LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 39

Introduced by Lindstrom, 18; McDonnell, 5; Wishart, 27.
Read first time January 07, 2021
Committee: Revenue

A BILL FOR AN ACT relating to the Sports Arena Facility Financing Assistance Act; to amend section 13-3105, Reissue Revised Statutes of Nebraska, and sections 13-3102, 13-3103, 13-3104, and 13-3106, Revised Statutes Cumulative Supplement, 2020; to authorize assistance for sports complexes as prescribed; to define and redefine terms; to change provisions relating to limitations on state assistance, applications, notice, and considerations for application approval; 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. Section 13-3102, Revised Statutes Cumulative Supplement, 2020, is amended to read:

13-3102 For purposes of the Sports Arena Facility Financing Assistance Act:

(1) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(2) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(3) Eligible sports arena facility means:

(a) Any publicly owned, enclosed, and temperature-controlled building primarily used for sports that has a permanent seating capacity of at least three thousand but no more than seven thousand seats and in which initial occupancy occurs on or after July 1, 2010, including stadiums, arenas, dressing and locker facilities, concession areas, parking facilities, and onsite administrative offices connected with operating the facilities; and

(b) Any racetrack enclosure licensed by the State Racing Commission in which initial occupancy occurs on or after July 1, 2010, including concession areas, parking facilities, and onsite administrative offices connected with operating the racetrack; and

(c) Any sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex;

(4) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable from the proceeds of an
ad valorem tax;

(5) Increase in state sales tax revenue means the amount of state sales tax revenue collected by a nearby retailer during the fiscal year for which state assistance is calculated minus the amount of state sales tax revenue collected by the nearby retailer in the fiscal year that ended immediately preceding the project completion date of occupancy of the eligible sports arena facility, except that the amount of state sales tax revenue of a nearby retailer shall not be less than zero;

(6) Multipurpose field means a rectangular field of grass or synthetic turf which is primarily used for competitive field sports, including, but not limited to, soccer, football, flag football, lacrosse, or rugby;

(7) Nearby retailer means a retailer as defined in section 77-2701.32 that is located within the program area. The term includes a subsequent owner of a nearby retailer operating at the same location;

(8) New state sales tax revenue means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) One hundred percent of the state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning twenty-four months prior to the project completion date of the eligible sports arena facility and ending forty-eight months after the project completion date of the eligible sports arena facility or, for applications for state assistance approved prior to October 1, 2016, forty-eight months after October 1, 2016, and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; and

(ii) The increase in state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax prior to twenty-four months prior to the project completion date of the eligible sports arena facility and (B) is sourced under sections 77-2703.01 to
77-2703.04 to the program area; or

(b) For any eligible sports arena facility that is a sports complex, one hundred percent of the state sales tax revenue that (i) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning on the date that the project commenced and ending forty-eight months after the project completion date of the eligible sports arena facility and (ii) is sourced under sections 77-2703.01 to 77-2703.04 to the program area;

(a) For nearby retailers that commenced collecting state sales tax during the period of time beginning twenty-four months prior to occupancy of the eligible sports arena facility and ending forty-eight months after the occupancy of the eligible sports arena facility or, for applications for state assistance approved prior to October 1, 2016, forty-eight months after October 1, 2016, one hundred percent of the state sales tax revenue collected by the nearby retailer and sourced under sections 77-2703.01 to 77-2703.04 to the program area; and

(b) For nearby retailers that commenced collecting state sales tax prior to twenty-four months prior to occupancy of the eligible sports arena facility, the increase in state sales tax revenue collected by the nearby retailer and sourced under sections 77-2703.01 to 77-2703.04 to the program area;

(9) (8) Political subdivision means any city, village, or county;

(10) (9) Program area means:

(a) For applications for state assistance submitted prior to October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure; or

(b) For applications for state assistance submitted on or after October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other.
structure, except that if twenty-five percent or more of such area is unbuildable property, then the program area shall be adjusted so that:

(i) It avoids as much of the unbuildable property as is practical; and

(ii) It contains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary.

Approval of an application for state assistance by the board pursuant to section 13-3106 shall establish the program area as that area depicted in the map accompanying the application for state assistance as submitted pursuant to subdivision (2)(c) of section 13-3104.

