

LEGISLATIVE BILL 403

Approved by the Governor May 26, 2003

Introduced by Speaker Bromm, 23; at the request of the Governor

AN ACT relating to state government; to amend sections 81-829.42, 81-829.58, 81-829.59, and 81-829.72, Reissue Revised Statutes of Nebraska, and sections 72-815 and 72-816, Revised Statutes Supplement, 2002; to provide for the sale of certain state property as prescribed; to provide for the disposition of proceeds; to create funds; to change provisions relating to the sale of state property; to establish the Governor's Emergency Program; to delete obsolete provisions; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. (1) Notwithstanding sections 72-811 to 72-818 or any other provision of law, the State Building Administrator or his or her designee, in consultation with the Adjutant General, is authorized to sell land and six buildings located at 1300 Military Road, 1234 Military Road, 1237 Military Road, Cold Storage Building, and the Engagement Skills Trainer in Lincoln, Nebraska, by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, or public sale, and if necessary, by private sale, but in all situations only after notice of the property sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in Lancaster County and not less than thirty days prior to the sale of the property. The properties are all in the Nebraska Army National Guard complex along Military Road between 10th Street and 14th Street in Lincoln, Nebraska. The tracts include Tracts A, B, C, and D. The larger tracts have been split to provide a general legal description for each of the six parcels. The following of the subject properties are in Tract A and legally described as follows:

(a) TAG. The southeast part of Tract A in the area of the TAG Building, the lot would then extend northwest into the north part of Lot A. The site would generally include the south 200 feet of the east 300 feet of Tract A plus a tract about 100 feet in width that extends north from the west part of the 300 feet. The total size is estimated to be 82,764 square feet;

(b) NEMA. This tract is the northeast part of Tract A extending north along 14th Street from the TAG tract to the north property line. It would include the east 200 feet of Tract A except the south 200 feet. The total size is estimated to be 80,150 square feet; and

(c) USPFO. This is the remainder of Tract A. It is generally the west 368 feet of Tract A extending from Military Road north of Salt Creek but excluding the part owned by the State of Nebraska and leased to the city of Lincoln. The total size is estimated to be 3.74 acres or 162,914 square feet.

(2) The other three tracts are located in the east 300-plus feet of Tract B. Such tracts are located south of Military Road, and the east line of the tracts is about 160 feet west of 14th Street. The tracts have a depth of about 352 feet. These properties are legally described as follows:

(a) DCSIM Building. Generally the east 178 feet of the south 196 feet of the tracts;

(b) Trainer Building. Generally the west 192 feet of the north 156 feet of the tracts and including an easement drive to the DCSIM Tract; and

(c) Cold Storage Building. Generally the east 122 feet of the tracts.

(3) The land and buildings described in this section may be sold either as a combined package or in such individual parcels as mutually agreed upon by the State Building Administrator and the Adjutant General.

(4) This section terminates on July 1, 2008.

Sec. 2. All proceeds from the sale of any land or buildings described in section 1 of this act, including investment income on the sale proceeds of the property, shall be separately accounted for and credited to a separate optional cash account within the Vacant Building and Excess Land Cash Fund and shall be designated for the Military Department Joint Operations Center project.

This section terminates on July 1, 2008.

Sec. 3. After paying any maintenance expenses pending the sale and selling expenses associated with the sale of land and buildings described in section 1 of this act, the State Building Administrator shall administratively transfer any money available in the separate optional cash account within the

Vacant Building and Excess Land Cash Fund designated for the Military Department Joint Operations Center project as authorized pursuant to section 2 of this act, in the following priority manner:

(1) First, \$975,000 shall be administratively transferred from the Vacant Building and Excess Land Cash Fund to the Joint Operations Center Capital Construction Fund in either a single full transfer amount or in partial transfer amounts as the funds become available;

(2) Second, after completing the transfer of the total amount specified in subdivision (1) of this section, an amount not to exceed \$100,000 shall be administratively transferred from the Vacant Building and Excess Land Cash Fund to the Military Department Cash Fund, in the exact amount certified in writing by the Adjutant General to the budget administrator of the budget division of the Department of Administrative Services and to the State Building Administrator, but only as required to fully reimburse the federal government for certain previous renovation expenses; and

(3) Third, after completing the full transfer amounts required pursuant to subdivisions (1) and (2) of this section, any remaining fund balance in the separate optional cash account within the Vacant Building and Excess Land Cash Fund as designated for the Military Department Joint Operations Center project, including any investment income credited to the fund, shall be administratively transferred to the General Fund.

This section terminates on July 1, 2008.

