

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1189

Introduced by Flood, 19.

Read first time January 20, 2022

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to sanitary drainage districts; to amend
2 sections 31-538, 31-539, 31-540, 31-541, and 77-2704.15, Reissue
3 Revised Statutes of Nebraska, and section 16-6,109, Revised Statutes
4 Cumulative Supplement, 2020; to provide for distribution of funds
5 and property and provide liability for debts and obligations upon
6 discontinuance of certain districts as prescribed; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 16-6,109, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 16-6,109 The powers granted by sections 16-6,106 to 16-6,109 are
4 independent of and in addition to all other grants of powers on the same
5 or related subjects but may be exercised jointly with or supplemented by
6 the powers granted by existing state law, including, but not limited to,
7 sections 16-667 to 16-672.11, 16-680, 16-683, 16-693, 18-401 to 18-411,
8 18-501 to 18-512, 19-1305, 23-320.07 to 23-320.13, and 31-501 to 31-553
9 and section 6 of this act and the Combined Improvement Act.

10 Sec. 2. Section 31-538, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 31-538 (1) The result of such election shall be certified to the
13 county board of the county in which such district is located, and if at
14 such election a majority of the qualified electors actually voting in
15 such sanitary district shall vote in favor of the discontinuance of the
16 activities and work of the district, the trustees of such district shall
17 thereupon cease the performance of their duties as such trustees, and the
18 county board of the county in which such district is located shall
19 thereupon act as trustees ex officio of the district and shall have all
20 the powers, rights, and authority previously vested by law in the
21 trustees of the district, but without additional compensation. ÷
22 ~~Provided,~~

23 (2) Except as otherwise provided in section 6 of this act, all
24 tangible property within the territorial limits of any city or village
25 within such district, and any tangible property serving a particular city
26 or village, such as a sanitary sewage treatment plant, and which could be
27 operated and maintained by the particular city or village so served,
28 shall be transferred and assigned to such city or village which shall,
29 upon an acceptance of such transfer or assignment by its council or board
30 of trustees or other local governing body, be thereafter wholly operated
31 and maintained out of funds appropriated and levied by such city or

1 village.

2 Sec. 3. Section 31-539, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 31-539 Except as otherwise provided in section 6 of this act, all
5 ~~All~~ lawful claims, rights, and demands against such a district, and all
6 contractual obligations of such a district, existing in any person at the
7 time of discontinuance of the activities and work of such district, shall
8 continue to subsist in such person and shall remain the charge and
9 obligation of the sanitary district, ~~and~~ and all claims and demands in
10 favor of such district at the time of the discontinuance of its
11 activities and work, shall subsist in its favor and may be collected in
12 the same manner as might have been theretofore done by the district.

13 Sec. 4. Section 31-540, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 31-540 Except as otherwise provided in section 6 of this act, for
16 ~~For~~ the purpose of discharging obligations of such district incurred
17 prior to the discontinuance of its activities and work as provided in
18 sections 31-501 to 31-534, such district shall continue to have the power
19 to levy taxes as provided in such sections, and thereafter the district
20 shall have the power to levy and collect general taxes in an amount not
21 to exceed one and seven-tenths cents on each one hundred dollars upon the
22 taxable value of all the taxable property in such district and shall have
23 the power to levy special assessments in the manner and to the extent
24 previously vested in such district.

25 Sec. 5. Section 31-541, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 31-541 Except as otherwise provided in section 6 of this act, the
28 ~~The~~ county board of the county within which such district is located
29 shall take possession of all rights and personal property, books, papers
30 and records of such district, and shall discharge the duties within the
31 territorial limits of such district imposed by law upon the district. For

1 the discharge of such services the county board may employ such officers,
2 servants and agents as may be necessary in the manner provided by law.

3 Sec. 6. (1) For a discontinued sanitary district which lies solely
4 within the zoning jurisdiction of a city, title to all funds and all
5 other property and property rights of the discontinued district, and all
6 taxes, assessments, and demands of every kind due or owing to the
7 discontinued district, shall be vested in or paid to and collected by (a)
8 such city or (b), except as specifically provided in subsection (3) of
9 this section, the riverfront development authority established pursuant
10 to section 19-5305 if such city has elected to create a riverfront
11 development district pursuant to section 19-5304.

12 (2) The city or riverfront development authority described in
13 subsection (1) of this section shall also be liable for and recognize,
14 assume, and carry out all valid contracts and obligations of that portion
15 of the discontinued district assumed by such city or authority, including
16 all outstanding bonds, warrants, or other debts and financial
17 obligations.

