

LEGISLATIVE BILL 1236

Approved by the Governor April 17, 2002

Introduced by Wehrbein, 2

AN ACT relating to the State Board of Agriculture; to amend sections 2-101, 2-220 to 2-220.02, 2-220.04, 2-1204, 2-1208.01, 51-601, 51-603, 51-604, 77-2704.16, 81-1108.30, and 83-136, Reissue Revised Statutes of Nebraska, section 2-219, Revised Statutes Supplement, 2000, and section 53-124.14, Revised Statutes Supplement, 2001; to rename the board; to provide intent; to change provisions relating to membership; to provide and eliminate powers and duties; to create a foundation; to change and eliminate provisions relating to officers, funds, and bonds; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 2-102, 2-115, 2-116, 2-118, and 2-125 to 2-128, Reissue Revised Statutes of Nebraska, and section 2-117, Revised Statutes Supplement, 2001.

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

Section 1. The Legislature finds that the Nebraska State Fair has been held annually for the exhibition and dissemination of agricultural, horticultural, industrial, mechanical, and other products and innovations and for exhibitions in the arts, skilled crafts, and sciences and is a beneficial cultural and educational event for the state and its citizens. The Legislature declares it to be in the public interest that management of the Nebraska State Fair and the Nebraska State Fairgrounds be based upon a dynamic public-private partnership that includes the active participation of the state and local governments, the private sector, and the citizens of Nebraska. In order to achieve this goal, the Legislature finds that the Nebraska State Fair Board should endeavor to:

(1) Place a priority on the development of private funding sources, including corporate donations and sponsorships;

(2) Work with municipal officials to enhance the board's participation in local planning efforts and to create a partnership with local economic development and tourism officials;

(3) Maintain a policy of openness and accountability that allows for citizen participation in the operation of the Nebraska State Fair and the Nebraska State Fairgrounds; and

(4) Regularly provide the Governor, the Legislature, and appropriate state agencies with information, including, but not limited to, the development of private funding sources, the use of state appropriations, the status of the state fairground facility maintenance and improvements, the fiscal management of the state fair, and the activities and goals established for the state fair and the state fairgrounds.

Sec. 2. Section 2-101, Reissue Revised Statutes of Nebraska, is amended to read:

2-101. (1) There shall be held prior to April 1 of each year, a meeting of the The Nebraska State Fair Board, formerly known as the State Board of Agriculture, shall hold an annual meeting together with the president of each county society, or delegate therefrom duly authorized, who shall for the time being be ex officio members of the State Board of Agriculture, for the purpose of deliberating and consulting as to the wants, prospects, and conditions of the agricultural, horticultural, industrial, mechanical, and other interests throughout the state, as well as those interests in the encouragement and perpetuation of the arts, skilled crafts, and sciences.

(2) The Nebraska State Fair Board may provide in its constitution and bylaws for the qualification and participation of delegates at the annual meeting from such associations incorporated under the laws of the state for purposes of promoting and furthering the interests of participants in agricultural, horticultural, industrial, mechanical, or other pursuits or for the encouragement and perpetuation of the arts, skilled crafts, and sciences, and from such associations as provide for the training, encouragement, and competition of the youth of Nebraska in such endeavors. The annual Such meeting shall be held in every odd-numbered year at the capital of the state, and in every even-numbered year at such location as the board may determine determines. At such annual meeting the several reports from the subordinate societies shall be delivered to the president of the board. The president and delegates shall at this meeting elect suitable persons to fill all vacancies in the board. The president The chairperson of the board shall also have the

power to call meetings of the board whenever he or she may deem it expedient.

(3) The state fair shall be held at or near the city of Lincoln, in Lancaster County, under the direction and supervision of the Nebraska State Fair Board, of Agriculture, upon the site and tract of land, selected and now owned by the state for that purpose and known as the state fairgrounds Nebraska State Fairgrounds. The board may, at its discretion, hold or dispense with the holding of the fair, in any year.

Sec. 3. (1) No later than May 1, 2003, the Nebraska State Fair Board shall be a board consisting of the following members:

(a) Seven members nominated and selected by district as provided in the constitution and bylaws of the board; and

(b) Four members appointed by the Governor and confirmed by the Legislature, two selected to represent the business community of the city of Lincoln, one selected to represent the business community of Omaha, and one selected to represent the business community of the state at large.