Sec. 4. The Joint Operations Center Capital Construction Fund is created. The fund shall consist of revenue administratively transferred from the Vacant Building and Excess Land Cash Fund pursuant to section 3 of this act and may also include administrative interfund transfers from the Governor's Emergency Cash Fund and the Military Department Cash Fund, which are hereby authorized, except that any administrative interfund transfers made pursuant to this section from the Governor's Emergency Cash Fund and the Military Department Cash Fund shall be reversed on or before June 30, 2008. The Joint Operations Center Capital Construction Fund shall be used to construct and furnish combined office space for the Nebraska Emergency Management Agency and the Nebraska State Patrol Communications Operations Center, including any necessary relocation expenses of the offices and the Nebraska State Patrol communications switcher. The fund shall be administered by the State Administrator of the Nebraska Emergency Management Agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The fund balance in the Joint Operations Center Capital Construction Fund existing as of June 30, 2008, plus any investment income credited to the fund after June 30, 2008, shall be transferred to the General Fund.

This section terminates on July 1, 2008.

Sec. 5. The Governor's Emergency Cash Fund is created. The fund shall consist of federal reimbursements received by the state for eligible state administrative costs incurred by the Nebraska Emergency Management Agency for administering federal emergency disaster declarations and revenue from all other nonfederal government sources. Except as provided in section 4 of this act, the fund shall be used to pay eligible costs related to state emergency disaster declarations. The fund shall be administered by the State Administrator of the Nebraska Emergency Management Agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. Section 72-815, Revised Statutes Supplement, 2002, is amended to read:

72-815. (1) The state building division of the Department of Administrative Services shall be responsible for the sale, lease, or other disposal of a building or land, whichever action is ordered by the committee.

(2) If a building is to be demolished, section 72-810 shall not apply, but the state building division shall notify the State Historic Preservation Officer of such demolition at least thirty days prior to the beginning of the demolition or disassembly so that the officer may collect any photographic or other evidence he or she may find of historic value.

(3)(a) If a building or land is to be sold or leased, the state building division shall cause an appraisal to be made of the building or land. The sale, lease, or other disposal of the building or land shall comply with all relevant statutes pertaining to the sale or lease of surplus state property, except that if the state building division fails to receive an offer from a state agency in which the agency certifies that it (i) intends to use the building for the purposes for which it was designed, intended, or remodeled or to remodel the building for uses which will serve the agency's

purposes or (ii) intends to use the land for the purposes for which it was acquired or received, the state building division shall then notify the Department of Economic Development that the building or land is available for sale or lease so that the department may refer to the state building division any potential buyers or lessees of which the department may be aware. The state building division may then sell or lease the building or land by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, ~~private sale,~~ or public sale and, if necessary, by private sale, but in all situations only after notice of the property sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in the county where the surplus property is located and not less than thirty days prior to the sale of the property. The state building division may use the services of a real estate broker licensed under the Nebraska Real Estate License Act. Priority shall be given to other political subdivisions of state government, then to persons contracting with the state or political subdivisions of the state who will use the building or land for middle-income or low-income rental housing for at least fifteen years, and finally to referrals from the Department of Economic Development.

(b) All sales and leases shall be in the name of the State of Nebraska. The state building division may provide that a deed of sale include restrictions on the building or land to ensure that the use and appearance of the building or land remain compatible with any adjacent state-owned property.

(c) ~~The~~ Except as otherwise provided in subsection (4) of this section, the proceeds of the sale or lease shall be deposited with remitted to the State Treasurer ~~and credited for credit~~ to the Vacant Building and Excess Land Cash Fund unless the state agency formerly responsible for the building or land certifies to the state building division that the building or land was purchased in part or in total from cash, ~~or~~ federal, or revolving funds, in which event, after the costs of selling or leasing the building or land are deducted from the proceeds of the sale or lease and such amount is credited to the fund, the remaining proceeds of the sale or lease shall be credited to the cash, ~~or~~ federal, or revolving fund ~~account~~ in the percentage used in originally purchasing the building or land.

(4) Any state-owned military property, including any armories considered surplus property, shall be sold by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, or public sale, and if necessary, by private sale, but in all situations only after notice of the property sale is publicly advertised on at least two separate occasions in the newspaper with the largest circulation in the county where the surplus property is located and not less than thirty days prior to the sale of the property, and pursuant to section 72-816, all proceeds from the sale of the property, less maintenance expenses pending the sale and selling expenses, but including investment income on the sale proceeds of the property, shall be promptly transferred from the Vacant Building and Excess Land Cash Fund to the General Fund by the State Building Administrator.

~~(4)~~ (5) The state building division shall be responsible for the maintenance of the building or land if maintenance is ordered by the committee and shall be responsible for maintenance of the building or land pending sale or lease of the building or land.

