

LEGISLATIVE BILL 998

Approved by the Governor April 18, 2022

Introduced by Wayne, 13.

A BILL FOR AN ACT relating to the Municipal Inland Port Authority Act; to amend sections 13-3301, 13-3303, 13-3304, 13-3305, 13-3307, and 81-12,150, Revised Statutes Supplement, 2021; to define a term; to change certification provisions; to provide for prioritization of inland port authority proposals by the Department of Economic Development; to provide for creation of an inland port authority upon application by a nonprofit economic development corporation; to change provisions relating to inland port districts and rules and regulations relating to inland port authority proposals; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 13-3301, Revised Statutes Supplement, 2021, is amended to read:

13-3301 Sections 13-3301 to 13-3313 and section 4 of this act shall be known and may be cited as the Municipal Inland Port Authority Act.

Sec. 2. Section 13-3303, Revised Statutes Supplement, 2021, is amended to read:

13-3303 For purposes of the Municipal Inland Port Authority Act:

(1) Board means the board of commissioners of an inland port authority;
(2) City means any city of the metropolitan class, city of the primary class, or city of the first class which contains an area eligible to be designated as an inland port district;

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

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

(5) Inland port authority means an authority created by a city, county, or a city and one or more counties under the Municipal Inland Port Authority Act to manage an inland port district;

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

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

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

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

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

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

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

(9) Major rail line means a rail line that is accessible to a Class I railroad as defined by the federal Surface Transportation Board; ~~and~~ -

(10) Nonprofit economic development corporation means a chamber of commerce or other mutual benefit or public benefit corporation organized under the Nebraska Nonprofit Corporation Act to assist economic development.

Sec. 3. Section 13-3304, Revised Statutes Supplement, 2021, is amended to read:

13-3304 (1) Any city which encompasses an area greater than three hundred acres eligible to be designated as an inland port district may propose to create an inland port authority by ordinance, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the city shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the corporate boundaries, extraterritorial zoning jurisdiction, or both of the city;

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

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

(d) The potential impact that development of the proposed inland port

district will have on the immediate area; and

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

(2) Any city and one or more counties in which a city of the metropolitan class, city of the primary class, or city of the first class is located, or in which the extraterritorial zoning jurisdiction of such city is located, which encompass an area greater than three hundred acres eligible to be designated as an inland port district may enter into an agreement pursuant to the Interlocal Cooperation Act to propose joint creation of an inland port authority, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the city and counties shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the corporate boundaries or extraterritorial zoning jurisdiction or both of the city, or within both the corporate boundaries or extraterritorial zoning jurisdiction or both of a city and the boundaries of one or more counties;

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

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

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

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

(3) Any county with a population greater than twenty thousand inhabitants according to the most recent federal census or the most recent revised certified count by the United States Bureau of the Census which encompasses an area greater than three hundred acres eligible to be designated as an inland port district may propose to create an inland port authority by resolution, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the county shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the county;

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

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

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

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

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

(5) Following the adoption of an ordinance, resolution, or execution of an agreement pursuant to the Interlocal Cooperation Act proposing creation of an inland port authority, the city clerk or county clerk shall transmit a copy of such ordinance, resolution, or agreement to the Department of Economic Development along with an application for approval of the proposal. Upon receipt of such ordinance, resolution, or agreement and application, the department shall evaluate the proposed inland port authority to determine whether the proposal meets the criteria in subsection (1), (2), or (3) of this section, whichever is applicable, as well as any prioritization criteria developed by the department. Upon a determination that the proposed inland port authority sufficiently meets such criteria, the Director of Economic Development shall certify to the city clerk or county clerk whether the proposed creation of such inland port authority exceeds the cap on the total number of inland port districts pursuant to subsection (4) of this section. If the department determines that the proposed inland port authority sufficiently meets such criteria and does not exceed such cap, the inland port authority shall be deemed created. If the proposed inland port authority does not sufficiently meet such criteria or exceeds such cap, the city shall repeal such ordinance, the county shall repeal such resolution, or the city and county or counties shall rescind such agreement and the proposed inland port authority shall not be created.

