

LEGISLATIVE BILL 573

Approved by the Governor April 15, 1992

Introduced by Baack, 47; Robak, 22; Wehrbein, 2

AN ACT relating to political subdivisions; to amend sections 2-3229, 81-829.46, 84-135, and 84-304, Reissue Revised Statutes of Nebraska, 1943, section 81-1201.08, Revised Statutes Supplement, 1990, section 71-5653, Revised Statutes Supplement, 1991, and section 70-612, Reissue Revised Statutes of Nebraska, 1943, as amended by section 18, Legislative Bill 424, Ninety-second Legislature, Second Session, 1992; to create Nebraska planning and development regions; to authorize the formation of development districts; to provide for distribution of financial assistance; to provide powers and duties; to authorize additional representation on boards of directors of public power districts and public power and irrigation districts; to eliminate provisions relating to councils of government, regional planning bodies, designation of regions, and distribution of financial assistance; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 84-142 to 84-150, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. There are hereby created nine Nebraska planning and development regions as follows:

(1) Region 1 includes the counties of Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, and Deuel;

(2) Region 2 includes the counties of Cherry, Kewa Paha, Boyd, Brown, Rock, Holt, Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, and Sherman;

(3) Region 3 includes the counties of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Lincoln, Perkins, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and Furnas;

(4) Region 4 includes the counties of Howard, Merrick, Buffalo, Hall, Hamilton, Phelps, Kearney, Adams, Clay, Harlan, Franklin, Webster, and Nuckolls;

(5) Region 5 includes the counties of Knox, Cedar, Dixon, Antelope, Pierce, Wayne, Thurston, Boone, Madison, Stanton, Cuming, Burt, Platte, Colfax, Dodge, and Nance;

(6) Region 6 includes the counties of Polk, Butler, Saunders, York, Seward, Cass, Fillmore, Saline, Otoe, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson;

(7) Region 7 includes the county of Lancaster;

(8) Region 8 includes the counties of Washington, Douglas, and Sarpy; and

(9) Region 9 includes the county of Dakota.

Sec. 2. (1) Within a Nebraska planning and development region, a development district may be formed as a voluntary association by agreement pursuant to the Interlocal Cooperation Act in one of the following ways if the combined membership of the association includes at least fifty-one percent of the local governments in the region:

(a) By local governments within the region; or

(b) By two or more regional councils, each of which is a voluntary association of local governments in the region formed by agreement pursuant to the act between the governing bodies of such governments, the membership of which association does not include at least fifty-one percent of the local governments located in the region.

(2) For purposes of this section and sections 3 to 6 of this act, local government shall mean a county, city, or village.

Sec. 3. Each development district formed pursuant to section 2 of this act shall be governed by a policy board, as described in the development district's interlocal cooperation agreement or bylaws, which shall be the board, body, or persons in which the powers of the local governments forming the development district are vested under the agreement for the purpose of governing the development district.

Sec. 4. A development district shall, as directed by its policy board, serve as a regional resource center and provide planning, community and economic development, and technical assistance to local governments which are members of the district and may provide assistance to industrial development organizations, tourism promotion organizations, community development groups, and similar organizations upon request.

Sec. 5. If state funding is available for distribution pursuant to section 6 of this act, the

Governor shall designate a state administrative agency to certify development districts for funding eligibility. Certification shall be based on the following requirements:

(1) The development district shall be formed as provided in section 2 of this act;

(2) The development district shall have a staff which shall at a minimum include a full-time director to provide assistance to the local governments which are members of the development district; and

(3) The agreement creating the development district shall insure that all of the local governments within the Nebraska planning and development region may at any time join in the development district.

Sec. 6. (1) The state administrative agency shall distribute financial assistance from the state, if available, to the various development districts as they are certified in the manner prescribed in subsection (2) of this section.

(2)(a) Fifty percent of the total sum allocated shall be divided equally among the certified development districts. In certified districts formed by regional councils, funds may be prorated among the cooperating regional councils based upon a formula approved by the governing boards of each of the cooperating regional councils and accepted by the state administrative agency.