Sec. 7. Section 72-816, Revised Statutes Supplement, 2002, is amended to read:

72-816. (1) The Vacant Building and Excess Land Cash Fund is created. The fund shall consist of proceeds credited to the fund pursuant to section 72-815 and section 2 of this act. The ~~Except as provided in sections 2 and 3 of this act, the fund shall be used to pay for the maintenance of vacant state buildings and excess state land and for expenses related to the disposal of state buildings and land referred to the Department of Administrative Services by the committee pursuant to sections 72-811 to 72-818.~~ ~~except through July 14, 2003, funds shall only be used as provided in subsection (4) of this section.~~ The fund shall be administered by the state building division of the Department of Administrative Services. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Funds may be transferred from the Vacant Building and Excess Land Cash Fund to the General Fund at the direction of the Legislature.

(2) If there are insufficient funds in the fund to enable the division to fully implement the orders of the committee issued pursuant to sections 72-811 to 72-818, the division shall implement them in the order which most efficiently meets the purposes of such sections.

(3) Funds appropriated to the Task Force for Building Renewal shall not be used to carry out any of the purposes of such sections (a) unless the

building would otherwise qualify for the use of such funds pursuant to the Deferred Building Renewal Act and (b) except for any expenses incurred by the administrator of the Task Force for Building Renewal in fulfilling his or her duties under such sections.

~~(4) Through July 14, 2003, the Vacant Building and Excess Land Cash Fund, subject to an available fund balance, shall only be used in the following priority order:~~

~~(a) First, to address any immediate life safety concerns of vacant state buildings and excess state land, including the costs of daily maintenance, but excluding any renovation costs;~~

~~(b) Second, to complete any authorized transfers to the General Fund at the direction of the Legislature;~~

~~(c) Third, to fully complete the maximum cumulative transfers as authorized by Laws 1999, LB 873, section 2;~~

~~(d) Fourth, to complete the transfer amount as authorized by Laws 2000, LB 1216, section 4;~~

~~(e) Fifth, to complete the transfer amount as authorized by Laws 2000, LB 1216, section 5; and~~

~~(f) Sixth, after completing the purposes of subdivisions (b) through (e) of this subsection, utilize the fund consistent with existing provisions of law.~~

~~This subsection shall terminate on July 15, 2003.~~

Sec. 8. Section 81-829.42, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.42. (1) The Legislature recognizes that, while appropriations are adequate to meet the normal needs, the necessity exists for anticipating and making advance provision to care for the unusual and extraordinary burdens imposed on the state and its political subdivisions by disasters, emergencies, or civil defense emergencies. To meet such situations, it is the intention of the Legislature to confer emergency powers on the Governor, acting through the Adjutant General and the Nebraska Emergency Management Agency, and to vest him or her with adequate power and authority within the limitation of available funds ~~in~~ appropriated to the Governor's Emergency Fund Program to meet any disaster, emergency, or civil defense emergency.

(2) There is hereby established the Governor's Emergency ~~Fund~~ Program. ~~The fund Funds appropriated to the program shall be expended, upon direction of the Governor, for any state of emergency. The state of emergency proclamation shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The Adjutant General shall administer the fund funds appropriated to the program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.~~

(3) It is the intent of the Legislature that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds are unreasonably great, he or she may make funds available from the Governor's ~~Emergency Fund~~ Program. Expenditures may be made upon the direction of the Governor for any or all emergency management functions or to meet the intent of the state emergency operations plans as outlined in section 81-829.41. Expenditures may also be made to state and federal agencies to meet the matching requirement of any applicable assistance programs.

(4) Assistance shall be provided from the funds appropriated to the Governor's Emergency Fund Program to political subdivisions of this state which have suffered from a disaster, emergency, or civil defense emergency to such an extent as to impose a severe financial burden exceeding the ordinary capacity of the subdivision affected. Applications for aid under this section shall be made to the Nebraska Emergency Management Agency on such forms as shall be prescribed and furnished by the agency. The forms shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The Adjutant General shall review each application for aid under this section and recommend its approval or disapproval, in whole or in part, to the Governor. If the Governor approves, he or she shall determine and certify to the Adjutant General the amount of aid to be furnished. The Adjutant General shall thereupon issue his or her voucher to the Director of Administrative Services who shall issue his or her warrants therefor to the applicant.

