

## LEGISLATIVE BILL 188

Approved by the Governor May 20, 1971

Introduced by Richard F. Proud, 12th District; Orval A. Keyes, 3rd District; P. J. Morgan, 4th District

AN ACT to amend sections 31-711.02, 31-715, 31-735, 31-740, 31-751, and 31-753, Reissue Revised Statutes of Nebraska, 1943, and section 31-749, Revised Statutes Supplement, 1969, relating to sanitary and improvement districts; to change the requirements for notice for filing objections to assessment of costs of improvements; to provide for hearings; to change powers and duties; to change provisions for approval of improvements; to change provisions for elections and audits; to change levy provisions; to provide for delinquent assessments; to provide additional duties for the clerk of the district court; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 31-711.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-711.02. After the completion of any improvements, the engineer shall file with the clerk of the district a complete statement of all the costs of such improvement, a plat of the property in the district especially benefited thereby, and a schedule of the amount proposed to be assessed against each separate piece of property. A copy of the plat and schedule of proposed assessment shall be filed in the office of the county clerk of the county in which the greater portion of the area of the district is located for public inspection. The trustees of the district shall then order the clerk of the district to give notice that said plat and schedule are on file with the county clerk where same are kept for examination, and that all objections thereto or to prior proceedings on account of errors, irregularities, or inequalities not made in writing and filed with the clerk of the district within twenty days after first publication of said notice shall be deemed to have been waived. Such notice shall be given by two publications in a newspaper of general

circulation in said district and by handbills posted along the line of the work. The notice shall state the time and place where objections are to be filed, as herein provided, and they shall be considered by the trustees of the district. The clerk of the district shall also give personal notice to each owner of record of each separate piece of property of the amount proposed to be assessed against his property for such improvements within five days after the first publication of the notice provided for in this section. Each owner shall have the right to be heard, and shall have the right of appeal from the final determination made by the board of trustees. Any person feeling aggrieved may appeal to the district court by petition within twenty days after such final determination. The court shall hear and determine such appeal in a summary manner as in a case in equity and without a jury and shall increase or reduce the assessments as the same may be required to provide that the assessments shall be to the full extent of special benefits, and to make apportionment of benefits equitable.

Sec. 2. That section 31-715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-715. The Auditor of Public Accounts shall cause the books of account, kept by the board of trustees of each sanitary and improvement district in the State of Nebraska, to be examined and audited annually by a certified public accountant under his direction in December of each year. Each sanitary and improvement district shall have the books of account, kept by the board of trustees of the district, examined and audited by a certified public accountant or a public accountant for the year ending June 30 and file a copy of the audit with the office of the Auditor of Public Accounts by December 31 of the same year. Such examination and audit shall show (1) the gross income of the district from all sources for the previous year; (2) the amount spent for sewage disposal; (3) the amount expended on water mains; (4) the gross amount of sewage processed in said district; (5) the cost per thousand gallons of processing sewage; (6) the amount expended each year for (a) maintenance and repairs, (b) new equipment, (c) new construction work, (d) property purchased; (7) a detailed statement of all items of expense; (8) the number of employees; (9) the salaries and fees paid employees; (10) total amount of taxes levied upon the property within the district; and (11) all other facts necessary to give an accurate and comprehensive view of the cost of carrying on the

activities and work of such sanitary and improvement district. The reports of all audits herein provided for shall be and remain a part of the public records in the office of the Auditor of Public Accounts. The expense of such audits shall be paid out of the funds of the district. The Auditor of Public Accounts shall be given access to all books and papers, contracts, minutes, bonds and other documents and memoranda of every kind and character of such district and be furnished all additional information possessed by any present or past officer or employee of any such district, or by any other person, that is essential to the making of a comprehensive and correct audit.

Should any sanitary and improvement district fail or refuse to cause such annual audit to be made of all of its functions, activities and transactions for the fiscal year within a period of six months following the close of such fiscal year, the Auditor of Public Accounts shall, after due notice and a hearing to show cause by such district, appoint a certified public accountant or public accountant to conduct the annual audit of the district and the fee for such audit shall become a lien against the district.