(b) Twenty percent of the total sum allocated shall be divided among the certified development districts based upon their proportional share of the population of all certified development districts in the state. For purposes of this subdivision, population shall mean the number of residents as shown by the latest federal decennial census, except that the population of a county shall mean the number of residents in the unincorporated areas of the county.

(c) Thirty percent of the total sum allocated shall be divided among the certified development districts based upon their proportional share of the local governments located within all certified development districts.

(3) Distributions to newly certified development districts shall not reduce financial assistance to previously funded development districts. State financial assistance shall not exceed the total local dollars received by the development district as verified by the state administrative agency. For purposes of this subsection, local dollars received shall mean the total local dues received by a

development district from any local government as a condition of membership in a development district.

Sec. 7. (1) The state administrative agency shall adopt and promulgate rules and regulations to carry out sections 1 to 7 of this act which shall include standardized reporting and application procedures. Each development district shall submit annual performance and financial reports to the state administrative agency which shall address the activities performed and services delivered.

(2) The Governor shall, from time to time, evaluate the effectiveness and activities of the development districts receiving assistance. If the Governor finds a development district to be ineffective, he or she may take action, including the withholding of assistance authorized under section 6 of this act.

Sec. 8. That section 2-3229, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3229. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities contained in sections 2-1502 to 2-1504; 2-1507; 2-3201 to 2-3257; 31-101-01; 31-301-01; 31-401-01; 46-613-01; 46-614-01; and 46-1001-01 granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management.

The development and execution of such plans or programs within Nebraska planning and development regions shall be undertaken only if a properly designated regional planning body for the area affected shall find that such plans and programs are not in conflict with the goals, objectives, or plans of the regional planning body. Such planning body shall be accorded a period of thirty days to review and comment upon the plans and programs of natural resources districts. Failure to reply within thirty days shall be conclusive that the proposed plans and programs have been endorsed by the regional planning body; PROVIDED; that negative comments on plans or programs by the

regional planning body shall not delay action by the natural resources district or its agent when such plans and programs are specifically recommended in a functional plan that has been approved by the Legislature. The same thirty-day review period shall be provided for the central state planning agency. The execution of such plans and programs as authorized by this section may not be undertaken if as a result of this review the central state planning agency shall find that such plans and programs are in conflict with state policies and plans approved by the Legislature. Failure to reply within thirty days shall be conclusive that the proposed plans and programs have been endorsed by the central state planning agency.

As to development and management of fish and wildlife habitat and development and management of recreational and park facilities, such plans, facilities, works, and programs shall be in conformance with any outdoor recreation plan for Nebraska and any fish and wildlife plan for Nebraska as developed by the Game and Parks Commission.

Sec. 9. That section 70-612, Reissue Revised Statutes of Nebraska, 1943, as amended by section 18, Legislative Bill 424, Ninety-second Legislature, Second Session, 1992, be amended to read as follows:

70-612. (1) Subject to the provisions of Chapter 70, article 6, and subject to the approval of the Nebraska Power Review Board, the board of directors of a district may amend the petition for its creation to provide for the division of the territory of such district into two or more subdivisions for the nomination and election of some or all of the directors. Each subdivision shall be composed of one or more voting precincts, or divided voting precincts, and the total population of each such subdivision shall be approximately the same. Two or more subdivisions may be combined for election purposes, and members of the board of directors to be elected from such combined subdivisions may be nominated and elected at large when not less than seventy-five percent of the population of the combined subdivisions is within the corporate limits of any city. In the event a district formed includes all or part of two or more counties and is (1) (a) engaged in furnishing electric light and power and more than fifty percent of its customers are rural customers or (2) (b) engaged in furnishing electric light and power and in the business of owning and operating irrigation works, then and in that event such subdivisions may be formed by following precinct or

county boundary lines without regard to population if in the judgment of the Nebraska Power Review Board the interests of the rural users of electricity or of users of irrigation water service in such district will not be prejudiced thereby.

(2) Any public power district or public power and irrigation district owning and operating irrigation works may, with approval of the Nebraska Power Review Board, add representation on its board of directors from any county which is outside its chartered territory but in which is located some or all of such irrigation works.

