

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 818

Introduced by Linehan, 39.

Read first time January 06, 2022

Committee: Revenue

1 A BILL FOR AN ACT relating to the Sports Arena Facility Financing
2 Assistance Act; to amend sections 13-3102, 13-3103, 13-3104, and
3 13-3108, Revised Statutes Supplement, 2021; to define and redefine
4 terms; to authorize the use of state assistance to pay for nearby
5 parking facilities as prescribed; to change provisions relating to
6 limitations on state assistance; to harmonize provisions; and to
7 repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-3102, Revised Statutes Supplement, 2021, is
2 amended to read:

3 13-3102 For purposes of the Sports Arena Facility Financing
4 Assistance Act:

5 (1) Applicant means:

6 (a) A political subdivision; or

7 (b) A political subdivision and nonprofit organization that jointly
8 submit an application under the act;

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

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

19 (4) Court means a rectangular hard surface primarily used indoors
20 for competitive sports, including, but not limited to, basketball,
21 volleyball, or tennis;

22 (5) Date that the project commenced means the date when a project
23 starts as specified by a contract, resolution, or formal public
24 announcement;

25 (6) Economic redevelopment area means an area in the State of
26 Nebraska in which:

27 (a) The average rate of unemployment in the area during the period
28 covered by the most recent federal decennial census or American Community
29 Survey 5-Year Estimate by the United States Bureau of the Census is at
30 least one hundred fifty percent of the average rate of unemployment in
31 the state during the same period; and

1 (b) The average poverty rate in the area is twenty percent or more
2 for the federal census tract in the area;

3 (7) Eligible sports arena facility means:

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

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

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

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

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

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

1 or rugby;

2 (11) Nearby parking facility means any parking lot, parking garage,
3 or other parking structure that is not directly connected to an eligible
4 sports arena facility but which is located, in whole or in part, within
5 seven hundred yards of an eligible sports arena facility, measured from
6 any point of the exterior perimeter of such facility but not from any
7 other parking facility or other structure;

8 (12) ~~(11)~~ Nearby retailer means a retailer as defined in section
9 77-2701.32 that is located within the program area. The term includes a
10 subsequent owner of a nearby retailer operating at the same location;

11 (13) ~~(12)~~ New state sales tax revenue means:

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

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

23 (ii) The increase in state sales tax revenue that (A) is collected
24 by a nearby retailer that commenced collecting state sales tax prior to
25 twenty-four months prior to the project completion date of the eligible
26 sports arena facility and (B) is sourced under sections 77-2703.01 to
27 77-2703.04 to the program area; or

28 (b) For any eligible sports arena facility that is a sports complex,
29 one hundred percent of the state sales tax revenue that (i) is collected
30 by a nearby retailer that commenced collecting state sales tax during the
31 period of time beginning on the date that the project commenced and

1 ending forty-eight months after the project completion date of the
2 eligible sports arena facility and (ii) is sourced under sections
3 77-2703.01 to 77-2703.04 to the program area;

4 ~~(14)~~ ~~(13)~~ Political subdivision means any city, village, or county;

5 ~~(15)~~ ~~(14)~~ Program area means:

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

8 (i) For applications for state assistance submitted prior to October
9 1, 2016, the area that is located within six hundred yards of an eligible
10 sports arena facility, measured from any point of the exterior perimeter
11 of the facility but not from any parking facility or other structure; or

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

18 (A) It avoids as much of the unbuildable property as is practical;
19 and

20 (B) It contains contiguous property with the same total amount of
21 square footage that the program area would have contained had no
22 adjustment been necessary; or

23 (b) For any eligible sports arena facility that is a sports complex,
24 the area that is located within six hundred yards of an eligible sports
25 arena facility, measured from any point of the exterior boundary or
26 property line of the facility.