Sec. 3. That section 31-735, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-735. At such time as the board of trustees shall designate, which time shall be not more than twelve months after the judgment of the district court creating said district, and each two years thereafter, the board of trustees shall cause an election to be held, at which election a board of trustees of five in number shall be elected. Such trustees shall be owners of real estate located in the district. The election shall be conducted at a location or place within the boundaries of the district unless there is no building within the district or all of the owners in the district shall consent to an election outside the district, and the polling place shall remain open to the voters for not less than four consecutive hours between eight a.m. and eight p.m. of the date of election. Notice of such election shall be given by the clerk of said board by written notice addressed to each owner of real estate located in the district and mailed to his last-known post-office address, at least fifteen days prior to said election. Said notice shall state the time, place, and purpose of said meeting. Any person may cast one vote for each trustee, for each acre of unplatted land or fraction thereof and one vote for each platted lot which

he may own in the district, ~~;-either--entirely--in--his own-right-or--jointly--with--others-~~ Any corporation, public, private, or municipal, owning any land or lot in the district, may vote at such election the same as an individual. The executor, administrator, guardian, or trustee of any person or estate interested shall have the right to vote. Should two or more persons or officials claim the right to vote on the same tract, the board of trustees shall determine the party entitled to vote. Such board shall select one of their number chairman and one of their number clerk. In case of a vacancy on said board the remaining trustees shall fill the vacancy on said board until the next election.

Sec. 4. That section 31-740, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-740. The board of trustees of any district organized under sections 31-727 to 31-762 shall have power to provide for establishing, maintaining, and constructing electric service lines and conduits, water mains, sewers, and disposal plants, and disposing of drainage, waste, and sewage of such district in a satisfactory manner; for establishing, maintaining, and constructing sidewalks, public roads, streets, and highways, including the grading, changing grade, paving, repaving, graveling, regrading, widening or narrowing roads, resurfacing or relaying existing pavement, or otherwise improving any road, street, or highway within the district; and may contract for electricity for street lighting for the public streets and highways within the district, and shall have power to provide for acquisition, improvement, maintenance and operation of public parks, playgrounds and recreational facilities; Provided, that power to construct clubhouses and similar facilities for the giving of private parties within the zoning jurisdiction of any city or village is not included in the powers herein granted. Any sewer system established shall be approved by the Department of Health. Prior to the installation of any of the improvements provided for in this section, the plans for such improvements, other than for public parks, playgrounds and recreational facilities, shall be approved by the public works department of any municipality when such improvements or any part thereof are within the area of the zoning jurisdiction of such municipality, and plans and exact costs for public parks, playgrounds and recreational facilities shall be approved by resolution of the governing body of such municipality. Such approval shall relate to conformity with the master plan and the construction specifications

and standards theretofore established by such municipality; Provided, where no such master plan and construction specifications and standards have been established such approval shall not be required. In cases where such improvements are within the area of the zoning jurisdiction of more than one municipality, then such approval shall be required only from the most populous municipality, except that where such improvements are furnished to the district by contract with a particular municipality, the necessary approval may in all cases be given by such municipality. The district may construct its sewage disposal plant and other sewerage or water improvements, or both, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewerage improvements, and for a supply of water for fire protection and for resale to residents of the district. It may also contract with any corporation or municipality for the installation, maintenance, and cost of operating a system of street lighting upon the public streets and highways within the district or for installation, maintenance and operation of a water system or for the installation, maintenance and operation of electric service lines and conduits and to provide water service for fire protection and use by the residents of the district. ~~in order to comply with the requirements of section 34-745 relating to annual examination and audits of the books of account of the district by the Auditor of Public Accounts, the board of trustees of any district may appoint a certified public accountant, who shall perform such annual examination and audit under the direction of the Auditor of Public Accounts, as provided in section 34-745.~~ Whenever the sanitary sewer system or any part thereof of a sanitary and improvement district is directly or indirectly connected to the sewerage system of a metropolitan city, such city, without enacting an ordinance or adopting any resolution for such purpose, may collect such city's applicable rental or use charge from the users in the sanitary and improvement district and from the owners of the property served within the sanitary and improvement district. The charges of such city shall be charged to each property served by the city sewerage system, shall be a lien upon the property served, and may be collected from the owner or the person, firm, or corporation using the service. If the city's applicable rental or service charge is not paid when due, such sum may be recovered by the municipality in a civil action, or it may be assessed against the premises served in the same manner as special taxes or assessments are assessed by such city of the metropolitan class, and collected and

returned in the same manner as other municipal special taxes or assessments are enforced and collected. When any such tax or assessment is levied it shall be the duty of the city clerk to deliver a certified copy of the ordinance to the county treasurer of the county in which the premises assessed are located and such county treasurer shall collect the same as provided by law and return the same to the city treasurer of the metropolitan city. Funds of such city raised from such charges of the metropolitan city shall be used by it in accordance with laws applicable to its sewer service rental or charges. The governing body of a city of the metropolitan class may make all necessary rules and regulations governing the direct or indirect use of its sewerage system by any user and premises within any sanitary and improvement district and may establish just and equitable rates or charges to be paid to such city of the metropolitan class for use of any of its disposal plants and sewerage system.

