LEGISLATIVE BILL 870

Approved by the Governor April 24, 1978

Introduced by Banking, Commerce and Insurance Committee, DeCamp, 40, Chmn.; Mills, 44; Schmit, 23; Merz, 1; Labedz, 5; Murphy, 17

AN ACT to amend section 31-755, Revised Statutes Supplement, 1976, as amended by section 146, Legislative Bill 42, Eighty-fifth Legislature, First Session, 1977, relating to sanitary and improvement districts; to provide provisions relating to interest on certain warrants as prescribed; and to repeal the original section.

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

Section 1. That section 31-755, Revised Statutes Supplement, 1976, as amended by section 146, Legislative Bill 42, Eighty-fifth Legislature, First Session, 1977, be amended to read as follows:

31-755. For the purpose of paying the cost of the improvements herein provided for, the board of trustees, after such improvements have been completed and accepted, shall have the power to issue negotiable bonds of any such district, to be called sanitary and improvement district bonds, payable in not to exceed thirty years. Each issue of general obligation bonds shall mature, or be subject to mandatory redemption, so that the first principal repayment is made not more than five years after the date of issuance and so that at least twenty per cent of the district's bonds then outstanding shall be repaid within ten years after the date of issuance. Such bonds shall bear interest payable annually or semiannually. Such bonds may either be sold by the district or delivered to the contractor in payment for the work, but in either case for not less than their par value. For the purpose of making partial payments as the work progresses, warrants may be issued by the board of trustees upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not to exceed ninety-five per cent of the cost thereof. Warrants issued for capital outlays of the district shall become due and payable not later than five years from the date of issuance; Provided, that such warrants need not be retired within such five-year period and shall not be in default if the district court of the county shall determine, upon application to it by the district, that the district does not have the funds to retire such warrants and either (1) the district is unable to sell its bonds in amount sufficient to retire such warrants, or (2) an unreasonably high tax mill levy, as compared to the mill levy on other similar property in the county, would be required in order to cover the debt service requirements on bonds issued to retire such warrants. Notice of the filing of such application and the time and place of the hearing thereon shall be published in a newspaper of general circulation in the county the same day each week three consecutive weeks. Within five days after the first publication of such notice, the district shall cause to be mailed, by United States certified mail, a copy of such notice to each holder of warrants covered by the application whose name and post-office address are known to the district. Prior to the hearing, proof of such mailing shall be made by affidavit of a trustee of the district or its attorney that such mailing was made and further that the district, its trustees and its attorney, after diligent investigation and inquiry, were unable to ascertain and do not know the name and post-office address of any holder of such warrants other than those to whom notice has been mailed in writing or who have waived notice in writing or entered an appearance in the proceeding. Upon making such determination the district court may make such orders concerning retirement of the warrants as it shall determine proper under the circumstances of the district. Such warrants shall draw interest at such rate as fixed by the board of trustees and endorsed on the warrants, from the date of presentation for payment and shall be redeemed and paid from the proceeds of special assessments or from the sale of the bonds issued and sold as aforesaid or from any other funds available for that purpose. The board of trustees shall pay to the contractor interest, at the rate of eight per cent per annum on the amounts due on partial and final payments, beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the board of trustees, and running until the date that the warrant is tendered to the contractor. Warrants issued for operation and maintenance expenses of the district shall become due and payable not later than three years from the date of issuance. The district ~~may~~ shall agree to pay annual or semiannual interest on all capital outlay warrants issued by the district and ~~may~~ shall issue warrants to pay such interest or ~~may~~ shall issue its warrants in return for cash to pay such interest. Interest on capital outlay warrants shall be represented by coupons payable to bearer attached to each warrant, but coupons shall not be issued for interest accruing after the due date of such warrant. Such coupons shall not be deemed to be investment securities under article 8 of the Uniform Commercial Code and coupons shall always be subject to all defenses which the district may have to payment of the warrant itself. All coupons shall show on their face the number of the warrant to which they appertain and that the coupon shall not be valid for payment of any interest after the warrant has been called for redemption or redeemed. Warrant interest coupons not paid when due for lack of funds shall be registered, bear interest, and be paid the same as is provided in section 10-209 for bond coupons. Warrants issued to pay interest on capital outlay warrants shall become due and payable in the same time as capital outlay warrants. ~~and warrants issued to pay interest on operation and maintenance warrants shall become due and payable not later than three years from the date of issuance.~~ The district may, if determined appropriate by the board of trustees, pay fees to fiscal agents in connection with the placement of warrants issued by the district. The board of trustees shall levy special assessments on all lots, parcels or pieces of real estate benefited by the improvement to the extent of the benefits to such property, which when collected, shall be set aside and constitute a sinking fund for the payment of the interest and principal of said bonds. In addition to the special assessments provided for in this section, there shall be levied annually a tax upon the actual value of all the taxable property in said district except intangible property which, together with such sinking fund derived from special assessments, shall be sufficient to meet payments of interest and principal as the same become due. Such tax shall be known as the sanitary and improvement district tax and shall be payable annually in money.

Sec. 2. That original section 31-755, Revised Statutes Supplement, 1976, as amended by section 146, Legislative Bill 42, Eighty-fifth Legislature, First Session, 1977, is repealed.