city council after notice and hearing as provided in section 14 of this act. The city council shall adopt a resolution of intention to change the rate of levy at least fifteen days prior to the hearing required for changes. The resolution shall specify the proposed change and shall give the time and place of the hearing. The levy of any additional assessment or tax shall not reduce or affect in any manner the assessments previously levied.

Sec. 16. (1) The authority shall cause minutes and a record to be kept of all its proceedings. Meetings of the authority shall be subject to the Open Meetings Act.

(2) All of an authority's records and documents shall be considered public records for purposes of sections 84-712 to 84-712.09.

(3) The authority shall provide quarterly reports to the city that created the authority on the authority's activities pursuant to the Riverfront Development District Act. The authority shall also provide an annual report to the city that created the authority and to the Urban Affairs Committee of the Legislature by January 31 of each year summarizing the authority's activities for the prior calendar year. The report submitted to the committee shall be submitted electronically.

Sec. 17. (1) A district or an authority may be dissolved sixty calendar days after a resolution of dissolution is approved by the city council of the city that created the district or authority. Notice of consideration of a resolution of dissolution shall be given by publishing such notice in a newspaper in or of general circulation within the city that created the district or authority. Such notice shall also be sent by certified mail to the trustee of any outstanding bonds of the authority.

(2) Upon dissolution of an authority, all real property, personal property, and other assets of the authority shall become the assets of the city that created the authority.

(3) Upon dissolution of a district, any proceeds of the occupation tax or the special assessment relating to such district shall be subject to disposition as the city council shall determine.

Sec. 18. Section 19-4030, Revised Statutes Cumulative Supplement, 2016, is

amended to read:

19-4030 A city may levy a special assessment against the real estate located in a business improvement district, to the extent of the special benefit thereto, for the purpose of paying all or any part of the total costs and expenses of performing any authorized work, except maintenance, repair, and reconstruction costs, within such district. The amount of each special assessment shall be determined by the city council sitting as a board of equalization. Assessments shall be levied in accordance with the method of assessment proposed in the ordinance creating the district. If the city council finds that the proposed method of assessment does not provide a fair and equitable method of apportioning costs, then it may assess the costs under such method as the city council finds to be fair and equitable. Notice of a hearing on any special assessments to be levied under the Business Improvement District Act shall be given to the landowners in such district by publication of the description of the land, the amount proposed to be assessed, and the general purpose for which such assessment is to be made one time each week for three weeks in a daily or weekly newspaper of general circulation published in the city. The notice shall provide the date, time, and place of hearing to hear any objections or protests by landowners in the district as to the amount of assessment made against their land. A direct appeal to the district court of the county in which such city is located may be taken from the decision of the city council in the same manner and under like terms and conditions as appeals may be taken from the amount of special assessments levied in street improvement districts in such city as now provided by law. All special assessments levied under the act shall be liens on the property and shall be certified for collection and collected in the same manner as special assessments for improvements and street improvement districts of the city are collected. If any part of a business improvement district overlaps with a riverfront development district in which a special assessment is already being levied pursuant to section 13 of this act, the city creating the business improvement district shall not impose the business improvement district's special assessment within the overlapping area.

Sec. 19. Section 19-4031, Revised Statutes Cumulative Supplement, 2016, is amended to read:

19-4031 (1) In addition to or in place of the special assessments authorized by the Business Improvement District Act, a city may levy a general business occupation tax upon the businesses and users of space within a district established for acquiring, constructing, maintaining or operating public offstreet parking facilities and providing in connection therewith other public improvements and facilities authorized by the Business Improvement District Act, for the purpose of paying all or any part of the total cost and expenses of any authorized improvement or facility within such district. Notice of a hearing on any such tax levied under the Business Improvement District Act shall be given to the businesses and users of space of such districts, and appeals may be taken, all in the manner provided in section 19-4030.

(2) After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The collection of a tax imposed pursuant to this section shall be made and enforced in such a manner as the city council shall by ordinance determine to produce the required revenue. The city council may provide that failure to pay the tax imposed pursuant to this section shall constitute a violation of the ordinance and subject the violator to a fine or other punishment as provided by ordinance.

(3) If any part of a business improvement district overlaps with a riverfront development district in which a general business occupation tax is already being levied pursuant to section 12 of this act, the city creating the business improvement district shall not impose the business improvement district's occupation tax within the overlapping area.

Sec. 20. The Revisor of Statutes shall assign sections 1 to 17 of this act to Chapter 19.

Sec. 21. Original sections 19-4030 and 19-4031, Revised Statutes Cumulative Supplement, 2016, are repealed.