(2) The term of office for members of the board shall be for three years, except that the terms of the initial members shall be as follows:

(a) The terms of office for the seven members selected pursuant to subdivision (1)(a) of this section shall be for one, two, or three years as determined by lot, with two members appointed to a term of one year, two members appointed to a term of two years, and three members appointed to a term of three years; and

(b) The terms of office for the members appointed pursuant to subdivision (1)(b) of this section shall be for one, two, or three years, as designated by the Governor, with two members appointed to a term of one year, one member appointed to a term of two years, and one member appointed to a term of three years.

(3) No person may serve more than three consecutive terms as a member of the board, except that members of the State Board of Agriculture having served or serving in an executive capacity may only serve on the Nebraska State Fair Board for one term of three years. No member of the Legislature may serve on the board.

(4) The board shall annually elect from its membership a chairperson, a vice-chairperson, a secretary, and such other officers as the board deems necessary. The officers shall be elected at the annual meeting of the board, or any other meeting of the board called for such purpose, and shall hold their offices for one year and until their successors are elected and qualified.

(5) The chairperson of the Nebraska Arts Council and the chancellor of the University of Nebraska-Lincoln, or their designees, shall be ex officio members of the Nebraska State Fair Board.

Sec. 4. (1) The State of Nebraska may provide for the occupation, use, and management of the site and tract of land in Lancaster County, selected and now owned by the State of Nebraska and known as the Nebraska State Fairgrounds, by the Nebraska State Fair Board for purposes of (a) exhibitions of agricultural, horticultural, industrial, mechanical, or other products and resources of the state, including proper exhibits and expositions of the arts, skilled crafts, and sciences, (b) the conduct of live and simulcast horseracing, and (c) other uses and purposes determined by the board, including the leasing of parts of the state fairgrounds. Such occupation, use, and management shall be pursuant to a property management agreement entered into between the board and the Department of Administrative Services on behalf of the State of Nebraska. The board shall assume the role and responsibilities of the State Board of Agriculture under any such property management agreement in effect on the operative date of this act, and such agreement may be amended from time to time as necessary to carry out the purposes of section 2-101 and sections 1 and 3 to 6 of this act and as amended shall continue in force and effect.

(2) Any property management agreement between the State of Nebraska and the Nebraska State Fair Board pursuant to this section shall provide for the reporting of information by the board as deemed appropriate by the Department of Administrative Services for ascertaining the development of private funding sources, the use of state appropriations, the status of the Nebraska State Fairgrounds facility maintenance and improvements, the fiscal status of the Nebraska State Fair, and the activities and goals established for the state fair and the state fairgrounds.

Sec. 5. It is the intent of the Legislature that the Nebraska State Fair Board establish the State Fair Foundation as a nonprofit foundation operated exclusively as a corporation for charitable purposes as contemplated by sections 170(c)(2) and 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01, and organized and operated for the benefit of and to carry out the purposes of the board. The foundation may solicit, receive, hold,

invest, and contribute funds and property for the use and benefit of the board in a manner consistent with the public good and primarily for capital expenditure and other needs not funded by other means.

Sec. 6. The State of Nebraska may disburse funds for the maintenance, improvement, or renovation of the buildings, grounds, and facilities of the Nebraska State Fairgrounds from the Building Renewal Allocation Fund, from funds available for complying with the federal Americans with Disabilities Act of 1990, as such act existed on January 1, 2002, or from other funds appropriated by the Legislature for such purpose subject to the same requirements and system of priorities that apply to state property. The property management agreement under which the Nebraska State Fair Board occupies, uses, and manages the Nebraska State Fairgrounds shall provide for the board to provide all necessary information and reports and to comply with requirements governing the disbursement of state funds from the Building Renewal Allocation Fund and other state appropriations. Such disbursement of state funds for the maintenance, improvement, or renovation of the state fairgrounds shall be subject to the board annually submitting to the state building division of the Department of Administrative Services a one-year and three-year capital facilities budget of planned or proposed expenditures sufficient for the maintenance in sound condition of the buildings, grounds, and facilities of the state fairgrounds and identification of revenue sources to fund such expenditures.

