

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1108

Introduced by Day, 49.

Read first time January 19, 2022

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to sanitary and improvement districts; to
- 2 amend section 31-727, Revised Statutes Supplement, 2021; to provide
- 3 powers and duties relating to the regulation of fireworks to certain
- 4 sanitary and improvement districts as prescribed; and to repeal the
- 5 original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-727, Revised Statutes Supplement, 2021, is
2 amended to read:

3 31-727 (1)(a) A majority of the owners having an interest in the
4 real property within the limits of a proposed sanitary and improvement
5 district, situated in one or more counties in this state, may form a
6 sanitary and improvement district for the purposes of installing electric
7 service lines and conduits, a sewer system, a water system, an emergency
8 management warning system, a system of sidewalks, public roads, streets,
9 and highways, public waterways, docks, or wharfs, and related
10 appurtenances, contracting for water for fire protection and for resale
11 to residents of the district, contracting for police protection and
12 security services, contracting for solid waste collection services,
13 contracting for access to the facilities and use of the services of the
14 library system of one or more neighboring cities or villages, and
15 contracting for gas and for electricity for street lighting for the
16 public streets and highways within such proposed district, constructing
17 and contracting for the construction of dikes and levees for flood
18 protection for the district, acquiring, improving, and operating public
19 parks, playgrounds, and recreational facilities, and acquiring,
20 purchasing, leasing, owning, erecting, constructing, equipping,
21 operating, or maintaining all or a portion of offstreet motor vehicle
22 public parking facilities located in the district to serve business.

23 (b) The sanitary and improvement district may also contract with a
24 county within which all or a portion of such sanitary and improvement
25 district is located or a city within whose zoning jurisdiction such
26 sanitary and improvement district is located for any public purpose
27 specifically authorized in this section.

28 (c) Sanitary and improvement districts located in any county which
29 has a city of the metropolitan class within its boundaries or in any
30 adjacent county which has adopted a comprehensive plan may contract with
31 other sanitary and improvement districts to acquire, build, improve, and

1 operate public parks, playgrounds, and recreational facilities for the
2 joint use of the residents of the contracting districts.

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

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

9 (f) For the purposes listed in this section, such majority of the
10 owners may make and sign articles of association in which shall be stated

11 (i) the name of the district, (ii) that the district will have perpetual
12 existence, (iii) the limits of the district, (iv) the names and places of
13 residence of the owners of the land in the proposed district, (v) the
14 description of the several tracts of land situated in the district owned
15 by those who may organize the district, (vi) the name or names and the
16 description of the real estate owned by such owners as do not join in the
17 organization of the district but who will be benefited thereby, and (vii)
18 whether the purpose of the corporation is installing gas and electric
19 service lines and conduits, installing a sewer system, installing a water
20 system, installing a system of public roads, streets, and highways,
21 public waterways, docks, or wharfs, and related appurtenances,
22 contracting for water for fire protection and for resale to residents of
23 the district, contracting for police protection and security services,
24 contracting for solid waste collection services, contracting for access
25 to the facilities and use of the services of the library system of one or
26 more neighboring cities or villages, contracting for street lighting for
27 the public streets and highways within the proposed district,
28 constructing or contracting for the construction of dikes and levees for
29 flood protection of the proposed district, acquiring, improving, and
30 operating public parks, playgrounds, and recreational facilities,
31 acquiring, purchasing, leasing, owning, erecting, constructing,

1 equipping, operating, or maintaining all or a portion of offstreet motor
2 vehicle public parking facilities located in the district to serve
3 business, or, when permitted by this section, contracting with other
4 sanitary and improvement districts to acquire, build, improve, and
5 operate public parks, playgrounds, and recreational facilities for the
6 joint use of the residents of the contracting districts, contracting for
7 any public purpose specifically authorized in this section, or
8 combination of any one or more of such purposes, or all of such purposes.
9 Such owners of real estate as are unknown may also be set out in the
10 articles as such.

11 (g) No sanitary and improvement district may own or hold land in
12 excess of ten acres, unless such land so owned and held by such district
13 is actually used for a public purpose, as provided in this section,
14 within three years of its acquisition. Any sanitary and improvement
15 district which has acquired land in excess of ten acres in area and has
16 not devoted the same to a public purpose, as set forth in this section,
17 within three years of the date of its acquisition, shall devote the same
18 to a use set forth in this section or shall divest itself of such land.
19 When a district divests itself of land pursuant to this section, it shall
20 do so by sale at public auction to the highest bidder after notice of
21 such sale has been given by publication at least three times for three
22 consecutive weeks prior to the date of sale in a legal newspaper of
23 general circulation within the area of the district.

24 (2) The articles of association shall further state that the owners
25 of real estate so forming the district for such purposes are willing and
26 obligate themselves to pay the tax or taxes which may be levied against
27 all the property in the district and special assessments against the real
28 property benefited which may be assessed against them to pay the expenses
29 that may be necessary to install a sewer or water system or both a sewer
30 and water system, the cost of water for fire protection, the cost of
31 grading, changing grade, paving, repairing, graveling, regrading,

