

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1078

Introduced by Wayne, 13.

Read first time January 21, 2020

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to cities; to adopt the Municipal Inland Port
- 2 Authority Act; and to provide a duty for the Revisor of Statutes.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 15 of this act shall be known and may be
2 cited as the Municipal Inland Port Authority Act.

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

4 (1) Nebraska is ideally situated as a potential industrial and
5 logistical hub for multiple industries across the rest of the country.
6 The state is home to major railroads and trucking firms, and is within a
7 two-day drive to major cities on the east coast, west coast, Mexico, and
8 Canada;

9 (2) Increasingly, major companies looking to locate their
10 headquarters or expand operations seek large shovel-ready commercial and
11 industrial sites, commonly referred to as mega sites;

12 (3) Nebraska currently lacks the economic development tools
13 necessary to acquire and develop large shovel-ready commercial and
14 industrial sites, and the creation of one or more inland port authorities
15 in Nebraska could serve as a mechanism to develop such sites; and

16 (4) In addition to the development of large shovel-ready commercial
17 and industrial sites, the creation of one or more inland port authorities
18 could serve as a regional merging point for multi-modal transportation
19 and distribution of goods to and from ports and other locations in other
20 regions.

21 Sec. 3. For purposes of the Municipal Inland Port Authority Act:

22 (1) Board means the board of commissioners of an inland port
23 authority;

24 (2) City means any city of the metropolitan class, city of the
25 primary class, or city of the first class which contains an area eligible
26 to be designated as an inland port district;

27 (3) Direct financial benefit means any form of financial benefit
28 that accrues to an individual directly, including compensation,
29 commission, or any other form of a payment or increase of money, or an
30 increase in the value of a business or property. Direct financial benefit
31 does not include a financial benefit that accrues to the public

1 generally;

2 (4) Family member means a spouse, parent, sibling, child, or
3 grandchild;

4 (5) Inland port authority means an authority created by a city under
5 the Municipal Inland Port Authority Act to manage an inland port
6 district;

7 (6) Inland port district means an area within the corporate
8 boundaries, extraterritorial zoning jurisdiction, or both of a city and
9 which meets at least two of the following criteria:

10 (a) Is located within one mile of a navigable river or other
11 navigable waterway;

12 (b) Is located within one mile of a major rail line;

13 (c) Is located within two miles of any portion of the federally
14 designated National System of Interstate and Defense Highways or any
15 other four-lane divided highway; or

16 (d) Is located within two miles of a major airport;

17 (7) Intermodal facility means a hub or other facility for trade
18 combining any combination of rail, barge, trucking, air cargo, or other
19 transportation services;

20 (8) Major airport means an airport with commercial service as
21 defined by the Federal Aviation Administration; and

22 (9) Major rail line means a rail line that is accessible to a Class
23 I railroad as defined by the federal Surface Transportation Board.

24 Sec. 4. (1) Any city which encompasses an area greater than three
25 hundred acres eligible to be designated as an inland port district may
26 propose to create an inland port authority by ordinance, subject to the
27 cap on the total number of inland port districts provided in subsection
28 (2) of this section. In determining whether to propose the creation of an
29 inland port authority, the city shall consider the following criteria:

30 (a) The desirability and economic feasibility of locating an inland
31 port district within the corporate boundaries, extraterritorial zoning

1 jurisdiction, or both of the city;

2 (b) The technical and economic capability of the city and any other
3 public and private entities to plan and carry out development within the
4 proposed inland port district;

5 (c) The strategic location of the proposed inland port district in
6 proximity to existing and potential transportation infrastructure that is
7 conducive to facilitating regional, national, and international trade and
8 the businesses and facilities that promote and complement such trade;

9 (d) The potential impact that development of the proposed inland
10 port district will have on the immediate area; and

11 (e) The regional and statewide economic impact of development of the
12 proposed inland port district.

13 (2) No more than five inland port districts may be designated
14 statewide. No inland port authority shall designate more than one inland
15 port district, and no inland port authority may be created without also
16 designating an inland port district.

17 (3) Following the adoption of an ordinance creating an inland port
18 authority, the city clerk shall transmit a copy of such ordinance to the
19 Department of Economic Development. Upon receipt of such ordinance, the
20 Director of Economic Development shall certify to the city clerk whether
21 the proposed creation of such inland port authority exceeds the cap on
22 the total number of inland port districts pursuant to subsection (2) of
23 this section. If the proposed inland port authority does not exceed such
24 cap, the inland port authority shall be deemed created. If the proposed
25 inland port authority exceeds such cap, the city shall repeal such
26 ordinance and the proposed inland port authority shall not be created.