Sec. 7. Section 2-219, Revised Statutes Supplement, 2000, is amended to read:

2-219. No person shall be permitted to exhibit or conduct indecent shows or dances or to engage in any gambling or other games of chance or horseracing, either inside the enclosure where any state, fair or district, or county agricultural society fair is being held or within forty rods thereof, during the time of holding such fairs. Nothing in this section shall be construed to prohibit wagering on the results of horseraces by the parimutuel or certificate method when conducted by licensees within the racetrack enclosure at licensed horserace meetings, to prohibit the operation of bingo games as provided in the Nebraska Bingo Act, to prohibit the conduct of lotteries pursuant to the Nebraska County and City Lottery Act, to prohibit the conduct of lotteries or raffles pursuant to the Nebraska Lottery and Raffle Act or the Nebraska Small Lottery and Raffle Act, or to prohibit the sale of pickle cards pursuant to the Nebraska Pickle Card Lottery Act. Nothing in this section shall be construed to prohibit the sale of intoxicating liquors, wine, or beer by a person properly licensed pursuant to Chapter 53 on premises under the control of the Nebraska State Fair Board of Agriculture or any county agricultural society. Any person who violates this section shall be guilty of a Class V misdemeanor. The trial of speed of horses under direction of the society shall not be included in the term horseracing. Upon the filing of proof with the State Treasurer of a violation of this section inside the enclosure of such fair, the amount of money appropriated shall be withheld from any money appropriated for the ensuing year.

Sec. 8. Section 2-220, Reissue Revised Statutes of Nebraska, is amended to read:

2-220. The president of any ~~such~~ district or county agricultural society, a marshal, or any police officer appointed by the board Nebraska State Fair Board shall be empowered to arrest, or cause to be arrested, any person or persons engaged in violating ~~any of the provisions contained in~~ section 2-219. He or she may seize, or cause to be seized, all intoxicating liquors, wine, or beer, of any kind, with the vessels containing the same, and all tools or other implements used in any gambling or other game of chance, and may remove, or cause to be removed, all shows, swings, booths, tents, carriages, wagons, vessels, boats, or any other nuisance that may obstruct, or cause to be obstructed, by collecting persons around or otherwise, any thoroughfare leading to the enclosure in which such agricultural fair is being held. Any person owning or occupying any of the such causes of obstruction, herein specified, who may refuse or fail to remove such obstruction or nuisance when ordered to do so by the president of such society or officer, shall be guilty of a Class V misdemeanor.

Sec. 9. Section 2-220.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-220.01. All carnival companies, booking agencies, or shows that enter into any contract with the Nebraska State Fair Board, of Agriculture, any county agricultural society, or any county fair board may be required, within thirty days after the execution of the contract, to either deposit cash or a certified check payable to the State of Nebraska, the county agricultural society, or the county fair board, as appropriate, or execute and file with

the ~~secretary chairperson~~ of the Nebraska State Fair Board, of Agriculture, the county agricultural society, or the county fair board, as appropriate, a good and sufficient bond with a corporate surety. The Nebraska State Fair Board, of Agriculture, the county agricultural society, or the county fair board, as appropriate, shall determine the amount of the deposit or bond required. Such security shall run to the State of Nebraska, the county agricultural society, or the county fair board, as appropriate, on the condition that the carnival company, booking agency, or show will faithfully perform any contract entered into by it during a period of one year from the date of execution of the contract and shall, at the time of the filing of the cash, certified check, or bond, file a sworn statement giving the names and addresses of the owners of the carnival company, booking agency, or show. Further cash, certified check, or bond shall not be required on signing any subsequent contract during the year such bond is in force.

Sec. 10. Section 2-220.02, Reissue Revised Statutes of Nebraska, is amended to read:

2-220.02. The Nebraska State Fair Board, of Agriculture, county agricultural society, or county fair board may bring suit upon the deposit or bond required by section 2-220.01 in the county where such contract was to have been performed to recover any damages sustained by reason of breach of contract or failure to carry out the terms thereof.

