

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 168

Introduced by Hansen, M., 26.

Read first time January 08, 2021

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to sanitary and improvement districts; to
- 2 amend sections 31-727 and 31-730, Reissue Revised Statutes of
- 3 Nebraska; to terminate authorization for the creation of new
- 4 districts as prescribed; to harmonize provisions; to repeal the
- 5 original sections; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

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

3 31-727 (1)(a) Except as provided in subsection (2) of section
4 31-730, a A majority of the owners having an interest in the real
5 property within the limits of a proposed sanitary and improvement
6 district, situated in one or more counties in this state, may form a
7 sanitary and improvement district for the purposes of installing electric
8 service lines and conduits, a sewer system, a water system, an emergency
9 management warning system, a system of sidewalks, public roads, streets,
10 and highways, public waterways, docks, or wharfs, and related
11 appurtenances, contracting for water for fire protection and for resale
12 to residents of the district, contracting for police protection and
13 security services, contracting for solid waste collection services,
14 contracting for access to the facilities and use of the services of the
15 library system of one or more neighboring cities or villages, and
16 contracting for gas and for electricity for street lighting for the
17 public streets and highways within such proposed district, constructing
18 and contracting for the construction of dikes and levees for flood
19 protection for the district, and acquiring, improving, and operating
20 public parks, playgrounds, and recreational facilities.

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

26 (c) Sanitary and improvement districts located in any county which
27 has a city of the metropolitan class within its boundaries or in any
28 adjacent county which has adopted a comprehensive plan may contract with
29 other sanitary and improvement districts to acquire, build, improve, and
30 operate public parks, playgrounds, and recreational facilities for the
31 joint use of the residents of the contracting districts.

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

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

7 (f) For the purposes listed in this section, such majority of the
8 owners may make and sign articles of association in which shall be stated
9 (i) the name of the district, (ii) that the district will have perpetual
10 existence, (iii) the limits of the district, (iv) the names and places of
11 residence of the owners of the land in the proposed district, (v) the
12 description of the several tracts of land situated in the district owned
13 by those who may organize the district, (vi) the name or names and the
14 description of the real estate owned by such owners as do not join in the
15 organization of the district but who will be benefited thereby, and (vii)
16 whether the purpose of the corporation is installing gas and electric
17 service lines and conduits, installing a sewer system, installing a water
18 system, installing a system of public roads, streets, and highways,
19 public waterways, docks, or wharfs, and related appurtenances,
20 contracting for water for fire protection and for resale to residents of
21 the district, contracting for police protection and security services,
22 contracting for solid waste collection services, contracting for access
23 to the facilities and use of the services of the library system of one or
24 more neighboring cities or villages, contracting for street lighting for
25 the public streets and highways within the proposed district,
26 constructing or contracting for the construction of dikes and levees for
27 flood protection of the proposed district, acquiring, improving, and
28 operating public parks, playgrounds, and recreational facilities, or,
29 when permitted by this section, contracting with other sanitary and
30 improvement districts to acquire, build, improve, and operate public
31 parks, playgrounds, and recreational facilities for the joint use of the

1 residents of the contracting districts, contracting for any public
2 purpose specifically authorized in this section, or combination of any
3 one or more of such purposes, or all of such purposes. Such owners of
4 real estate as are unknown may also be set out in the articles as such.

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

18 (2) The articles of association shall further state that the owners
19 of real estate so forming the district for such purposes are willing and
20 obligate themselves to pay the tax or taxes which may be levied against
21 all the property in the district and special assessments against the real
22 property benefited which may be assessed against them to pay the expenses
23 that may be necessary to install a sewer or water system or both a sewer
24 and water system, the cost of water for fire protection, the cost of
25 grading, changing grade, paving, repairing, graveling, regrading,
26 widening, or narrowing sidewalks and roads, resurfacing or relaying
27 existing pavement, or otherwise improving any public roads, streets, or
28 highways within the district, including protecting existing sidewalks,
29 streets, highways, and roads from floods or erosion which has moved
30 within fifteen feet from the edge of such sidewalks, streets, highways,
31 or roads, regardless of whether such flooding or erosion is of natural or

1 artificial origin, the cost of constructing public waterways, docks, or
2 wharfs, and related appurtenances, the cost of constructing or
3 contracting for the construction of dikes and levees for flood protection
4 for the district, the cost of contracting for water for fire protection
5 and for resale to residents of the district, the cost of contracting for
6 police protection and security services, the cost of contracting for
7 solid waste collection services, the cost of contracting for access to
8 the facilities and use of the services of the library system of one or
9 more neighboring cities or villages, the cost of electricity for street
10 lighting for the public streets and highways within the district, the
11 cost of installing gas and electric service lines and conduits, the cost
12 of acquiring, improving, and operating public parks, playgrounds, and
13 recreational facilities, and, when permitted by this section, the cost of
14 contracting for building, acquiring, improving, and operating public
15 parks, playgrounds, and recreational facilities, and the cost of
16 contracting for any public purpose specifically authorized in this
17 section, as provided by law.