Sec. 10. That section 71-5653, Revised Statutes Supplement, 1991, be amended to read as follows:

71-5653. For purposes of the Rural Health Systems and Professional Incentive Act:

(1) Commission shall mean the Nebraska Rural Health Advisory Commission;

(2) Department shall mean the Department of Health;

(3) Full-time practice shall mean a minimum of forty hours per week;

(4) Health care shall mean both somatic and mental health care services;

(5) Office shall mean the Office of Rural Health;

(6) Primary care shall mean family practice, general practice, general internal medicine, general pediatrics, general surgery, and obstetrics and gynecology;

(7) Qualified educational debts shall mean government and commercial loans obtained by students for health profession school tuition, other educational expenses, and reasonable living expenses, as determined by the department, but shall not include loans received under the act or the Nebraska Medical Student Assistance Act; and

(8) Rural shall mean located within any county in Nebraska having a population of less than fifteen thousand inhabitants and not included within a Standard Metropolitan Statistical Area as defined in section 84-142 metropolitan statistical area as defined by the United States Department of Commerce, Bureau of the Census.

Sec. 11. That section 81-829.46, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-829.46. (1) Each political subdivision

within this state shall be within the jurisdiction of and served by the state Civil Defense Agency and by a local or interjurisdictional civil defense organization which is headed by a director or coordinator who shall devote full time to his or her duties, or ~~shall be~~ is served by a part-time director or coordinator who has a full-time assistant or deputy who ~~shall be~~ is qualified as set forth in subsection (5) of this section.

(2) Each county shall maintain a civil defense agency or participate in a local or interjurisdictional civil defense agency which, except as otherwise provided under the provisions of sections 81-829-36 to 81-829-68 Nebraska Disaster and Civil Defense Act of 1973, has jurisdiction over and serves the entire county. Each city and village which is desirous of establishing a civil defense organization may do so in accordance with the state civil defense plan and program. Each such local or interjurisdictional civil defense organization shall have a director who shall be appointed by the governing body or bodies of such government or governments; and who shall have direct responsibility for the organization, administration, and operation of such local organization for civil defense, subject to the direction and control of the governing body or bodies of the political subdivision or subdivisions concerned. The director of any county civil defense organization may also be appointed director for any city or village within such county, and the director of any city or village civil defense organization may also be appointed county director. Each local or interjurisdictional organization for civil defense shall perform civil defense functions within the territorial limits of the political subdivision or subdivisions within which it is organized, except that the interjurisdictional and county organizations for civil defense shall perform no civil defense functions within the limits of a county or city which are already being performed by such county or city civil defense organizations; unless the approval of the respective county or city civil defense director be is first obtained.

(3) The Governor may determine that some cities need civil defense organizations or agencies of their own. He The Governor shall, after making such determination, require that such civil defense organizations be established and maintained by issuing a directive in the form of a rule or regulation. He The Governor shall make ~~his~~ the determination on the basis of a city's disaster vulnerability and capability of

response related to population size and concentration. The civil defense agency of a county shall cooperate with the civil defense agencies of cities within the county but shall not have jurisdiction within a city having its own civil defense agency. The state Civil Defense Agency shall publish and keep current a list of cities required to have civil defense agencies.

(4) Any provision of ~~sections 81-829-36 to 81-829-68~~ the act or other law to the contrary notwithstanding, the Governor may require a local government to establish and maintain a civil defense agency and organization jointly with one or more contiguous local governments, if he or she finds that the establishment and maintenance of an agency or participation therein is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response, or recovery services under other provisions of ~~sections 81-829-36 to 81-829-68~~ the act. Such interjurisdictional agencies shall be organized generally in accord with the Interlocal Cooperation Act and pursuant to the provisions of ~~section 84-143~~ the regions created in section 1 of this act.