Sec. 11. Section 2-220.04, Reissue Revised Statutes of Nebraska, is amended to read:

2-220.04. If cash or certified check is deposited with ~~the secretary of the Nebraska State Fair Board, of Agriculture,~~ a county agricultural society, or a county fair board under section 2-220.01, such deposit shall be returned to the person or company making the deposit within sixty days after the completion of the last performance of the contract unless a written, signed, and verified complaint has been filed within such time.

Sec. 12. Section 2-1204, Reissue Revised Statutes of Nebraska, is amended to read:

2-1204. The Nebraska State Fair Board, of Agriculture, a county fair board, a county agricultural society for the improvement of agriculture organized under the County Agricultural Society Act, or a corporation or association of persons organized and carried on for civic purposes or which conducts a livestock exposition for the promotion of the livestock or horse-breeding industries of the state and which does not permit its members to derive personal profit from its activities by way of dividends or otherwise may apply to the State Racing Commission for a license to conduct horseracing at a designated place within the state. Such application shall be filed with the secretary of the commission at least sixty days before the first day of the horserace meeting which such corporation or association proposes to hold or conduct, shall specify the day or days when and the exact location where it is proposed to conduct such racing, and shall be in such form and contain such information as the commission shall prescribe.

Sec. 13. Section 2-1208.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-1208.01. There is hereby imposed a tax on the gross sum wagered by the parimutuel method at each race enclosure during a calendar year as follows:

(1) For meets conducted on the Nebraska State Fairgrounds, property owned by the state on which the Nebraska State Fair is also conducted, no tax shall be imposed, but the licensee shall apply two percent of any amount in excess of ten million dollars for the purpose of maintenance of buildings, streets, utilities, and other existing improvements on the Nebraska State Fairgrounds; and

(2) For all other meets:

(a) The first ten million dollars shall not be taxed;

(b) Any amount over ten million dollars but less than or equal to seventy-three million dollars shall be taxed at the rate of two and one-half percent;

(c) Any amount in excess of seventy-three million dollars shall be taxed at the rate of four percent; and

(d) An amount equal to two percent of the first taxable seventy million dollars at each race meeting shall be retained by the licensee for capital improvements and for maintenance of the premises within the licensed racetrack enclosure and shall be a credit against the tax levied in this section.

A return as required by the Tax Commissioner shall be filed for a racetrack enclosure for each month during which wagers are accepted at the enclosure. The return shall be filed with and the net tax due pursuant to this section shall be paid to the Department of Revenue on the tenth day of

the following month.

Sec. 14. Section 51-601, Reissue Revised Statutes of Nebraska, is amended to read:

51-601. There is hereby created an Antique Farm Machinery and Equipment Commission which shall consist of nine members, eight to be appointed by the Governor as follows:

(1) One member shall be an agricultural engineer from an educational institution in this state;

(2) One member shall be actively involved in economic development or tourism;

(3) One member shall be knowledgeable in Nebraska history and historic preservation;

(4) One member shall be between the ages of eighteen and thirty years, be actively involved in agriculture, and have an interest in the future of agriculture; and

(5) Four members shall be persons who have an interest in preserving antique farm machinery and equipment. The appointments shall be made to provide to the extent possible equal representation to all congressional districts in the state.

The chairperson ~~Manager~~ of the Nebraska State Fair Board of Agriculture shall serve as the ninth member of the commission.

In making the initial appointments to the commission, the Governor shall appoint two members for terms of three years, two members for terms of four years, and two members for terms of five years. The members appointed to fill the two positions created by the changes made to this section by Laws 1993, LB 57, shall serve for terms of five years. As each term expires, the Governor shall appoint or reappoint a member of the commission for a term of five years to succeed the member whose term has expired. The Governor shall fill any vacancy by appointment for the unexpired term from the same category from which the vacancy occurred.

All members shall serve without compensation for any services rendered to the commission but shall be reimbursed for actual and necessary expenses incurred in the discharge of duties of the commission as provided in sections 81-1174 to 81-1177.

Sec. 15. Section 51-603, Reissue Revised Statutes of Nebraska, is amended to read:

51-603. The members of the Antique Farm Machinery and Equipment Commission shall, immediately after their appointment, meet and organize. The chairperson of the Nebraska State Fair Board ~~Manager of the State Board of Agriculture~~ shall serve as the chairperson of the commission. The commission shall elect one of its members secretary, one as treasurer, and any other officers as may be necessary. The treasurer shall give bond in such amount as the commission may fix.