1 widening, or narrowing sidewalks and roads, resurfacing or relaying
2 existing pavement, or otherwise improving any public roads, streets, or
3 highways within the district, including protecting existing sidewalks,
4 streets, highways, and roads from floods or erosion which has moved
5 within fifteen feet from the edge of such sidewalks, streets, highways,
6 or roads, regardless of whether such flooding or erosion is of natural or
7 artificial origin, the cost of constructing public waterways, docks, or
8 wharfs, and related appurtenances, the cost of constructing or
9 contracting for the construction of dikes and levees for flood protection
10 for the district, the cost of contracting for water for fire protection
11 and for resale to residents of the district, the cost of contracting for
12 police protection and security services, the cost of contracting for
13 solid waste collection services, the cost of contracting for access to
14 the facilities and use of the services of the library system of one or
15 more neighboring cities or villages, the cost of electricity for street
16 lighting for the public streets and highways within the district, the
17 cost of installing gas and electric service lines and conduits, the cost
18 of acquiring, improving, and operating public parks, playgrounds, and
19 recreational facilities, the cost of acquiring, purchasing, leasing,
20 owning, erecting, constructing, equipping, operating, or maintaining all
21 or a portion of offstreet motor vehicle public parking facilities located
22 in the district to serve business, and, when permitted by this section,
23 the cost of contracting for building, acquiring, improving, and operating
24 public parks, playgrounds, and recreational facilities, and the cost of
25 contracting for any public purpose specifically authorized in this
26 section, as provided by law.

27 (3) The articles shall propose the names of five or more trustees
28 who are (a) owners of real estate located in the proposed district or (b)
29 designees of the owners if the real estate is owned by a limited
30 partnership, a general partnership, a limited liability company, a
31 public, private, or municipal corporation, an estate, or a trust. These

1 five trustees shall serve as a board of trustees until their successors
2 are elected and qualified if such district is organized. No corporation
3 formed or hereafter formed shall perform any new functions, other than
4 those for which the corporation was formed, without amending its articles
5 of association to include the new function or functions.

6 (4) After the articles are signed, the same shall be filed in the
7 office of the clerk of the district court of the county in which such
8 sanitary and improvement district is located or, if such sanitary and
9 improvement district is composed of tracts or parcels of land in two or
10 more different counties, in the office of the clerk of the district court
11 for the county in which the greater portion of such proposed sanitary and
12 improvement district is located, together with a petition praying that
13 the same may be declared a sanitary and improvement district under
14 sections 31-727 to 31-762.

15 (5) Notwithstanding the repeal of sections 31-701 to 31-726.01 by
16 Laws 1996, LB 1321:

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

21 (b) Any act or proceeding performed or conducted by a sanitary and
22 improvement district organized pursuant to such repealed sections shall
23 be deemed lawful and within the authority of such sanitary and
24 improvement district to perform or conduct after August 31, 2003; and

25 (c) Any trustees of a sanitary and improvement district organized
26 pursuant to such repealed sections and lawfully elected pursuant to such
27 repealed sections or in conformity with the provisions of sections 31-727
28 to 31-762 shall be deemed for all purposes, on and after August 31, 2003,
29 to be lawful trustees of such sanitary and improvement district for the
30 term provided by such sections. Upon the expiration of the term of office
31 of a trustee or at such time as there is a vacancy in the office of any

1 such trustee prior to the expiration of his or her term, his or her
2 successors or replacement shall be elected pursuant to sections 31-727 to
3 31-762.

4 (6)(a) A sanitary and improvement district that meets the
5 requirements of this subsection shall have the additional powers provided
6 for in subdivision (b) of this subsection, subject to the approval and
7 restrictions established by the city council or village board within
8 whose zoning jurisdiction the sanitary and improvement district is
9 located and the county board in which a majority of the sanitary and
10 improvement district is located. The sanitary and improvement district
11 shall be (i) located in a county with a population less than one hundred
12 thousand inhabitants, (ii) located predominately in a county different
13 from the county of the municipality within whose zoning jurisdiction such
14 sanitary and improvement district is located, (iii) unable to incorporate
15 due to its close proximity to a municipality, and (iv) unable to be
16 annexed by a municipality with zoning jurisdiction because the sanitary
17 and improvement district is not adjacent or contiguous to such
18 municipality.

19 (b) Any sanitary and improvement district that meets the
20 requirements of subdivision (6)(a) of this section shall have only the
21 following additional powers, subject to the approval and restrictions of
22 the city council or village board within whose zoning jurisdiction such
23 sanitary and improvement district is located and the county board in
24 which a majority of the sanitary and improvement district is located.
25 Such sanitary and improvement district shall have the power to (i)
26 regulate and license dogs and other animals, (ii) regulate and provide
27 for streets and sidewalks, including the removal of obstructions and
28 encroachments, (iii) regulate parking on public roads and rights-of-way
29 relating to snow removal and access by emergency vehicles, and (iv)
30 regulate the parking of abandoned motor vehicles.

31 (7) A sanitary and improvement district that meets the requirements

1 of this subsection shall have the power to regulate the discharge of
2 fireworks as defined under section 28-1241, subject to the approval of
3 and restrictions established by the county board of the county in which a
4 majority of the sanitary and improvement district is located. The
5 sanitary and improvement district shall be (a) located outside of the
6 extraterritorial zoning jurisdiction of any municipality, (b) unable to
7 incorporate due to its close proximity to a municipality, and (c) unable
8 to be annexed by a municipality with zoning jurisdiction because the
9 sanitary and improvement district is not adjacent or contiguous to such
10 municipality.

11 (8) ~~(7)~~ For the purposes of sections 31-727 to 31-762 and 31-771 to
12 31-780, unless the context otherwise requires:

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

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

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

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

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

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

11 Sec. 2. Original section 31-727, Revised Statutes Supplement, 2021,
12 is repealed.