

LEGISLATIVE BILL 695

Approved by the Governor April 18, 1994

Introduced by Bernard-Stevens, 42

AN ACT relating to governmental property; to amend sections 16-207 and 17-555, Reissue Revised Statutes of Nebraska, 1943; to state intent; to establish the Nebraska Tree Recovery Program; to provide for a grant process as prescribed; to change provisions relating to regulation of streets and sidewalks; to provide procedure for the removal of dead or diseased trees; and to repeal the original sections.

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

Section 1. The Legislature finds that, due to severe weather conditions and diseases, cities and villages across Nebraska are experiencing tree mortality. Most cities and villages have been unable to act decisively due to insufficient funds to remove, dispose of, and replace trees situated on public land. Dead trees are fast becoming a liability and a safety problem for cities and villages.

Sec. 2. It is the intent of the Legislature that two hundred fifty thousand dollars be appropriated from the General Fund for fiscal year 1994-95 for a program to fund tree removal, disposal, and replacement costs. The Nebraska Forest Service of the University of Nebraska Institute of Agriculture and Natural Resources Department of Forestry, Fisheries and Wildlife shall administer the program through a grant process, and the program shall be known as the Nebraska Tree Recovery Program. The Nebraska Community Forestry Council shall act as an advisory body in administration of the program. The service shall adopt and promulgate rules and regulations necessary to carry out sections 1 to 4 of this act.

Sec. 3. Any city, village, county, or agency thereof or any state agency responsible for the upkeep of state-owned real property may apply for a grant from the Nebraska Tree Recovery Program. Any civic group, tree advisory board, or other entity working with a governmental agency on tree planting, removal, and replacement may apply for a grant under the program.

Sec. 4. Applications for grants for the first year of the Nebraska Tree Recovery Program shall be received not later than July 1, 1994, and grants shall be awarded not later than October 1, 1994. In subsequent years the Nebraska Forest Service of the University of Nebraska Institute of Agriculture and Natural Resources Department of Forestry, Fisheries and Wildlife shall establish the date by which applications must be submitted, and grants shall be awarded not later than ninety days after such date.

The following shall be considered in reviewing a proposal of an applicant for a grant from the program:

(1) Grant money shall be used to plant or remove trees only on land owned by state or local governments, including parks, public grounds, and city rights-of-way;

(2) Trees shall be purchased from commercial Nebraska nurseries;

(3) The applicant shall provide funds to match the grant at a fifty-fifty match rate;

(4) Local labor may be considered as in-kind participation in calculating the amount of the applicant's matching funds required by subdivision (3) of this section;

(5) No state or local funds under the program shall be used to purchase real property;

(6) Tree species to be planted under the proposal shall be adaptable to Nebraska and the local area in order for such trees to grow and thrive;

(7) Arboricultural experts may be consulted at the local and state levels for expertise in developing local tree replanting programs;

(8) Local programs shall indicate a partnership between the applicant and property owners showing how to best replant and maintain trees for the first three years after planting; and

(9) Cities, villages, civic groups, students, and families should be involved in selecting, replanting, and caring for trees for the valuable educational aspects of the program.

Sec. 5. That section 16-207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-207. A city of the first class may by ordinance provide for the removal of remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the owners or occupants of the grounds fronting thereon; or at the expense of the person placing the same there; and

may require and regulate the planting and protection of shade trees in the streets and along the same and the trimming and removing of the same.

A city of the first class may by ordinance declare it to be a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the city. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within thirty days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed.

The city may also and regulate the building of bulkheads, cellars, and basements, ways, stairways, railways, windows, and doorways, awnings, hitching posts and rails, lampposts, awning posts, and all other structures projecting upon or over any adjoining excavation through and under the sidewalks in said the city.

Sec. 6. That section 17-555, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-555. Second-class cities Cities of the second class and villages shall have the power to remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the person placing them there, or of the city or village, and to require and regulate the planting and protection of shade trees in and along the streets, and the trimming and removing of such trees.

Cities of the second class or villages may by ordinance declare it to be a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the city or village. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within thirty days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city or village may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed.

Cities and villages shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, window and windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, and all other structures projecting upon or over and adjoining, and all other excavations through and under the sidewalks in the said city or village.

Sec. 7. That original sections 16-207 and 17-555, Reissue Revised Statutes of Nebraska, 1943, are repealed.