(11) Project completion date means:

(a) For projects involving the acquisition or construction of an eligible sports arena facility, the date of initial occupancy of the facility following the completion of such acquisition or construction; or

(b) For all other projects, the date of completion of the project for which state assistance is received;

(12) Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax; and

(13) Sports complex means a facility that:

(a) Includes indoor areas, outdoor areas, or both;

(b) Is primarily used for competitive sports; and

(c) Contains at least:

(i) Twelve separate sports venues if such facility is located in a city of the metropolitan class;

(ii) Six separate sports venues if such facility is located in a city of the primary class; or

(iii) Four separate sports venues if such facility is located in a city of the first class, city of the second class, or village or is
located within a county but outside the corporate limits of any city or village;

(14) Sports venue includes, but is not limited to:

(a) A baseball field;
(b) A softball field;
(c) A multipurpose field;
(d) An outdoor stadium primarily used for competitive sports;
(e) An outdoor arena primarily used for competitive sports; or
(f) An enclosed, temperature-controlled building primarily used for competitive sports; and

(15) Unbuildable property means any real property that is located in a floodway, an environmentally protected area, a right-of-way, or a brownfield site as defined in 42 U.S.C. 9601 that the political subdivision determines is not suitable for the construction or location of residential, commercial, or other buildings or facilities.

Sec. 2. Section 13-3103, Revised Statutes Cumulative Supplement, 2020, is amended to read:

13-3103 (1) Any political subdivision or its governing body that has (a) acquired, constructed, improved, or equipped, (b) approved a revenue bond issue or a general obligation bond issue to acquire, construct, improve, or equip, or (c) adopted a resolution authorizing the political subdivision to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility may apply to the board for state assistance. The state assistance shall only be used to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the political subdivision to acquire, construct, improve, or equip the eligible sports arena facility.

(2) For applications for state assistance approved on or after October 1, 2016, no more than fifty percent of the final cost of the eligible sports arena facility shall be funded by state assistance received pursuant to section 13-3108.
Sec. 3. Section 13-3104, Revised Statutes Cumulative Supplement, 2020, is amended to read:

13-3104 (1) All applications for state assistance under the Sports Arena Facility Financing Assistance Act shall be in writing and shall include a certified copy of the approving action of the governing body of the applicant describing the proposed project for which state assistance is requested eligible sports arena facility and the anticipated financing.

(2) The application shall contain:

(a) A description of the proposed financing of the project eligible sports arena facility, including the estimated principal and interest requirements for the bonds proposed to be issued in connection with the project facility or the amounts necessary to repay the original investment by the applicant in the project facility;

(b) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project and including a copy of any operating agreement or lease with substantial users of the eligible sports arena facility;

(c) For applications submitted on or after October 1, 2016, a map identifying the program area, including any unbuildable property within the program area or taken into account in adjusting the program area as described in subdivision (10)(b) (g)(b) of section 13-3102; and

(d) Any other project information deemed appropriate by the board.

(3) Upon receiving an application for state assistance, the board shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(4) Any state assistance received pursuant to the act shall be used only for public purposes.

Sec. 4. Section 13-3105, Reissue Revised Statutes of Nebraska, is amended to read:

13-3105 (1) After reviewing an application submitted under section
13-3104, the board shall hold a public hearing on the application.

(2) The board shall give notice of the time, place, and purpose of the public hearing by publication three times in a newspaper of general circulation in the area where the applicant is located. Such publication shall be not less than ten days prior to the hearing. The notice shall describe generally the project eligible sports arena facility for which state assistance has been requested. The applicant shall pay the cost of the notice.

(3) At the public hearing, representatives of the applicant and any other interested persons may appear and present evidence and argument in support of or in opposition to the application or neutral testimony. The board may seek expert testimony and may require testimony of persons whom the board desires to comment on the application. The board may accept additional evidence after conclusion of the public hearing.

Sec. 5. Section 13-3106, Revised Statutes Cumulative Supplement, 2020, is amended to read:

13-3106 (1) After consideration of the application and the evidence, if the board finds that the project facility described in the application is eligible and that state assistance is in the best interest of the state, the application shall be approved, except that an approval of an application submitted because of the requirement in subdivision (1)(c) of section 13-3103 is a temporary approval. If the general obligation bond issue is subsequently approved by the voters of the political subdivision, the approval by the board becomes permanent. If the general obligation bond issue is not approved by such voters, the temporary approval shall become void.

(2) In determining whether state assistance is in the best interest of the state, the board shall consider the fiscal and economic capacity of the applicant to finance the local share of the project facility.

(3) A majority of the board members constitutes a quorum for the purpose of conducting business. All actions of the board shall be by a
majority vote of all the board members, one of whom must be the Governor.

Sec. 6. Original section 13-3105, Reissue Revised Statutes of Nebraska, and sections 13-3102, 13-3103, 13-3104, and 13-3106, Revised Statutes Cumulative Supplement, 2020, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.