

LEGISLATIVE BILL 1382

Approved by the Governor March 23, 1972

Introduced by Herb Nore, 22nd District

AN ACT to amend sections 23-343.92, 23-343.93, 23-343.95, 23-343.96, 23-343.99, 23-343.100, and 23-343.109, Revised Statutes Supplement, 1971, relating to county government; to provide additional powers; to clarify provisions; to change duties of the county board respecting inventories; and to repeal the original sections, and also section 23-348, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 23-343.92, Revised Statutes Supplement, 1971, be amended to read as follows:

23-343.92. Each hospital authority shall have and exercise the following powers:

(1) To have perpetual succession as a body politic and corporate; Provided, that any county board having declared a hospital authority to be a public corporation and body politic of this state shall, upon a showing duly made and with appropriate notice given to the Secretary of State, but not sooner than upon expiration of a period of two years from and after the date upon which the record relating to formation of such hospital authority was filed with the Secretary of State pursuant to section 23-343.85, enter an order dissolving any hospital authority which does not then have under construction, own, lease as lessee or as lessor, or operate a hospital;

(2) To have and use a corporate seal and alter it at pleasure;

(3) To sue and be sued in all courts and places and in all actions and proceedings whatever;

(4) To purchase, receive, have, take, hold, lease as lessee, use, and enjoy property of every kind and description within the limits of the authority, and to control, dispose of, sell for a nominal or other consideration, convey, and encumber the same and create a leasehold interest in the same, as lessor, with any nonprofit person, firm, partnership, association or corporation, other than a county, city or village in this

state, for the benefit of the authority;

(5) To administer any trust declared or created for hospitals of the authority, and receive by gift, devise, or bequest and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of such hospitals;

(6) To employ legal counsel to advise the board of trustees in all matters pertaining to the business of the authority, and to perform such functions in respect to the legal affairs of the authority as the board may direct;

(7) To employ such technical experts, and such officers, agents and employees, permanent and temporary, as it may require, and to determine their qualifications, duties and compensation, such technical experts, officers, agents and employees to hold their offices or positions at the pleasure of the board;

(8) To delegate to one or more of its agents or employees such powers and duties as it deems proper;

(9) To do any and all things which an individual might do which are necessary for and to the advantage of a hospital;

(10) To purchase, construct, establish, or otherwise acquire and to improve, alter, maintain and operate one or more hospitals situated within the territorial limits of the authority. The term hospital as used in sections 23-343.74 to 23-343.120 shall mean and include, except as used in section 23-343.95, any structure or structures suitable for use as a hospital, nursing home, clinic, or other health care facility, laboratory, laundry, nurses' or interns' residences and dormitories, administration buildings, research facilities, and maintenance, storage or utility facilities and other structures or facilities reasonably related thereto or required or useful for the operation thereof, including parking and other facilities or structures essential or convenient for the orderly operation thereof and shall also include furniture, instruments, equipment and machinery and other similar items necessary or convenient for the operations thereof;

(11) To enter into contracts and other agreements for the purchase, construction, establishment, acquisition, management, operation and maintenance of any hospital or any part thereof upon such terms and conditions and for such periods of time as its board of

trustees may determine;

(12) To do any and all other acts and things necessary to carry out the provisions of sections 23-343.74 to 23-343.120, including the power to borrow money on its bonds, notes, debentures, or other evidences of indebtedness and to secure the same by pledges of its revenue in the manner and to the extent provided in sections 23-343.74 to 23-343.120, and to fund or refund the same; and

(13) To acquire, maintain, and operate ambulances or ambulance services within and without the authority.

Sec. 2. That section 23-343.93, Revised Statutes Supplement, 1971, be amended to read as follows:

23-343.93. The board of trustees shall be responsible for the operation of all hospitals owned or leased by the authority as lessee, according to the best interests of the public health and shall make and enforce all rules, regulations, and by-laws necessary for the administration, government, protection, and maintenance of hospitals under its management and all property belonging thereto and may prescribe the terms upon which patients may be admitted thereto. Such hospitals shall not be required to contract with counties or with agencies thereof to provide care for indigent county patients at below the cost for care. In fixing the basic room rates the board shall establish such basic room rates as will, together with other income and revenue available for such purpose and however derived, permit each hospital owned or leased by the authority as lessee to be operated upon a self-supporting basis; Provided, that in establishing basic room rates the board of trustees shall give due consideration to at least the following factors: Costs of administration, operation and maintenance of the various facilities under its jurisdiction, the cost of making necessary repairs and renewals thereto, debt service requirements, the creation of reserves for contingencies, and projected needs for expansion and for the making of major improvements; and provided further, that the board of trustees shall require the any lessee or operator of any facility to annually furnish such statements and other information as to historical and projected income, revenue and expenditures and its recommendations as to basic room rates as the board of trustees shall deem necessary, desirable or appropriate in enabling it to establish basic room rates in accordance with the provisions of this section. Minimum standards of operation, at least equal to those set by the Department of Health of the State of Nebraska, shall be established and enforced by

the board of trustees.

Sec. 3. That section 23-343.95, Revised Statutes Supplement, 1971, be amended to read as follows:

23-343.95. Prior to constructing any structure which is to be utilized as a hospital or as a nursing home, as opposed to structures related thereto, the question of constructing such structure shall, except as otherwise provided in section 23-343.98, be submitted to the appropriate local or area health planning agency for its consideration and review, if there has been created, pursuant to state or federal law, such a local or area health planning agency having jurisdiction within the area in which the proposed structure is to be constructed. Such local or area health planning agency shall within sixty days render its findings and recommendations, if any, and shall be deemed to have approved construction of the proposed structure if its findings and recommendations have not been rendered within such period of sixty days; Provided, that the provisions of this section shall not apply to the purchase or other acquisition by an authority of any interest in any existing structure which is to be utilized as a hospital if such structure has been in existence for more than one year.

Sec. 4. That section 23-343.96, Revised Statutes Supplement, 1971, be amended to read as follows:

23-343.96. The question of constructing any structure which is to be utilized as a hospital or as a nursing home, as opposed to structures related thereto, shall also, except as otherwise provided in section 23-343.98, be submitted to the State Office of Planning and Programming, together with the findings and recommendations, if any, of the appropriate local or area health planning agency, if any, for its consideration and review. The State Office of Planning and Programming shall within thirty days render its findings and recommendations, if any, and shall be deemed to have approved construction of the proposed structure if its findings and recommendations have not been rendered within such period of thirty days; Provided, that the provisions of this section shall not apply to the purchase or other acquisition by an authority of any interest in any existing structure which is to be utilized as a hospital if such structure has been in existence for more than one year.

Sec. 5. That section 23-343.99, Revised Statutes Supplement, 1971, be amended to read as follows:

23-343.99. An authority shall have power and is hereby authorized from time to time in its discretion to may issue bonds for the purpose only of purchasing or otherwise acquiring an existing structure or structures and related furniture and equipment, including the site or sites upon which the same are located, for use as a hospital, and to furnish, equip, alter, renovate and remodel the same, or for constructing, furnishing and equipping new facilities or additions or improvements to existing facilities, or for the purpose of providing for the refunding of any such bonds. Bonds may be issued under sections 23-343.74 to 23-343.120 notwithstanding any debt or other limitation, including limitation as to interest rates, prescribed in any statute.

Sec. 6. That section 23-343.100, Revised Statutes Supplement, 1971, be amended to read as follows:

23-343.100. The principal and interest on such bonds shall be payable exclusively from the income and revenue of the facilities purchased, constructed, altered, renovated, remodeled, furnished and equipped with the proceeds of such bonds or with such proceeds together with the proceeds of a grant from the federal government to aid in financing, furnishing or equipping thereof; Provided, that an authority may, in its discretion, also pledge to the payment of the principal and interest on any such bonds all or any part of the income and revenue derived from the operation of any or all of the other facilities then or at any time thereafter owned or operated by it; and provided further, that an authority may in its discretion, also expressly provide that any such bonds shall be general obligations of the authority payable out of any revenue, income, receipts, profits, or other money or funds of the authority derived from any source whatsoever. Such bonds may be additionally secured by a trust indenture.

