

LEGISLATIVE BILL 136

Approved by the Governor February 6, 2001

Introduced by Natural Resources Committee: Schrock, 38, Chairperson;
Bromm, 23; Bruning, 3; Hudkins, 21; Jones, 43; Kremer, 34;
Preister, 5; Stuhr, 24

AN ACT relating to natural resources districts; to amend sections 2-3252, 2-3253, and 2-3254.04, Reissue Revised Statutes of Nebraska, and section 2-3254, Revised Statutes Supplement, 2000; to provide for altering improvement project area boundaries; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 2-3252, Reissue Revised Statutes of Nebraska, is amended to read:

2-3252. (1) Projects or portions of projects which the board determines to be of general benefit to the district shall be carried out with any available funds of the district, including proceeds from the district's tax levy pursuant to section 2-3225. Projects or portions of projects which the board determines to be of special benefit to a certain area within the district may be established and maintained pursuant to subsection (2) of this section.

(2) Each district may establish improvement project areas within the district for the purpose of carrying out projects authorized by law which result in special benefits to lands and property within such improvement project areas. Improvement project areas may include land within an adjoining district with the written consent of the board of directors of the adjoining district. When only a portion of a project results in special benefits to an area, an improvement project area may be established to finance and maintain such portion of the project, and the district shall finance and maintain the other portions of the project pursuant to subsection (1) of this section. Such improvement project areas may be established, existing improvement project area boundaries may be altered, and the projects may be authorized after a hearing by the board, upon its own motion or by petitions, in the manner provided for by sections 2-3253 to 2-3255. The cost of any construction, capital improvements, or operation and maintenance involved in such special benefit portions of a project shall be recovered by the board by special assessment as provided in sections 2-3252 to 2-3254, 2-3254.04, and 2-3254.06. Any other costs related to such special benefit portion of a project may also be recovered by similar assessments. The board shall determine the amount of such special assessments and the period of time over which such special assessments shall be paid. When such projects result in the provision of continuing services such as the supply of revenue-producing water for any beneficial use, the persons receiving such special services shall be assessed for the cost of the service received in the manner provided in subsection (2) of section 2-3254. The reimbursable cost of the special benefit portions of such projects authorized in accordance with this section and as determined by the board of directors shall be assessed against the land within the improvement project area on the basis of benefits received in the manner provided in subsection (3) of section 2-3254 and section 2-3254.03. When a special-purpose district is merged with a natural resources district as provided by sections 2-3207 to 2-3212, the board may, without complying with the procedures outlined in sections 2-3252 to 2-3254.07, establish an improvement project area to carry out the functions of such special-purpose district and may adopt as its own any fee or assessment schedule or schedules previously adopted pursuant to law by such special-purpose district and in force and effect at the time of such merger. Any fees or assessments which are due or which become due under such adopted schedule or schedules shall be collected by the district in the manner provided by sections 2-3254 and 2-3254.03.

(3) Projects of a predominantly general benefit to a district with only an incidental special benefit, as determined by the board, may be developed and executed using any available funds of the district, including those from the tax levied pursuant to section 2-3225, without the establishment of an improvement project area or the levying of assessments or other charges.

Sec. 2. Section 2-3253, Reissue Revised Statutes of Nebraska, is amended to read:

2-3253. (1) A hearing on a proposed improvement project area, on

altering the boundaries of an existing improvement project area, or on adopting a ~~and the~~ proposed project may be initiated by petition of landowners. All petitions filed with the board of the natural resources district must contain:

- (a) A statement of the problem involved;
- (b) A presentation of the project proposed;
- (c) A description of the area to be affected by the project; and
- (d) A request for a hearing.

(2) If there are twenty or less landowners in ~~this defined the~~ improvement project area, then the signatures of at least one-fourth must be on the petition. If there are more than twenty, then the signature of ten landowners shall be sufficient. Any petition regarding a project which would provide a revenue-producing continuing service shall contain so many signatures of landowners as shall in the board's discretion indicate enough interest to generate sufficient revenue to recover any reimbursable costs should a project be authorized.

Sec. 3. Section 2-3254, Revised Statutes Supplement, 2000, is amended to read:

2-3254. (1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of ~~an~~ or altering the boundaries of an existing improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government and after the hearing, that the project conforms with all applicable law and with the district's goals, criteria, and policies, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area or alter the boundaries of an existing improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not so conform, the findings shall be entered in the board's records and copies of such findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Natural Resources, except that if such project involves a public water supply system as defined in section 71-5301, the filing of the information shall be with the Department of Health and Human Services Regulation and Licensure rather than the Director of Natural Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of Natural Resources and the Department of Health and Human Services Regulation and Licensure, if applicable, except that if such special project involves a public water supply system as defined in section 71-5301, only the Department of Health and Human Services Regulation and Licensure shall be required to review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity

of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained in this section shall prevent the district from establishing separate areas within the ~~project~~ improvement project area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any ~~project~~ improvement project area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the ~~project~~ improvement project area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the ~~project~~ improvement project area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such improvement project in accordance with the apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area or altering the boundaries of an existing improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it

deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Sec. 4. Section 2-3254.04, Reissue Revised Statutes of Nebraska, is amended to read:

2-3254.04. Before issuing any improvement project area bonds pursuant to section 2-3254.02, special assessments shall be levied by resolution of the board for the improvement project area. Such levy of special assessments shall be made after the holding of a hearing by the board for which notice shall be published at least once a week for three weeks in a newspaper of general circulation in the ~~project~~ improvement project area. Such notice shall state the time and place for such meeting and that such meeting shall be held for the purpose of hearing all parties interested in the levying of assessments for special benefits by reason of the improvements. All special assessments shall become due within fifty days after the date of levy and may be paid within that time without interest. If not paid within the fifty days, they shall bear interest therefrom at the rate established by the board. Such assessment shall become delinquent in equal annual installments over a period of years which the board may determine at the time of making the levy. Delinquent installments shall bear interest until paid at the rate established by the board. If three or more installments shall become delinquent, the board may declare all of the remaining installments to be delinquent and such installments shall bear interest at the rate established by the board for delinquent installments and may be collected in the same manner as other delinquent installments.

Sec. 5. Original sections 2-3252, 2-3253, and 2-3254.04, Reissue Revised Statutes of Nebraska, and section 2-3254, Revised Statutes Supplement, 2000, are repealed.