AN ACT relating to sanitary and improvement districts; to amend sections 31-727, 31-730, and 31-739, Reissue Revised Statutes of Nebraska; to change provisions relating to district actions and formation, trustees, and the deposit of funds; to authorize the creation of service fee funds; to eliminate a fund; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 31-727, Reissue Revised Statutes of Nebraska, is amended to read:

31-727. (1)(a) A majority of the owners having an interest in the real property within the limits of a proposed sanitary and improvement district, situated in one or more counties in this state, may form a sanitary and improvement district for the purposes of installing electric service lines and conduits, a sewer system, a water system, an emergency management warning system, a system of sidewalks, public roads, streets, and highways, public waterways, docks, or wharves, and related appurtenances, contracting for water for fire protection and for resale to residents of the district, contracting for police protection and security services, and contracting for gas and for electricity for street lighting for the public streets and highways within such proposed district, constructing and contracting for the construction of dikes and levees for flood protection for the district, and acquiring, improving, and operating public parks, playgrounds, and recreational facilities.

(b) The sanitary and improvement district may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction such sanitary and improvement district is located for any public purpose specifically authorized in this section.

(c) Sanitary and improvement districts located in any county which has a city of the metropolitan class within its boundaries or in any adjacent county which has adopted a comprehensive plan may contract with other sanitary and improvement districts to acquire, build, improve, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts.

(d) Nothing in this section shall authorize districts to purchase electric service and resell the same.

(e) The district, in lieu of establishing its own water system, may contract with any utilities district, municipality, or corporation for the installation of a water system and for the provision of water service for fire protection and for the use of the residents of the district.

(f) For the purposes listed in this section, such majority of the owners may make and sign articles of association in which shall be stated (a) the name of the district, (ii) that the district will have perpetual existence, (iii) the limits of the district, (iv) the names and places of residence of the owners of the land in the proposed district, (v) the description of the several tracts of land situated in the district owned by those who may organize the district, (vi) the name or names and the description of the real estate owned by such owners as do not join in the organization of the district but who will be benefited thereby, and (vii) whether the purpose of the corporation is installing gas and electric service lines and conduits, installing a sewer system, installing a water system, installing a system of public roads, streets, and highways, public waterways, docks, or wharves, and related appurtenances, contracting for water for fire protection and for resale to residents of the district, contracting for police protection and security services, contracting for street lighting for the public streets and highways within the proposed district, constructing or contracting for the construction of dikes and levees for flood protection of the proposed district, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, or, when permitted by this section, contracting with other sanitary and improvement districts to acquire, build, improve, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, contracting...
for any public purpose specifically authorized in this section, or combination of any one or more of such purposes, or all of such purposes. Such owners of real estate as are unknown may also be set out in the articles as such.

(g) No sanitary and improvement district may own or hold land in excess of ten acres, unless such land so owned and held by such district is actually used for a public purpose, as provided in this section, within three years of its acquisition. Any sanitary and improvement district which has acquired land in excess of ten acres in area and has not devoted the land to a public purpose, as set forth in this section, within three years of the date of its acquisition, shall devote the same to a use set forth in this section or shall divest itself of such land. When a district divests itself of land pursuant to this section, it shall do so by sale at public auction to the highest bidder after notice of such sale has been given by publication at least three times for three consecutive weeks prior to the date of sale in a legal newspaper of general circulation within the area of the district.

(2) The articles of association shall further state that the owners of real estate so forming the district for such purposes are willing and obligate themselves to pay the tax or taxes which may be levied against all the property in the district and special assessments against the real property benefited which may be assessed against them to pay the expenses that may be necessary to install a sewer or water system or both a sewer and water system, the cost of water for fire protection, the cost of grading, changing grade, paving, repairing, graveling, regraveling, widening, or narrowing sidewalks and roads, resurfacing or relaying existing pavement, or otherwise improving any public roads, streets, or highways within the district, including protecting existing sidewalks, streets, highways, and roads from floods or erosion which has moved within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin, the cost of constructing public waterways, docks, or wharves, and related appurtenances, the cost of constructing or contracting for the construction of dikes and levees for flood protection for the district, the cost of contracting for water for fire protection and for resale to residents of the district, the cost of contracting for police protection and security services, the cost of electricity for street lighting for the public streets and highways within the district, the cost of installing gas and electric service lines and conduits, the cost of acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and, when permitted by this section, the cost of contracting for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and the cost of constructing or contracting for the construction of dikes and levees for flood protection for the district, the cost of contracting for water for fire protection and for resale to residents of the district, the cost of contracting for police protection and security services, the cost of electricity for street lighting for the public streets and highways within the district, the cost of installing gas and electric service lines and conduits, the cost of acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and, when permitted by this section, the cost of contracting for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and the cost of constructing or contracting for any public purpose specifically authorized in this section, as provided by law.