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

31 ~~(16)~~ ~~(15)~~ Project completion date means:

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

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

6 (17) ~~(16)~~ Revenue bond means any bond or refunding bond issued by a
7 political subdivision which is limited or special rather than a general
8 obligation bond of the political subdivision and which is not payable
9 from the proceeds of an ad valorem tax;

10 (18) ~~(17)~~ Sports complex means a facility that:

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

12 (b) Is primarily used for competitive sports; and

13 (c) Contains at least:

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

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

18 (iii) Four separate sports venues if such facility is located (A) in
19 a city of the first class, city of the second class, or village, (B)
20 within a county but outside the corporate limits of any city or village,
21 (C) in an economic redevelopment area, or (D) in an opportunity zone
22 designated pursuant to the federal Tax Cuts and Jobs Act, Public Law
23 115-97;

24 (19) ~~(18)~~ Sports venue includes, but is not limited to:

25 (a) A baseball field;

26 (b) A softball field;

27 (c) A multipurpose field;

28 (d) An outdoor stadium primarily used for competitive sports;

29 (e) An outdoor arena primarily used for competitive sports; or

30 (f) An enclosed, temperature-controlled building primarily used for
31 competitive sports. If any such building contains more than one

1 multipurpose field, court, swimming pool, or other facility primarily
2 used for competitive sports, then each such multipurpose field, court,
3 swimming pool, or facility shall count as a separate sports venue; and

4 ~~(20)~~ ~~(19)~~ Unbuildable property means any real property that is
5 located in a floodway, an environmentally protected area, a right-of-way,
6 or a brownfield site as defined in 42 U.S.C. 9601 that the political
7 subdivision determines is not suitable for the construction or location
8 of residential, commercial, or other buildings or facilities.

9 Sec. 2. Section 13-3103, Revised Statutes Supplement, 2021, is
10 amended to read:

11 13-3103 (1) Any applicant that has (a) acquired, constructed,
12 improved, or equipped, (b) approved a revenue bond issue or a general
13 obligation bond issue to acquire, construct, improve, or equip, or (c)
14 adopted a resolution authorizing the applicant to pursue a general
15 obligation bond issue to acquire, construct, improve, or equip an
16 eligible sports arena facility may apply to the board for state
17 assistance.

18 ~~(2)~~ The state assistance shall only be used to pay back amounts
19 expended or borrowed through one or more issues of bonds to be expended
20 by the applicant to acquire, construct, improve, or equip the eligible
21 sports arena facility and to acquire, construct, improve, or equip nearby
22 parking facilities.

23 ~~(3)~~ ~~(2)~~ For applications for state assistance approved on or after
24 October 1, 2016, no more than fifty percent of the final cost of the
25 project shall be funded by state assistance received pursuant to section
26 13-3108.

27 Sec. 3. Section 13-3104, Revised Statutes Supplement, 2021, is
28 amended to read:

29 13-3104 (1) All applications for state assistance under the Sports
30 Arena Facility Financing Assistance Act shall be in writing and shall
31 include a certified copy of the approving action of the governing body of

1 the applicant describing the proposed project for which state assistance
2 is requested and the anticipated financing.

3 (2) The application shall contain:

4 (a) A description of the proposed financing of the project,
5 including the estimated principal and interest requirements for the bonds
6 proposed to be issued in connection with the project or the amounts
7 necessary to repay the original investment by the applicant in the
8 project;

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

13 (c) For applications submitted on or after October 1, 2016, a map
14 identifying the program area, including any unbuildable property within
15 the program area or taken into account in adjusting the program area as
16 described in subdivision ~~(14)(a)(ii)~~ (15)(a)(ii) of section 13-3102; and

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

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

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

23 Sec. 4. Section 13-3108, Revised Statutes Supplement, 2021, is
24 amended to read:

25 13-3108 (1) The Sports Arena Facility Support Fund is created. Any
26 money in the fund available for investment shall be invested by the state
27 investment officer pursuant to the Nebraska Capital Expansion Act and the
28 Nebraska State Funds Investment Act.