Sec. 4. (1) In the event that a city, a city and one or more counties, or a county, as such are described in subsections (1), (2), and (3) of section 13-3304, has or have not proposed to create an inland port authority as provided in such section, a nonprofit economic development corporation which serves such city, such city and one or more counties, or such county may propose to create an inland port authority using the criteria in subsection (1), (2), or (3) of section 13-3304, whichever is applicable, by submitting an application to the Department of Economic Development.

(2) Following the submission of an application from a nonprofit economic development corporation proposing the creation of an inland port authority, the Department of Economic Development shall evaluate the proposed inland port authority to determine whether the proposal meets the criteria in subsection (1), (2), or (3) of section 13-3304, whichever is applicable, as well as any prioritization criteria developed by the department. Upon a determination that the proposed inland port authority sufficiently meets such criteria, the Director of Economic Development shall certify to the nonprofit economic development corporation and the city clerk or county clerk or clerks whether the proposed creation of such inland port authority exceeds the cap on the total number of inland port districts pursuant to subsection (4) of section 13-3304. If the proposed inland port authority sufficiently meets such criteria and does not exceed such cap, such city, such city and one or more counties, or such county shall create an inland port authority pursuant to subsection (1), (2), or (3) of section 13-3304, whichever is applicable, based on the criteria utilized by the nonprofit economic development corporation pursuant to subsection (1) of this section.

Sec. 5. Section 13-3305, Revised Statutes Supplement, 2021, is amended to read:

13-3305 (1) The city council of any city which has created an inland port authority pursuant to subsection (1) of section 13-3304 shall designate what areas within the corporate limits, extraterritorial zoning jurisdiction, or both of the city shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the city clerk and shall become effective upon approval of the city council. The city council may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the city clerk and become effective upon such filing.

(2) The city council of any city and county board or boards of any county or counties which have created an inland port authority pursuant to subsection (2) of section 13-3304 shall designate what areas within the corporate limits, extraterritorial zoning jurisdiction, or both of the city or within the county or counties shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the city clerk and the county clerk or clerks and shall become effective upon approval of the city council and the county board or boards. The city council and the county board or boards may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the city clerk and the county clerk or clerks and become effective upon such filing.

(3) The county board of any county which has created an inland port authority pursuant to subsection (3) of section 13-3304 shall designate what areas within the county shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the county clerk and shall become effective upon approval of the county board. The county board may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the county clerk and become effective upon such filing.

(4) Not more than twenty-five percent of the area within an inland port district designated pursuant to this section may be noncontiguous with the remaining portions of such inland port district. Such noncontiguous area shall be no more than one-quarter mile from the remaining portions of such inland port district.

(5) Nothing in this section shall require that any real property located within the boundaries of an inland port district be owned by an inland port authority or the city or county or counties in which such real property is located.

Sec. 6. Section 13-3307, Revised Statutes Supplement, 2021, is amended to read:

13-3307 (1) The State of Nebraska and any municipality, county, or other political subdivision of the state may, in its discretion, with or without consideration, transfer or cause to be transferred to any inland port authority or place in its possession or control, by lease or other contract or agreement, either for a limited period or in fee, any real property within its inland port district.

(2) Nothing in this section shall:

(a) In ~~in~~ any way impair, alter, or change any obligations of such entities, contractual or otherwise, existing prior to August 28, 2021; or -

(b) Require that any real property located within the boundaries of an inland port district be owned by an inland port authority or the city or county or counties in which such real property is located.

Sec. 7. Section 81-12,150, Revised Statutes Supplement, 2021, is amended to read:

81-12,150 The Department of Economic Development may adopt and promulgate rules and regulations to carry out the Site and Building Development Act, including rules and regulations relating to reviewing and prioritizing inland port authority proposals pursuant to section 13-3304 and section 4 of this act and providing financial assistance to any inland port authority created under

the Municipal Inland Port Authority Act.

Sec. 8. Original sections 13-3301, 13-3303, 13-3304, 13-3305, 13-3307, and 81-12,150, Revised Statutes Supplement, 2021, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.