Sec. 5. That section 31-749, Revised Statutes Supplement, 1969, be amended to read as follows:

31-749. After the completion of any such work or purchase or otherwise acquiring a sewer or water system, or both, or public parks, playgrounds or recreational facilities, or gas or electric service lines or conduits or upon completion of the work on a system of sidewalks, public roads, streets, or highways, the engineer shall file with the clerk of the district a certificate of acceptance, which acceptance shall be approved by the board of trustees by resolution. The board of trustees shall then require the engineer to make a complete statement of all the costs of any such improvements, a plat of the property in the district, and a schedule of the amount proposed to be assessed against each separate piece of property in such district, which statement, plat, and schedule shall be filed with the clerk of the district within ten days after the date of acceptance of the work, purchase, or otherwise acquiring a sewer or water system, or both, or acceptance of the work on a system of sidewalks, public roads, streets, or highways. The board of trustees shall then order the clerk to give notice that said statement, plat, and schedules are on file in his office and that all objections thereto, or to prior proceedings on account of errors, irregularities, or inequalities, not made in writing and filed with the clerk of the district within twenty days after the first publication of said notice, shall be deemed to have been waived. Such notice shall be given by publication the same day each week two consecutive weeks in a newspaper of

general circulation published in the county where the district was organized and by handbills posted along the line of the work. Said notice shall state the time and place where any objections, filed as herein provided for, shall be considered by the board of trustees. The cost of such improvements in the district which are within the area of the zoning jurisdiction of any municipality shall be assessed to the full extent of special benefits against the property in the zoning jurisdiction of such municipality. The complete statement of costs and the schedule of amounts proposed to be assessed for such improvements which are within the zoning jurisdiction of such municipality against each separate piece of property in districts located within the zoning jurisdiction of such municipality shall be given to such municipality within seven days after the first publication of notice of statement, plat and schedules; provided, that where such improvements are within the area of the zoning jurisdiction of more than one municipality, then such proposed assessments schedule and statement need be given only to the most populous municipality. Such municipality shall have the right to be heard, and it shall have the right of appeal from a final determination by the board of trustees against objections which such city has filed. Notice of the amount proposed to be assessed for such improvements against each separate piece of property shall be given to each owner of record thereof within five days after the first publication of notice of statement, plat and schedules. Each owner shall have the right to be heard, and shall have the right of appeal from the final determination made by the board of trustees. Any person or any such municipality feeling aggrieved may appeal to the district court by petition within twenty days after such a final determination. The court shall hear and determine such appeal in a summary manner as in a case in equity and without a jury and shall increase or reduce the assessments as the same may be required to provide that the assessments shall be to the full extent of special benefits, and to make the apportionment of benefits equitable.

Sec. 6. That section 31-751, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-751. After the equalization of such special assessments as required by sections 31-727 to 31-762, the same shall be levied by the board of trustees upon all lots or parcels of ground within the district which are benefited by reason of said improvement, such levy to be made within six months after acceptance of the

improvement by the board of trustees: Provided, that failure to levy assessments within such six-month period shall not invalidate assessments made after the six-month period. The same may be relieved, if for any reason the levy thereof is void or not enforceable, in an amount not exceeding the previous levy. Such levy shall be enforced as other special assessments and any payments thereof under previous levies shall be credited to the person or property making the same. All assessments made for such purposes shall be collected in the same manner as general taxes and shall be subject to the same penalties.

Sec. 7. That section 31-753, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-753. All special assessments provided for in section 31-739 shall become due in fifty days after the date of the levy and may be paid within that time without interest, but if not so paid they shall bear interest thereafter at the rate of seven per cent per annum until delinquent. Such assessments shall become delinquent in equal annual installments over such periods of years, not exceeding ten, as the board of trustees may determine at the time of making the levy. Delinquent installments shall bear interest at the rate of nine per cent per annum until paid and shall be collected in the usual manner for the collection of taxes. If at any one time three annual installments of such assessments against any parcel of property are delinquent and unpaid, all of the remaining installments of assessments against that parcel of property will thereupon become delinquent and the county treasurer of the county in which the land is situated shall institute proceedings to collect the total amount then delinquent following the procedure or procedures prescribed by law for the collection of special assessments.

Sec. 8. That original sections 31-711.02, 31-715, 31-735, 31-740, 31-751, and 31-753, Reissue Revised Statutes of Nebraska, 1943, and section 31-749, Revised Statutes Supplement, 1969, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.