29 (2)(a) Upon receiving the certification described in subsection (3)
30 of section 13-3107, the State Treasurer shall transfer the amount
31 certified to the fund.

1 (b) Upon receiving the quarterly certification described in
2 subsection (4) of section 13-3107, the State Treasurer shall transfer the
3 amount certified to the fund.

4 (3)(a) It is the intent of the Legislature to appropriate from the
5 fund money to be distributed as provided in subsections (4) and (5) of
6 this section to any political subdivision for which an application for
7 state assistance under the Sports Arena Facility Financing Assistance Act
8 has been approved an amount not to exceed seventy percent of the (i)
9 state sales tax revenue collected by retailers doing business at eligible
10 sports arena facilities on sales at such facilities, (ii) state sales tax
11 revenue collected on primary and secondary box office sales of admissions
12 to such facilities, and (iii) new state sales tax revenue collected by
13 nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to
14 the program area.

15 (b) The amount to be appropriated for distribution as state
16 assistance to a political subdivision under this subsection for any one
17 year after the tenth year shall not exceed the highest such amount
18 appropriated under subdivision (3)(a) of this section during any one year
19 of the first ten years of such appropriation. If seventy percent of the
20 state sales tax revenue as described in subdivision (3)(a) of this
21 section exceeds the amount to be appropriated under this subdivision,
22 such excess funds shall be transferred to the General Fund.

23 (4) The amount certified under subsection (3) of section 13-3107
24 shall be distributed as state assistance on or before April 15, 2014.

25 (5) Beginning in 2014, quarterly distributions and associated
26 transfers of state assistance shall be made. Such quarterly distributions
27 and transfers shall be based on the certifications provided under
28 subsection (4) of section 13-3107 and shall occur within fifteen days
29 after receipt of such certification.

30 (6) The total amount of state assistance approved for an eligible
31 sports arena facility shall not ~~neither~~ (a) exceed one hundred fifty

1 million dollars nor ~~(b) be paid out for more than twenty years after the~~
2 ~~issuance of the first bond for the sports arena facility.~~

3 (7) State assistance to the political subdivision shall no longer be
4 available upon the retirement of the bonds issued to acquire, construct,
5 improve, or equip the facility or any subsequent bonds that refunded the
6 original issue or when state assistance reaches the amount determined
7 under subsection (6) of this section, whichever comes first.

8 (8) State assistance shall not be used for an operating subsidy ~~or~~
9 ~~other ancillary facility.~~

10 (9) The thirty percent of state sales tax revenue remaining after
11 the appropriation and transfer in subsection (3) of this section shall be
12 appropriated by the Legislature and transferred quarterly as follows:

13 (a) If the revenue relates to an eligible sports arena facility that
14 is a sports complex and that is approved for state assistance under
15 section 13-3106 on or after May 26, 2021, eighty-three percent of such
16 revenue shall be transferred to the Support the Arts Cash Fund and
17 seventeen percent of such revenue shall be transferred to the Convention
18 Center Support Fund; and

19 (b) If the revenue relates to any other eligible sports arena
20 facility, such revenue shall be transferred to the Civic and Community
21 Center Financing Fund.

22 (10) Except as provided in subsection (11) of this section for a
23 city of the primary class, any municipality that has applied for and
24 received a grant of assistance under the Civic and Community Center
25 Financing Act shall not receive state assistance under the Sports Arena
26 Facility Financing Assistance Act for the same project for which the
27 grant was awarded under the Civic and Community Center Financing Act.

28 (11) A city of the primary class shall not be eligible to receive a
29 grant of assistance from the Civic and Community Center Financing Act if
30 the city has applied for and received a grant of assistance under the
31 Sports Arena Facility Financing Assistance Act.

1 Sec. 5. Original sections 13-3102, 13-3103, 13-3104, and 13-3108,
2 Revised Statutes Supplement, 2021, are repealed.