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

28 (4) Except as provided in subsection (2) of section 31-730, after
29 ~~After~~ the articles are signed, the same shall be filed in the office of
30 the clerk of the district court of the county in which such sanitary and
31 improvement district is located or, if such sanitary and improvement

1 district is composed of tracts or parcels of land in two or more
2 different counties, in the office of the clerk of the district court for
3 the county in which the greater portion of such proposed sanitary and
4 improvement district is located, together with a petition praying that
5 the same may be declared a sanitary and improvement district under
6 sections 31-727 to 31-762.

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

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

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

17 (c) Any trustees of a sanitary and improvement district organized
18 pursuant to such repealed sections and lawfully elected pursuant to such
19 repealed sections or in conformity with the provisions of sections 31-727
20 to 31-762 shall be deemed for all purposes, on and after August 31, 2003,
21 to be lawful trustees of such sanitary and improvement district for the
22 term provided by such sections. Upon the expiration of the term of office
23 of a trustee or at such time as there is a vacancy in the office of any
24 such trustee prior to the expiration of his or her term, his or her
25 successors or replacement shall be elected pursuant to sections 31-727 to
26 31-762.

27 (6)(a) A sanitary and improvement district that meets the
28 requirements of this subsection shall have the additional powers provided
29 for in subdivision (b) of this subsection, subject to the approval and
30 restrictions established by the city council or village board within
31 whose zoning jurisdiction the sanitary and improvement district is

1 located and the county board in which a majority of the sanitary and
2 improvement district is located. The sanitary and improvement district
3 shall be (i) located in a county with a population less than one hundred
4 thousand inhabitants, (ii) located predominately in a county different
5 from the county of the municipality within whose zoning jurisdiction such
6 sanitary and improvement district is located, (iii) unable to incorporate
7 due to its close proximity to a municipality, and (iv) unable to be
8 annexed by a municipality with zoning jurisdiction because the sanitary
9 and improvement district is not adjacent or contiguous to such
10 municipality.

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

23 (7) For the purposes of sections 31-727 to 31-762 and 31-771 to
24 31-780, unless the context otherwise requires:

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

28 (b) Operation and maintenance expenses means and includes, but is
29 not limited to, salaries, cost of materials and supplies for operation
30 and maintenance of the district's facilities, cost of ordinary repairs,
31 replacements, and alterations, cost of surety bonds and insurance, cost

1 of audits and other fees, and taxes;

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

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

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

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

23 Sec. 2. Section 31-730, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 31-730 (1) Any such petition filed pursuant to subsection (4) of
26 section 31-727, and objections if any, shall be heard by the district
27 court without any unnecessary delay and should the court determine that
28 the formation of such district will be conducive to the public health,
29 convenience, or welfare, the ~~district~~ court shall declare the sanitary
30 and improvement district a public corporation of this state and shall
31 declare five of the trustees nominated, or in case of objection thereto,

1 other suitable trustees who shall be (a) ~~(1)~~ owners of real estate
2 located in the district or (b) ~~(2)~~ designated to serve as a
3 representative on the board of trustees if the real estate is owned by a
4 limited partnership, a general partnership, a limited liability company,
5 a public, private, or municipal corporation, an estate, or a trust, to be
6 the board of trustees of such corporation to serve until their successors
7 are elected and qualified. If any owner of real estate located in the
8 proposed district satisfies the court that his or her real estate, or any
9 part thereof, will not be benefited thereby, then the court may exclude
10 such real estate as will not be benefited and declare the remainder a
11 district as prayed for. No lands included within any municipal
12 corporation shall be included in any sanitary and improvement district,
13 and no tract of twenty acres or more which is outside any municipal
14 corporation and is used primarily for industrial purposes shall be
15 included in any sanitary and improvement district organized under
16 sections 31-727 to 31-762 without the written consent of the owner of
17 such tract.

18 (2) No petition filed pursuant to subsection (4) of section 31-727
19 shall be heard by the district court on or after July 1, 2021, and such
20 court shall not declare any sanitary and improvement district a public
21 corporation of this state on or after such date.

22 Sec. 3. Original sections 31-727 and 31-730, Reissue Revised
23 Statutes of Nebraska, are repealed.

24 Sec. 4. Since an emergency exists, this act takes effect when
25 passed and approved according to law.