18 (3) For any discontinuance of a district under subdivision (1)(b) of
19 this section, the riverfront development authority shall only take title
20 to and ownership of that property or those property rights of the
21 discontinued sanitary district contained within the boundaries of the
22 riverfront development district managed by the authority. The city shall
23 take title to and ownership of any discontinued sanitary district
24 property outside the boundaries of such riverfront development district.
25 The city or authority shall thereafter maintain any drainway or drainage
26 or sewage system of that portion of the discontinued district conveyed or
27 transferred to the city or authority.

28 Sec. 7. Section 77-2704.15, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-2704.15 (1)(a) Sales and use taxes shall not be imposed on the
31 gross receipts from the sale, lease, or rental of and the storage, use,

1 or other consumption in this state of purchases by the state, including
2 public educational institutions recognized or established under the
3 provisions of Chapter 85, or by any county, township, city, village,
4 rural or suburban fire protection district, city airport authority,
5 county airport authority, joint airport authority, drainage district
6 organized under sections 31-401 to 31-450, sanitary drainage district
7 organized under sections 31-501 to 31-553 and section 6 of this act, land
8 bank created under the Nebraska Municipal Land Bank Act, natural
9 resources district, county agricultural society, elected county fair
10 board, housing agency as defined in section 71-1575 except for purchases
11 for any commercial operation that does not exclusively benefit the
12 residents of an affordable housing project, cemetery created under
13 section 12-101, or joint entity or agency formed by any combination of
14 two or more counties, townships, cities, villages, or other exempt
15 governmental units pursuant to the Interlocal Cooperation Act, the
16 Integrated Solid Waste Management Act, or the Joint Public Agency Act,
17 except for purchases for use in the business of furnishing gas, water,
18 electricity, or heat, or by any irrigation or reclamation district, the
19 irrigation division of any public power and irrigation district, or
20 public schools or learning communities established under Chapter 79.

21 (b) For purposes of this subsection, purchases by the state or by a
22 governmental unit listed in subdivision (a) of this subsection include
23 purchases by a nonprofit corporation under a lease-purchase agreement,
24 financing lease, or other instrument which provides for transfer of title
25 to the property to the state or governmental unit upon payment of all
26 amounts due thereunder. If a nonprofit corporation will be making
27 purchases under a lease-purchase agreement, financing lease, or other
28 instrument as part of a project with a total estimated cost that exceeds
29 the threshold amount, then such purchases shall qualify for an exemption
30 under this section only if the question of proceeding with such project
31 has been submitted at a primary, general, or special election held within

1 the governmental unit that will be a party to the lease-purchase
2 agreement, financing lease, or other instrument and has been approved by
3 the voters of such governmental unit. For purposes of this subdivision,
4 (i) project means the acquisition of real property or the construction of
5 a public building and (ii) threshold amount means the greater of fifty
6 thousand dollars or six-tenths of one percent of the total actual value
7 of real and personal property of the governmental unit that will be a
8 party to the lease-purchase agreement, financing lease, or other
9 instrument as of the end of the governmental unit's prior fiscal year.

10 (2) The appointment of purchasing agents shall be recognized for the
11 purpose of altering the status of the construction contractor as the
12 ultimate consumer of building materials which are physically annexed to
13 the structure and which subsequently belong to the state or the
14 governmental unit. The appointment of purchasing agents shall be in
15 writing and occur prior to having any building materials annexed to real
16 estate in the construction, improvement, or repair. The contractor who
17 has been appointed as a purchasing agent may apply for a refund of or use
18 as a credit against a future use tax liability the tax paid on inventory
19 items annexed to real estate in the construction, improvement, or repair
20 of a project for the state or a governmental unit.

21 (3) Any governmental unit listed in subsection (1) of this section,
22 except the state, which enters into a contract of construction,
23 improvement, or repair upon property annexed to real estate without first
24 issuing a purchasing agent authorization to a contractor or repairperson
25 prior to the building materials being annexed to real estate in the
26 project may apply to the Tax Commissioner for a refund of any sales and
27 use tax paid by the contractor or repairperson on the building materials
28 physically annexed to real estate in the construction, improvement, or
29 repair.

30 Sec. 8. Original sections 31-538, 31-539, 31-540, 31-541, and
31 77-2704.15, Reissue Revised Statutes of Nebraska, and section 16-6,109,

1 Revised Statutes Cumulative Supplement, 2020, are repealed.