Sec. 7. That section 23-343.109, Revised Statutes Supplement, 1971, be amended to read as follows:

23-343.109. In connection with the issuance of bonds or the incurring of any obligations under a lease and in order to secure the payment of such bonds or obligations, the authority shall have power:

- (1) To pledge by resolution, trust indenture, or other contract, all or any part of its income, rents, fees, revenue or other funds;
- (2) To covenant to impose and maintain such schedule of fees and charges as will produce funds sufficient to pay operating costs and debt service;

(3) To covenant with respect to limitations on its right to sell, lease or otherwise dispose of any hospital facility or any part thereof, or with respect to limitations on its right to undertake additional hospital facilities;

(4) To covenant against pledging all or any part of its income, rents, fees, revenue and other funds to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon;

(5) To provide for the release of income, rents, fees, revenue and other funds, from any pledge and to reserve rights and powers in, or the right to dispose of property, the income, rents, fees and revenue from which are subject to a pledge;

(6) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof;

(7) To covenant as to what other, or additional debt, may be incurred by it;

(8) To provide for the terms, form, registration, exchange, execution and authentication of bonds;

(9) To provide for the replacement of lost, destroyed, or mutilated bonds;

(10) To covenant as to the use of any or all of its property, real or personal;

(11) To create or to authorize the creation of special funds in which there shall be segregated: (a) The proceeds of any bequest, gift, loan or grant; (b) all of the income, rents, fees and revenue of any hospital facility or facilities or parts thereof; (c) any money held for the payment of the costs of operation and maintenance of any such hospital facilities or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) any money held for the payment of the principal and interest on its bonds or the sums due under its leases or as a reserve for such payments; and (e) any money held for any other reserve or contingencies; and to covenant as to the use and disposal of the money held in such funds;

(12) To redeem the bonds, and to covenant for their redemption and to provide the terms and conditions

thereof;

(13) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner;

(14) To prescribe the procedure, if any, by which the authority may issue additional parity or junior lien bonds;

(15) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(16) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance money;

(17) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its part to be kept or performed, to cure any such default and to advance any money necessary for such purpose, and the money so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, lease or contract of the authority with reference thereto;

(18) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(19) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation;

(20) To covenant to surrender possession of all or any part of any hospital facility or facilities the revenue from which have been pledged ~~for the purpose of constructing, furnishing, and equipping new buildings or additions to existing buildings~~ as provided for in sections 23-343.74 to 23-343.120 upon the happening of any event of default, as defined in the contract, and to vest in an obligee the right without judicial proceeding to obtain a substitute lessee for the hospital facilities or any part thereof or to take possession of and to use, operate, manage and control such hospital facilities or any part thereof, and to collect and receive all income,

rents, fees and revenue arising therefrom in the same manner as the authority itself might do and to dispose of the money collected in accordance with the agreement of the authority with such obligee;

(21) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant;

(22) To make covenants other than in addition to the covenants expressly authorized in this section, of like or different character;

(23) To execute all instruments necessary or convenient in the exercise of the powers granted in this section or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those specified in sections 23-343.74 to 23-343.120, as the government or any purchaser of the bonds of the authority may reasonably require; and

(24) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated in this section; it being the intention hereof to give the authority power to do all things in the issuance of bonds and in the making of provisions for their security that are not inconsistent with the Constitution of this state without the consent or approval of any judge or court being required therefor.

Sec. 8. On or before December 31, in each year, each county board shall make, or cause to be made, acknowledged under oath, and filed with the county clerk of such county, an inventory statement of all real estate and real property in which such county has any interest of any kind. Such inventory shall include all real estate owned by the county or in which the county has an interest or lien of any kind including liens acquired by operation of law for any purpose except real estate tax liens which have not been established by judicial decree and except those parcels of land owned by the county for road rights-of-way and other utility rights-of-way. Such inventory shall set forth a description of such properties with sufficient details that the property may be identified in the records of the register of deeds.

and shall set forth, if within an area in which the property abuts upon a street, the street and street number of such property and shall set forth the use being made of such property. The county clerk shall retain such inventory for filing as a public record in his office in a manner convenient for reference.

Sec. 9. That original sections 23-343.92, 23-343.93, 23-343.95, 23-343.96, 23-343.99, 23-343.100, and 23-343.109, Revised Statutes Supplement, 1971, and also section 23-348, Reissue Revised Statutes of Nebraska, 1943, are repealed.