(5) Local or interjurisdictional civil defense directors or coordinators, or their assistants or deputies, who are required by ~~sections 81-829-36 to 81-829-68~~ the Nebraska Disaster and Civil Defense Act of 1973 or rules and regulations of the Governor to devote full time to their duties, shall be qualified in accord with criteria established for the state by the Governor and announced by him the Governor in a rule or regulation. Such directors or coordinators shall be paid for their services in an amount comparable to other officers of local governments. A minimum annual salary for such local or interjurisdictional civil defense director or coordinator shall be based on the combined population of the jurisdictions served, as follows: Having a population of less than three thousand, five thousand five hundred dollars; having a population of three thousand but less than nine thousand, six thousand dollars; having a population of nine thousand but less than sixteen thousand, six thousand five hundred dollars; having a population of sixteen thousand but less than twenty thousand, seven thousand five hundred dollars; having a population of twenty thousand but less than sixty thousand, eight thousand dollars; and having a population of sixty thousand or more, comparable to other officers of local governments as determined by the governing body or bodies.

(6) Each political subdivision, except those directly managing a local or interjurisdictional civil defense agency, shall have a liaison officer designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response, and recovery.

(7) The principal executive officer of each political subdivision of the state shall notify the state Civil Defense Agency of the manner in which the subdivision is providing or securing civil defense and disaster services, identify the person who heads the agency from which the service is obtained, and furnish such additional information relating thereto as the state agency requires.

(8) Each local and interjurisdictional civil defense agency shall prepare and keep current a local or interjurisdictional disaster and civil defense plan for its jurisdiction. Such plans shall be in conformance with the requirements established in section 81-829.41.

(9) Each local or interjurisdictional civil defense agency shall prepare, keep current, and distribute to all appropriate officials in written form a clear and complete statement of the disaster responsibilities of all local agencies and officials and of the disaster chain of command.

Sec. 12. That section 81-1201.08, Revised Statutes Supplement, 1990, be amended to read as follows:

81-1201.08. (1) The department shall have an advisory committee to provide regular consultation to the Community Development Block Grant Program.

(2) The members of the Community Development Block Grant Program Advisory Committee shall be appointed by the commission upon the recommendation of the department and shall be:

(a) Two municipal officials from cities of the first class which are nonentitlement cities as defined in the Housing and Community Development Act of 1974, as amended. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(b) Two municipal officials from cities of the second class. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(c) Two municipal officials from villages. One municipal official shall be an elected official.

One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(d) Two elected county officials who reside in different congressional districts;

(e) One staff member from the council of governments as defined in section 84-142 a development district or a regional council;

(f) One staff member from the Governor's Policy Research Office;

(g) One staff member from the community action corporations; and

(h) One registered professional engineer.

(3) The commission shall adopt a selection process for the remaining advisory committees and the committee members shall be selected according to such process by the commission upon the recommendation of the department.

Sec. 13. That section 84-135, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-135. The Governor's Policy Research Office shall be the principal state agency to coordinate policy development relating to the state's social, economic, and physical resources and to coordinate programs administered by the state and its political subdivisions. It shall provide available information, assistance, and staff support to the executive and legislative branches by all appropriate means. Furthermore, the office may, except as otherwise specified by the Governor:

(1) Identify long-range state problems and development opportunities and propose alternative policy options which may be submitted by the Governor to the Legislature for its consideration;

(2) Formulate for the Governor or the Legislature policy options for the orderly and coordinated growth of the state, except that functional plans shall only be formulated by the Governor's Policy Research Office when no department, agency, or institution has been given the responsibility for such planning or when such a body is not fulfilling its assigned planning responsibilities;

(3) Prepare special reports and furnish the results of the office's research and other activities through publications, memoranda, briefings, and expert testimony;

(4) Establish and require the use of standard basic population and economic data for all state

departments, agencies, and institutions;

(5) Analyze and project the quality and quantity of services which may be necessary for the continued and orderly growth of the state, taking into consideration the relationship of activities, capabilities, and future plans of local units of government, area planning commissions, ~~economic~~ economic of government, transportation authorities, development districts, regional councils, private enterprise, state government, the federal government, and other public and private bodies;

(6) Encourage the coordination of the planning activities of all state departments, agencies, and institutions and political subdivisions of the state;

(7) Advise, if requested, and consult with regional, joint, and local planning agencies;

(8) Monitor and participate in interstate policy development, planning, and other activities related thereto;

(9) Survey, review, and appraise the accomplishments of state government in achieving the goals and objectives set forth in legislation or reflected in directives from the Governor or state agencies;

(10) Assist the Department of Administrative Services with the capital improvement programming process;