27 Sec. 5. The city council of any city which has created an inland
28 port authority pursuant to section 4 of this act shall designate what
29 areas within the corporate limits, extraterritorial zoning jurisdiction,
30 or both of the city shall comprise the inland port district, subject to
31 the limitations of the Municipal Inland Port Authority Act. The

1 boundaries of any inland port district shall be filed with the city clerk
2 and shall become effective upon approval of the city council. The city
3 council may from time to time enlarge or reduce the area comprising any
4 inland port district, except that such district shall not be reduced to
5 an area less than three hundred acres. Any change of boundaries shall be
6 filed with the city clerk and become effective upon such filing.

7 Sec. 6. (1) An inland port authority shall have the power to:

8 (a) Plan, facilitate, and develop the inland port district in
9 conjunction with the city and other public and private entities,
10 including the development of publicly-owned infrastructure and
11 improvements within the inland port district;

12 (b) Engage in marketing and business recruitment activities and
13 efforts to encourage and facilitate development of the inland port
14 district;

15 (c) Apply for and take all other necessary actions for the
16 establishment of a foreign trade zone, as provided under federal law,
17 within the inland port district;

18 (d) Levy a sales and use tax, upon a two-thirds vote of the board,
19 within the boundaries of the inland port district for the purposes of
20 paying any part of the cost of a project in such inland port district;

21 (e) Issue and sell revenue bonds as provided in section 8 of this
22 act;

23 (f) Acquire, own, lease, sell, or otherwise dispose of interest in
24 and to any real property and improvements located thereon, and in any
25 personal property, necessary to fulfill the purposes of the inland port
26 authority;

27 (g) Acquire rights-of-way and property of any kind or nature within
28 the inland port district necessary for its purposes by purchase or
29 negotiation;

30 (h) Enter into lease agreements for real or personal property,
31 either as lessee or lessor;

1 (i) Sue and be sued in its own name;

2 (j) Enter into contracts and other instruments necessary,
3 incidental, or convenient to the performance of its duties and the
4 exercise of its powers, including, but not limited to, agreements under
5 the Interlocal Cooperation Act with the city or any other political
6 subdivision of this or any other state;

7 (k) Borrow money from private lenders, from the state, or from the
8 federal government as may be necessary for the operation and work of the
9 inland port authority;

10 (l) Accept appropriations, contributions, gifts, grants, or loans
11 from the United States, the State of Nebraska, political subdivisions, or
12 other public and private agencies, individuals, partnerships, or
13 corporations;

14 (m) Employ such managerial, engineering, legal, technical, clerical,
15 accounting, advertising, administrative, or other assistance as may be
16 deemed advisable, or to contract with independent contractors for any
17 such assistance;

18 (n) Adopt, alter, or repeal its own bylaws, rules, and regulations
19 governing the manner in which its business may be transacted, except that
20 such bylaws, rules, and regulations shall not exceed the powers granted
21 to the inland port authority by the Municipal Inland Port Authority Act;

22 (o) Enter into agreements with private operators or public entities
23 for the joint development, redevelopment, reclamation, and other uses of
24 property within the inland port district; and

25 (p) Own and operate an intermodal facility and other publicly-owned
26 infrastructure and improvements within the boundaries of the inland port
27 district.

28 (2) An inland port authority shall neither possess nor exercise the
29 power of eminent domain.

30 Sec. 7. The State of Nebraska and any municipality or other
31 political subdivision of the state may, in its discretion, with or

1 without consideration, transfer or cause to be transferred to any inland
2 port authority or place in its possession or control, by lease or other
3 contract or agreement, either for a limited period or in fee, any real
4 property within its inland port district. Nothing in this section shall
5 in any way impair, alter, or change any obligations of such entities,
6 contractual or otherwise, existing prior to the effective date of this
7 act.

8 Sec. 8. (1) An inland port authority created under the Municipal
9 Inland Port Authority Act may issue and sell revenue bonds necessary to
10 provide sufficient funds for achieving its purposes, including the
11 construction of intermodal facilities and the financing of port
12 improvement projects, except that such authority shall not issue or sell
13 general obligation bonds.

14 (2) The State of Nebraska shall not be liable for any bonds of any
15 inland port authority. Any such bonds shall not be a debt of the state
16 and shall contain on the faces thereof a statement to such effect.

17 (3) No commissioner of any board of any inland port authority or any
18 other authorized person executing inland port authority bonds shall be
19 personally liable on such bonds or be subject to any personal liability
20 or accountability by reason of the issuance thereof.

21 Sec. 9. No inland port authority shall be required to pay any taxes
22 or any assessments whatsoever to the State of Nebraska or to any
23 political subdivision of the state. The bonds of every inland port
24 authority and the income therefrom shall, at all times, be exempt from
25 any taxes and any assessments, except for inheritance and gift taxes and
26 taxes on transfers.