Sec. 16. Section 51-604, Reissue Revised Statutes of Nebraska, is amended to read:

51-604. The antique farm machinery and equipment museum shall initially be located at the state fairgrounds in Lincoln, Lancaster County, Nebraska. The Antique Farm Machinery and Equipment Commission may recommend a site to the ~~executive board of the State Board of Agriculture~~ Nebraska State Fair Board, but the final determination of the location of such site ~~within the state fairgrounds~~ shall be by a majority vote of the ~~executive board of the State Board of Agriculture~~ board. The commission may establish additional sites throughout the state for temporary or permanent exhibition of antique farm machinery and equipment based upon available funds, the expression of interest and support in the area, and such other factors which indicate the feasibility of an additional site for such exhibition.

Sec. 17. Section 53-124.14, Revised Statutes Supplement, 2001, is amended to read:

53-124.14. (1) The commission may license the sale of alcoholic liquor at retail in the original package to applicants who reside in any county in which there is no incorporated city or village or in which the county seat is not located in an incorporated city or village if the licensed premises are situated in an unincorporated village having a population of twenty-five inhabitants or more.

(2) The commission may license the sale of beer at retail in any county outside the corporate limits of any city or village therein and license the sale of alcoholic liquor at retail for consumption on the premises and off the premises, sales in the original package only.

(3) The commission may license the sale of alcoholic liquor for consumption on the premises as provided in subdivision (5)(c) of section 53-124 on lands controlled by airport authorities when such land is located on and under county jurisdiction or by the Nebraska State Fair Board. ~~of~~

~~Agriculture.~~

(4) The commission may license the sale at retail of alcoholic liquor, including beer, in the original package only, except as provided in subsection (2) of section 53-123.04, to applicants who are located outside the corporate limits but within the extraterritorial zoning jurisdiction of cities or incorporated villages.

(5) This section shall not be construed to limit the commission in the issuance of licenses described in subdivision (5)(h) or (9) of section 53-124.

Sec. 18. Section 77-2704.16, Reissue Revised Statutes of Nebraska, is amended to read:

77-2704.16. Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of purchases made by the Nebraska State Fair Board.
~~of Agriculture.~~

Sec. 19. Section 81-1108.30, Reissue Revised Statutes of Nebraska, is amended to read:

81-1108.30. The Board of Regents of the University of Nebraska is authorized to furnish and to enter into agreements with the ~~Nebraska State Board of Agriculture~~ Nebraska State Fair Board to furnish a supply of electric current to the Nebraska State Fairgrounds and buildings, which shall be furnished by the heating plant located upon the city campus of the University of Nebraska at Lincoln, ~~except~~ ~~+~~ ~~PROVIDED,~~ that such electric service ~~to the Nebraska State Board of Agriculture for use at the State Fairgrounds~~ shall be furnished only if the same may be generated and furnished without impairment or reduction of the power necessary to proper and efficient operation of the University of Nebraska and the State Capitol, including the executive mansion.

Sec. 20. Section 83-136, Reissue Revised Statutes of Nebraska, is amended to read:

83-136. Wherever any paving district is created adjacent to any state institution or the Nebraska State Fairgrounds, the chief executive officer in charge of the state institution or the chairperson of the Nebraska State Fair Board for the fairgrounds is authorized to sign petitions, in the name of the state, to create paving districts.

Sec. 21. This act becomes operative on January 1, 2003.

Sec. 22. Original sections 2-101, 2-220 to 2-220.02, 2-220.04, 2-1204, 2-1208.01, 51-601, 51-603, 51-604, 77-2704.16, 81-1108.30, and 83-136, Reissue Revised Statutes of Nebraska, section 2-219, Revised Statutes Supplement, 2000, and section 53-124.14, Revised Statutes Supplement, 2001, are repealed.

Sec. 23. The following sections are outright repealed: Sections 2-102, 2-115, 2-116, 2-118, and 2-125 to 2-128, Reissue Revised Statutes of Nebraska, and section 2-117, Revised Statutes Supplement, 2001.