(5) When a state of emergency has been proclaimed by the Governor, the Adjutant General, upon order of the Governor, shall have authority to expend funds for purposes including, but not limited to:

(a) The purposes of the Emergency Management Act, including emergency management functions and the responsibilities of the Governor as outlined in the act;

(b) Employing for the duration of the state of emergency additional personnel and contracting or otherwise procuring all necessary appliances, supplies, and equipment;

(c) Performing services for and furnishing materials and supplies to state government agencies and local governments with respect to performance of any duties enjoined by law upon such agencies and local governments which they are unable to perform because of extreme climatic phenomena and receiving reimbursement in whole or in part from such agencies and local governments able to pay therefor under such terms and conditions as may be agreed upon by the Adjutant General and any such agency or local government;

(d) Performing services for and furnishing materials to any individual in connection with alleviating hardship and distress growing out of extreme climatic phenomena and receiving reimbursement in whole or in part from such individual under such terms as may be agreed upon by the Adjutant General and such individual;

(e) Opening up, repairing, and restoring roads and highways;

(f) Repairing and restoring bridges;

(g) Furnishing transportation for supplies to alleviate suffering and distress;

(h) Restoring means of communication;

(i) Furnishing medical services and supplies to prevent the spread of disease and epidemics;

(j) Quelling riots and civil disturbances;

(k) Training individuals or governmental agencies for the purpose of perfecting the performance of emergency management duties as provided in the Nebraska emergency operations plans;

(l) Procurement and storage of special emergency supplies or equipment, determined by the Adjutant General to be required to provide rapid response by state government to assist local governments in impending or actual disasters, emergencies, or civil defense emergencies;

(m) Clearing or removing debris and wreckage which may threaten public health or safety from publicly owned or privately owned land or water; and

(n) Such other measures as are customarily necessary to furnish adequate relief in cases of disaster, emergency, or civil defense emergency.

(6) If aerial fire suppression is immediately required, the Adjutant General may make expenditures of up to ten thousand dollars per event without a state of emergency proclamation issued by the Governor.

(7) The Governor may receive such voluntary contributions as may be made from any nonfederal source to aid in carrying out the purposes of this section and shall credit the same to the Governor's Emergency Cash Fund.

(8) All obligations and expenses incurred by the Governor in the exercise of the powers and duties vested in the Governor by this section shall be paid by the State Treasurer out of available funds ~~in~~ appropriated to the Governor's Emergency ~~Fund~~ Program, and the Director of Administrative Services shall draw his or her warrants upon the State Treasurer for the payment of such sum, or so much thereof as may be required, upon receipt by him or her of proper vouchers duly approved by the Adjutant General.

(9) This section shall be liberally construed in order to accomplish the purposes of the Emergency Management Act and to permit the Governor to adequately cope with any disaster, emergency, or civil defense emergency which may arise, and the powers vested in the Governor by this section shall be construed as being in addition to all other powers presently vested in him or her and not in derogation of any existing powers.

(10) Such funds as may be made available by the government of the United States for the purpose of alleviating distress from disasters, emergencies, and civil defense emergencies may be accepted by the State Treasurer and shall be credited to ~~the~~ a separate and distinct fund unless otherwise specifically provided in the act of Congress making such funds available or as otherwise allowed and provided by state law.

Sec. 9. Section 81-829.58, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.58. Whenever the federal government or any agency or officer thereof offers to the state or, through the state, to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of disaster response and emergency management, the state, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its principal executive officer or governing body, may accept such offer. Upon such

acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or such political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. All such funds received on behalf of the state shall be remitted to the State Treasurer for credit to ~~the Governor's Emergency Fund~~ a separate and distinct fund unless otherwise specifically provided in the act of Congress making such funds available, or as otherwise allowed and provided by state law.

Sec. 10. Section 81-829.59, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.59. Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of disaster response and emergency management, the state, acting through the Governor, or such political subdivision, acting through its principal executive officer or governing body, may accept such offer. Upon such acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, subject to the terms of the offer. All such funds received on behalf of the state shall be remitted to the State Treasurer for credit to the Governor's Emergency Cash Fund.

Sec. 11. Section 81-829.72, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.72. (1) Whenever a state of emergency has been declared to exist in this state, the Governor is authorized, upon his or her determination that financial assistance is essential to meet related necessary expenses or serious needs of individuals or families adversely affected by a disaster, emergency, or civil defense emergency that may not be otherwise met from other means of assistance, to (a) accept a grant by the federal government to provide such financial assistance, subject to such terms and conditions as may be imposed upon the grant, and (b) provide assistance from funds appropriated to the Governor's Emergency Fund Program to such individual assistance programs as may be required by terms and conditions of the federal program.

(2) The Adjutant General shall establish such individual assistance programs as shall be necessary to carry out the purposes of subsection (1) of this section.

Sec. 12. Original sections 81-829.42, 81-829.58, 81-829.59, and 81-829.72, Reissue Revised Statutes of Nebraska, and sections 72-815 and 72-816, Revised Statutes Supplement, 2002, are repealed.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.