(11) Apply for and accept advances, loans, grants, contributions, and any other form of assistance from the federal government, the state, or any public or private sources for the purposes of sections 84-131 to 84-141 under such conditions as may be required and execute contracts or agreements in connection therewith. The office may include in any contract for financial assistance with the federal government such conditions imposed pursuant to federal laws as it may deem reasonable and appropriate and which are not inconsistent with the purposes of sections 84-131 to 84-141. There is hereby created a fund to be known as the Governor's Policy Research Cash Fund. All money credited to the fund shall be used by the Governor's Policy Research Office to carry out the responsibilities and duties of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269 ~~72-1276~~;

(12) Serve as state government's applicant agency, or coapplicant when existing or future federal legislation specifically requires another applicant, but

not necessarily administering agency, for all planning, programming, or research grants to transportation authorities and to state departments, agencies, or institutions. The Governor's Policy Research Office may delegate its applicant or coapplicant role upon such terms and for such periods of time as it shall deem appropriate;

(13) Enter into agreements with state departments and other agencies of state government and Nebraska state institutions of higher education for the temporary use of personnel in pursuit of the purposes of sections 84-131 to 84-141;

(14) Contract for professional or consultant services with state departments and agencies, Nebraska institutions of higher education, other public bodies, and private sources in pursuit of the purposes of sections 84-131 to 84-141;

(15) Review and comment on all local and regional applications for federal planning assistance. This authority may be delegated to regional planning commissions, councils of government development districts, regional councils, or to such other state agency upon such terms as it deems appropriate; and

(16) Exercise all other powers necessary and proper for the discharge of its duties, including the promulgation of reasonable rules and regulations.

The Governor's Policy Research Office shall periodically review the organization and programs of state government and make recommendations to the Governor on ways to more effectively organize state government, eliminate duplication of units of government and of programs, and encourage efficiency and economy.

Sec. 14. That section 84-304, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-304. It shall be the duty of the Auditor of Public Accounts:

(1) To give information in writing to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state or in regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3)(a) To examine or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state

commissioners, state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons, (b) to examine or cause to be examined, at the expense of the political subdivision, when the Auditor of Public Accounts determines such examination necessary or when requested by the political subdivision, the books, accounts, vouchers, records, and expenditures of an agricultural association formed under Chapter 2, article 20, county agricultural society, joint airport authority formed under Chapter 3, article 7, city or county airport authority, ~~council of government~~ development district, regional council, drainage district, fire protection district, health district, historical society, hospital authority or district, county hospital, housing authority, irrigation district, regional, county, or municipal library, community mental health center, railroad transportation safety district, rural water district, or township or the Wyuka Cemetery, and (c) to report promptly to the Director of Administrative Services and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts. The Auditor of Public Accounts shall appoint two assistant deputies (i) whose entire time shall be devoted to the service of the state as directed by the auditor, (ii) who shall be certified public accountants with at least five years' experience, (iii) who shall be selected without regard to party affiliation or to place of residence at the time of appointment, (iv) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (v) who shall qualify by taking an oath which shall be filed in the office of the Secretary of State; and

(4) Conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement to assure proper accounting by all such agencies,

political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The Auditor of Public Accounts may contract with any political subdivision to perform the audit of such political subdivision required by or provided for in section 23-1608 or 79-2210.04 or this section and charge the political subdivision for conducting the audit. The fees charged by the auditor for conducting audits on a contractual basis shall be in an amount sufficient to pay the cost of the audit. The fees remitted to the auditor for such audits and services shall be deposited in the Auditor of Public Accounts Cash Fund.

Sec. 15. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 16. That original sections 2-3229, 81-829.46, 84-135, and 84-304, Reissue Revised Statutes of Nebraska, 1943, section 81-1201.08, Revised Statutes Supplement, 1990, section 71-5653, Revised Statutes Supplement, 1991, and section 70-612, Reissue Revised Statutes of Nebraska, 1943, as amended by section 18, Legislative Bill 424, Ninety-second Legislature, Second Session, 1992, and also sections 84-142 to 84-150, Reissue Revised Statutes of Nebraska, 1943, are repealed.