(3) The articles shall propose the names of five or more trustees who are (a) owners of real estate located in the proposed district or (b) designees of the owners if the real estate is owned by a limited partnership, a general partnership, a limited liability company, a public, private, or municipal corporation, an estate, or a trust. These five trustees shall serve as a board of trustees until their successors are elected and qualified if such district is organized. No corporation formed or hereafter formed shall perform any new functions, other than those for which the corporation was formed, without amending its articles of association to include the new function or functions.

(4) After the articles are signed, the same shall be filed in the office of the clerk of the district court of the county in which such sanitary and improvement district is located or, if such sanitary and improvement district is composed of tracts or parcels of land in two or more different counties, in the office of the clerk of the district court for the county in which the greater portion of such proposed sanitary and improvement district is located, together with a petition praying that the same may be declared a sanitary and improvement district under sections 31-727 to 31-762.

(5) Notwithstanding the repeal of sections 31-701 to 31-726.01 by Laws 1996, LB 1321:

(a) Any sanitary and improvement district organized pursuant to such sections and in existence on July 19, 1996, shall, after the effective date of this act, be treated for all purposes as if formed and organized pursuant to sections 31-727 to 31-762;

(b) Any act or proceeding performed or conducted by a sanitary and improvement district organized pursuant to such repealed sections shall be deemed lawful and within the authority of such sanitary and improvement district to perform or conduct after the effective date of this act; and

(c) Any trustees of a sanitary and improvement district organized pursuant to such repealed sections and lawfully elected pursuant to such repealed sections or in conformity with the provisions of sections 31-727 to
31-762 shall be deemed for all purposes, on and after the effective date of this act, to be lawful trustees of such sanitary and improvement district for the term provided by such sections. Upon the expiration of the term of office of a trustee or at such time as there is a vacancy in the office of any such trustee prior to the expiration of his or her term, his or her successors or replacement shall be elected pursuant to sections 31-727 to 31-762.

(6) For the purposes of sections 31-727 to 31-762 and 31-771 to 31-780, unless the context otherwise requires:
(a) Public waterways shall mean artificially created boat channels dedicated to public use and providing access to navigable rivers or streams;
(b) Operation and maintenance expenses shall mean and include, but is not limited to, salaries, cost of materials and supplies for operation and maintenance of the district's facilities, cost of ordinary repairs, replacements, and alterations, cost of surety bonds and insurance, cost of audits and other fees, and taxes;
(c) Capital outlay shall mean expenditures for construction or reconstruction of major permanent facilities having an expected long life, including, but not limited to, street paving and curbs, storm and sanitary sewers, and other utilities;
(d) Warrant shall mean an investment security under article 8, Uniform Commercial Code, in the form of a short-term, interest-bearing order payable on a specified date issued by the board of trustees or administrator of a sanitary and improvement district to be paid from funds expected to be received in the future, including and includes, but is not limited to, property tax collections, special assessment collections, and proceeds of sale of general obligation bonds;
(e) General obligation bond shall mean an investment security under article 8, Uniform Commercial Code, in the form of a long-term, written promise to pay a specified sum of money, referred to as the face value or principal amount, at a specified maturity date or dates in the future, plus periodic interest at a specified rate; and
(f) Administrator shall mean the person appointed by the Auditor of Public Accounts pursuant to section 31-771 to manage the affairs of a sanitary and improvement district and to exercise the powers of the board of trustees during the period of the appointment to the extent prescribed in sections 31-727 to 31-780.