27 Sec. 10. (1) An inland port authority shall be administered by the
28 board which shall consist of:

29 (a) If created by a city of the metropolitan class, nine members;

30 (b) If created by a city of the primary class, seven members; or

31 (c) If created by a city of the first class, five members.

1 (2) Upon the creation of an inland port authority, the mayor of the
2 city that created the authority, with the approval of the city council,
3 shall appoint a temporary board to govern the authority until a board is
4 elected pursuant to section 11 of this act. Members of the temporary
5 board shall be residents of the city.

6 (3) Any vacancy on the temporary board of an inland port authority
7 shall be filled by the mayor of the city that created the authority, with
8 the approval of the city council, to serve the unexpired portion of the
9 temporary board member's term.

10 Sec. 11. (1) Following the creation of an inland port authority,
11 the election commissioner or county clerk of the county in which the
12 majority of the inland port district is located shall divide the
13 territory of the city which created the authority into the number of
14 districts required under subsection (1) of section 10 of this act for the
15 purpose of electing members to the board. Such districts shall be compact
16 and contiguous and substantially equal in population. The newly
17 established districts shall be certified to the Secretary of State
18 following such creation. The newly established districts shall apply
19 beginning with the nomination and election of board members at the next
20 statewide primary and general elections held at least seventy days after
21 the creation of the inland port authority. Following the drawing of
22 initial districts pursuant to this section, additional redistricting
23 shall be undertaken by the board according the section 32-553. One member
24 shall be elected from each district as provided in section 12 of this
25 act.

26 (2) A vacancy in office for an elected member of the board shall
27 occur upon the happening of an event as described in section 32-560.
28 Whenever any such vacancy occurs, the remaining members of the board
29 shall appoint an individual residing within the geographical boundaries
30 of the district in which the vacancy occurred for the balance of the
31 unexpired term.

1 Sec. 12. (1) Members of the board of an inland port authority shall
2 be nominated at the statewide primary election and elected at the
3 statewide general election following the creation of the authority as
4 provided in section 11 of this act, and subsequently elected members
5 shall be nominated at subsequent statewide primary elections and elected
6 at subsequent statewide general elections. Candidates for election shall
7 be nominated upon a nonpartisan ballot.

8 (2) A member elected to represent an odd-numbered district in the
9 first election of board members shall be elected for a two-year term. A
10 member elected to represent an even-numbered district in the first
11 election of board members shall be elected for a four-year term. Members
12 elected in subsequent elections shall be elected for four-year terms and
13 until their successors are elected and qualified.

14 (3) Members shall take office on the first Thursday after the first
15 Tuesday in January following their election, except that members
16 appointed to fill vacancies shall take office immediately following
17 administration of the oath of office.

18 Sec. 13. (1) No individual may serve as a commissioner or an
19 employee of an inland port authority if:

20 (a) The individual or a family member of the individual owns an
21 interest in any real property located within the boundaries of the inland
22 port district; or

23 (b) The individual or a family member of the individual owns an
24 interest in, is directly affiliated with, or is an employee or officer of
25 a private firm, company, or other entity that the individual reasonably
26 believes is likely to:

27 (i) Participate in or receive a direct financial benefit from the
28 development of the inland port district; or

29 (ii) Acquire an interest in any facility located within the inland
30 port district.

31 (2) Before taking office as a commissioner or accepting employment

1 with an inland port authority, an individual shall submit to the
2 authority a statement verifying that the individual's service as a
3 commissioner or an employee will not violate subsection (1) of this
4 section.

5 (3) An individual shall not, at any time during the individual's
6 service as a commissioner or an employee of an inland port authority,
7 acquire or take any action to initiate, negotiate, or otherwise arrange
8 for the acquisition of an interest in any real property located within
9 the boundaries of the inland port district.

10 (4) A commissioner or an employee of an inland port authority shall
11 not receive a direct financial benefit from the development of any real
12 property located within the boundaries of the inland port district.

13 Sec. 14. (1) The board shall cause minutes of meetings and a record
14 to be kept of all its proceedings. Meetings of the board shall be subject
15 to the Open Meetings Act.

16 (2) An inland port authority's records and documents, except those
17 which may be lawfully excluded, shall be considered public records for
18 purposes of sections 84-712 to 84-712.09.

19 Sec. 15. The city council of a city that creates an inland port
20 authority may dissolve such inland port authority if such inland port
21 authority has no outstanding obligations. The inland port authority shall
22 be dissolved as of the date of approval by the city council. All funds
23 and other assets of the inland port authority shall be transferred upon
24 dissolution to the city.

25 Sec. 16. The Revisor of Statutes shall assign sections 1 to 15 of
26 this act to a new article in Chapter 19.