

LEGISLATIVE BILL 172

Approved by the Governor March 8, 1977

Introduced by Bereuter, 24

AN ACT to adopt the Nebraska State Capitol Environs Protection and Improvement Act; to provide severability; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska State Capitol Environs Protection and Improvement Act.

Sec. 2. The Legislature hereby finds that the Nebraska State Capitol and its environs are a source of pride and inspiration to the citizens of the state. It recognizes that the State Capitol, designated as a National Historic Landmark and regarded as one of the architectural masterpieces in the world, owes a major part of its recognition, esteem, and value to the inspiring manner that its high tower physically dominates neighboring buildings and to the fact that it serves as a prominent landmark and focal point for inspiring vistas in the capital city of the state and for many miles beyond. The Legislature further finds that the preservation of the dominant height of the State Capitol in relation to surrounding structures should not only be a concern for the citizens of the city of Lincoln, but for all of the citizens of the state, for the State Capitol is a financial, cultural, and esthetic investment and resource of the entire citizenry. Therefore, the Legislature declares and explains its intention to reclaim certain regulatory powers that it has delegated to municipalities, in this case to the city of Lincoln, by directly imposing maximum height restrictions in the State Capitol environs. The Legislature implements these restrictions for the benefit of all the citizens of Nebraska with the further explanation that the maximum height restrictions being required by section 3 of this act are those which were in effect at the time this legislation was introduced, that the value of real estate in the State Capitol environs has been increased substantially by the proximity of such real estate to the State Capitol and by the investment of state resources in the construction, maintenance, and protection of the State Capitol, that the value of such real estate will undoubtedly continue to increase because of state maintenance and protection of the State Capitol despite, and in part because of, the height restrictions imposed by the city of Lincoln or this act, and that the involvement of the State of Nebraska in the regulation of

structure height in the State Capitol environs through this act, in conjunction with the regulatory power of the city of Lincoln, will inject a greater degree of stability in the governmental process for regulating heights in the State Capitol environs, which will in turn benefit all Nebraska citizens.

Sec. 3. (1) The maximum height of any buildings and structures built after the effective date of this act shall be restricted as follows:

(a) The maximum height of buildings and structures shall be forty-five feet within an area bounded on the west by Seventeenth Street, on the north by K Street, on the east by Capitol Parkway, and on the south by a boundary formed by a line extending directly in a true east direction to Capitol Parkway from the centerpoint of the intersection of Seventeenth and H Streets, all streets in the city of Lincoln, Lancaster County, Nebraska;

(b) The maximum height of buildings and structures shall be forty-five feet within an area bounded on the west by Fourteenth Street, on the north by G Street, on the east by Sixteenth Street, and on the south by Washington Street, all streets in the city of Lincoln, Lancaster County, Nebraska;

(c) The maximum height of the buildings and structures shall be fifty-seven feet within an area bounded on the west by Thirteenth Street, on the north by L Street, on the east by Seventeenth Street, and on the south by G Street, all streets in the city of Lincoln, Lancaster County, Nebraska;

(d) The maximum height of the buildings and structures shall be fifty-seven feet within an area bounded on the west by Fourteenth Street, on the north by R Street, on the east by Sixteenth Street, and on the south by L Street, all streets in the city of Lincoln, Lancaster County, Nebraska; and

(e) The maximum height of the buildings and structures shall be seventy-five feet within an area bounded on the west by Tenth Street, on the north by K Street, on the east by Thirteenth Street, and on the south by H Street, all streets in the city of Lincoln, Lancaster County, Nebraska.

(2) For the purposes of this act, the five areas and the full width of the right-of-way boundary streets described in subsection (1) of this section shall together constitute and be defined as the Nebraska State

Capitol Environs District.

(3) The city of Lincoln shall insure, through its inspection and permit procedures, that the maximum height restrictions prescribed by this section for the Nebraska State Capitol Environs District are enforced.

(4) The height restrictions required by this section shall apply, within the Nebraska State Capitol Environs District, to all real estate in private or quasi-public ownership and to real estate owned by the State of Nebraska and local governmental units of all types.

(5) The following appurtenances shall be exempt from the height restrictions required by this section, but such appurtenances shall not exceed twenty feet in height above the maximum height permitted in subsection (1) of this section and shall be set back a minimum of fifteen feet from all faces of a building when such faces are adjacent to a street: Chimneys, church spires, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, wireless towers, grain elevators, or necessary mechanical appurtenances.

(6) Nothing in this act shall be construed as limiting the authority of the city of Lincoln to impose lower height restrictions than those maximum height limits established by subsection (1) of this section or in establishing lower height restrictions for appurtenances than those required by subsection (5) of this section.

Sec. 4. (1) The State of Nebraska, acting through the Department of Administrative Services, is hereby empowered to expend appropriations authorized by the Legislature and to otherwise participate fully in the planning, construction, and maintenance of all manner of special lighting, landscaping, decorative walkway, fountain, and any other beautification projects in the Nebraska State Capitol Environs District as an individual governmental entity, or in similar projects which are jointly initiated and financed with the city of Lincoln or the county of Lancaster or both governmental bodies in the Nebraska State Capitol Environs District.

(2) The city of Lincoln and the county of Lancaster are hereby empowered to expend their respective funds to participate singly, with each other, and with the State of Nebraska, in the planning, construction, and maintenance of all manner of special lighting, landscaping, decorative walkway, fountain, and any other

beautification projects in the Nebraska State Capitol Environs District. Construction and maintenance projects authorized in this section shall only be implemented on the street and alley rights-of-way in the Nebraska State Capitol Environs District, as such district is defined by subsection (2) of section 3 of this act, and on real estate within the Nebraska State Capitol Environs District which is owned singly by the State of Nebraska, the city of Lincoln, the county of Lancaster, by these three governmental bodies jointly or by any two of such governmental bodies.

(3) Neither the State of Nebraska, city of Lincoln, or county of Lancaster is authorized to utilize eminent domain powers to accomplish the purposes of this act; Provided, that nothing in this act shall prevent the exercise of eminent domain by any governmental entity so empowered to acquire public rights-of-way; and provided further, that this prohibition shall not be construed as deterring any one of the three governmental bodies from utilizing any existing powers it has on projects it undertakes singly.

Sec. 5. The State of Nebraska, city of Lincoln, and county of Lancaster may share in financing such activities in any proportions which are mutually agreeable on a three-party basis, or in any combination of two parties. Such entities are also, jointly, singly, or in any combination, empowered to enter into contracts and to receive and expend funds from any private sources or public body, including the federal government, for the purposes described in section 4 of this act. The State of Nebraska, city of Lincoln, or county of Lancaster may act as a financial agent, project manager, and maintenance agency for one or both of the other governmental bodies in implementing the purposes described in section 4 of this act.

Sec. 6. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 7. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.