Sec. 2. Section 31-730, Reissue Revised Statutes of Nebraska, is amended to read:
31-730. Such petition, and objections if any, shall be heard by the court without any unnecessary delay and should the court determine that the formation of such district will be conducive to the public health, convenience, or welfare, the district court shall declare the sanitary and improvement district a public corporation of this state and shall declare five of the trustees nominated, or in case of objection thereto, other suitable trustees who shall be (1) owners of real estate located in the district or (2) designated to serve as a representative on the board of trustees during the period of the appointment to the extent prescribed in sections 31-727 to 31-780.

Sec. 3. Section 31-739, Reissue Revised Statutes of Nebraska, is amended to read:
31-739. (1) The district may borrow money for corporate purposes and issue its general obligation bonds therefor and shall annually levy a tax on the taxable value of the taxable property in the district sufficient to pay the interest and principal of the bonds. Such levy shall be in addition to the bond tax levy of the district. The district shall also annually levy a tax on the taxable value of the taxable property in the district for the purpose of creating a sinking fund for the maintenance and repairing of any sewer or water system or electric lines and conduits in the district, for the payment of any hydrant rentals, for the maintenance and repairing of any sidewalks, public roads, streets, and highways, public waterways, docks, or wharfs, and

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related appurtenances in the district, for the cost of operating any street
lighting system for the public streets and highways within the district, for
the building, construction, improvement, or replacement of facilities or
systems when necessary to remove or alleviate an existing threat to public
health and safety affecting no more than one hundred existing homes, for the
cost of building, acquiring, maintaining, and operating public parks,
playgrounds, and recreational facilities, or, when permitted by section
31-727, for contracting with other sanitary and improvement districts for
building, acquiring, maintaining, and operating public parks, playgrounds,
and recreational facilities for the joint use of the residents of the contracting
districts, or for the cost of any other services for which the district has
contracted or to make up any deficiencies caused by the nonpayment of any
special assessments. Such levy shall be known as the operating levy of the
district. On or before September 20 of each year, the clerk of the board
shall certify the tax to the county clerk of the counties in which such
district is located in order that the tax may be extended upon the county tax
list. Nothing contained in this section shall authorize any district which
has been annexed by a city or village to levy any taxes within or upon the
annexed area after the effective date of the annexation if the effective date
of the annexation is prior to such levy certification date of the district for
the year in which such annexation occurs.

(2) The county treasurer of the county in which the greater portion
of the area of the district is located shall be ex officio treasurer of the
sanitary and improvement district and shall be responsible for all funds of
the district coming into his or her hands. He or she shall collect all taxes
and special assessments levied by the district and deposit the same in a bond
sinking fund for the payment of principal and interest on any bonds
outstanding.

(3) The trustees or administrator of the district may authorize the clerk or appoint
an independent agent to collect service charges and all items other than
taxes, connection charges, special assessments, and funds from sale of bonds
and warrants, but all funds so collected shall, at least once each month, be
remitted to the treasurer to be held in a fund, separate from the general fund
or construction fund of the district, which shall be known as the Service Fee
Fund, which fund is hereby created service fee fund of the district. The
trustees or administrator may direct the district's treasurer to disburse
funds held in the Service Fee Fund service fee fund to maintain and operate
any service for which the funds have been collected or to deposit such funds
into the general fund of the district.

(4) The treasurer of the district shall not be responsible for such
funds until they are received by him or her. The treasurer shall disburse the
funds of the district only on warrants authorized by the trustees or the
administrator and signed by the chairperson and clerk or the administrator.

(5) If the average weekly balance in the service fee fund of a
district for a full budget year does not exceed five thousand dollars, the
trustees or administrator of the district may authorize the clerk to establish
an interest-bearing checking account in the name of the district to be
maintained as the district service fee fund and the district's treasurer shall
disburse the balance of funds held in the service fee fund of the district to
the clerk for deposit into the district service fee fund. Following the
creation of the district service fee fund, all funds required to be deposited
into the service fee fund shall be deposited into the district service fee
fund and all disbursements which may lawfully be made from the service fee
fund may be made from the district service fee fund as directed or approved by
the trustees or the administrator.

Sec. 4. Original sections 31-727, 31-730, and 31-739, Reissue
Revised Statutes of Nebraska, are repealed.