

LEGISLATIVE BILL 15

Approved by the Governor February 15, 1991

Introduced by Executive Board: Labedz, 5, Chairperson

AN ACT relating to political subdivisions; to amend sections 2-3201, 2-3228, 2-3235, 3-507, 13-502, 13-908, 13-916, 13-919, 18-2153, and 23-114.05, Reissue Revised Statutes of Nebraska, 1943; to change internal references in provisions relating to natural resources districts, airport authorities, the Nebraska Budget Act, the Political Subdivisions Tort Claims Act, the Community Development Law, and county zoning; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 2-3201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3201. The Legislature hereby recognizes and declares that it is essential to the health and welfare of the people of the State of Nebraska to conserve, protect, develop, and manage the natural resources of this state. The Legislature further recognizes the significant achievements that have been made in the conservation, protection, development, and management of our natural resources; and declares that the most efficient and economical method of accelerating these achievements is by creating natural resources districts encompassing all of the area of the state. ~~7 as provided by this act.~~ The Legislature further declares that the functions ~~heretofore~~ performed by soil and water conservation districts, watershed conservancy districts, watershed districts, advisory watershed improvement boards, and watershed planning boards shall be consolidated and made functions of natural resources districts. ~~The~~ ~~7~~ ~~and~~ ~~the~~ governing boards of such districts and boards shall complete, before July 1, 1972, the necessary transfers and other arrangements so that such boards may, on that date, begin the operation of natural resources districts. ~~7 as provided by this act.~~ The Legislature further declares that other special-purpose districts, including rural water districts, ground water conservation districts, drainage districts, reclamation districts, and irrigation

districts, are hereby encouraged to cooperate with and, where if appropriate, to merge with natural resources districts, created by this act.

Sec. 2. That section 2-3228, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3228. Each district shall have the power and authority to:

(1) Receive and accept donations, gifts, grants, bequests, appropriations, or other contributions in money, services, materials, or otherwise, from the United States or any of its agencies, from the state or any of its agencies or political subdivisions, or from any person, as defined in section 49-801, and use or expend all such contributions in carrying on its operations;

(2) Establish advisory groups by appointing persons within the district, pay necessary and proper expenses of such groups as the board shall determine, and dissolve such groups;

(3) Employ such persons as are necessary to carry out the purposes of this act sections 2-3201 to 2-3259 and, in addition to other compensation provided, establish and fund a pension plan designed and intended for the benefit of all permanent full-time employees of the district. Any recognized method of funding a pension plan may be employed. Employee contribution shall be required to fund at least fifty percent of the benefits, and past service benefits may be included. The district shall pay all costs of any such past service benefits, which may be retroactive to July 1, 1972, and the plan may be integrated with old age and survivors' insurance, generally known as social security. A uniform pension plan, including the method for jointly funding such plan, shall be established for all districts in the state. A district may elect not to participate in such a plan but shall not establish an independent plan;

(4) Purchase liability, property damage, workers' compensation, and other types of insurance as in the judgment of the board are necessary to protect the assets of the district;

(5) Borrow money to carry out the provisions of this act such sections;

(6) Adopt and promulgate rules and regulations to carry out the purposes of this act such sections; and

(7) Invite the local governing body of any municipality or county to designate a representative to advise and counsel with the board on programs and

policies that may affect the property, water supply, or other interests of such municipality or county.

Sec. 3. That section 2-3235, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3235. (1) Each district shall have the power and authority to cooperate with or to enter into agreement with, and, within the limits of appropriations available, to furnish financial or other aid to any cooperator, any agency, governmental or otherwise, or any owner or occupier of lands within the district, for the carrying out of projects for benefit of the district as authorized by ~~this act~~ sections 2-3201 to 2-3259, subject to such conditions as the board may deem necessary to advance the purposes of ~~this act~~ such sections.

(2) As a condition to the extending of any benefits under ~~this act~~ such sections to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits; and may require landowners to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(3) Each district may make available, on such terms as it shall prescribe, to landowners within the district, specialized equipment, materials, and services, which are not readily available from other sources, as and which will assist such landowners to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion. Whenever reasonably possible, purchases or contracts for such equipment shall be made from retail establishments.

Sec. 4. That section 3-507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-507. (1) An authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any corporate purpose in such amounts as may be required to carry out and fully perform the purposes for which such authority is established. Such authorities shall have power, from time to time and whenever refunding is deemed expedient, to issue bonds in amounts sufficient to refund any bonds, including any premiums payable upon the redemption of the bonds to be refunded, by the issuance

of new bonds, whether the bonds to be refunded have or have not matured. It may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. All bonds shall be general obligations of the authority issuing the same and shall be payable out of any revenue, income, receipts, profits, or other money of the authority, unless the authority shall expressly ~~provide~~ provides otherwise in the resolution authorizing ~~their~~ issuance in which event the bonds shall be limited obligations of the authority ~~issuing the same~~ and shall be payable only out of that part of the revenue, income, receipts, profits, or other money of the authority as ~~shall be~~ is specified by the ~~authority~~ in such resolution. All bonds issued pursuant to the ~~provisions of this act~~ Cities Airport Authorities Act shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to any provisions contained in such bonds for the registration of the principal thereof.

(2) All such bonds shall be authorized by a resolution or resolutions of the board and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, and at such place or places within or without the State of Nebraska, and be subject to such terms of redemption and at such redemption premiums as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine. No proceedings for the issuance of bonds of an authority shall be required other than those required by the provisions of this act, and the provisions of all other laws and city charters, if any, relative to the terms and conditions for the issuance, payment, redemption, registration, sale, or delivery of bonds of public bodies, corporations, or political subdivisions of this state shall not be applicable to bonds issued by authorities pursuant to this the act.

(3) Any resolution or resolutions authorizing any bonds or any issue of bonds of an authority may contain covenants and agreements on the part of the

authority to protect and safeguard the security and payment of such bonds, which covenants and agreements shall be a part of the contract with the holders of the bonds thereby authorized, as to:

(a) Pledging all or any part of the revenue, income, receipts, profits, and other money derived by the authority issuing such bonds from the operation, management, or sale of property of any or all such projects of the authority to secure the payment of the bonds or of any issue of the bonds;

(b) The rates, rentals, tolls, charges, license fees, and other fees to be charged by the authority, and the amounts to be raised in each year for the services and commodities sold, furnished, or supplied by the authority, and the use and disposition of the revenue of the authority received therefrom;

(c) The setting aside of reserves or sinking funds and the regulation, investment, and disposition thereof;

(d) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter issued may be applied, and pledging such proceeds to secure the payment of bonds, or of any issue of bonds;

(e) Limitations on the issuance of additional bonds of the authority, the terms and conditions upon which such additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

(f) The procedure if any by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(g) Limitations on the amount of money derived from any project to be expended for operating, administrative, or other expenses of the authority; and

(h) Any other matters, of like or different character, which in any way affect the security or protection of bonds of the authority.

(4) An authority shall have power from time to time to issue bond anticipation notes, referred to as notes herein in the act, and from time to time to issue renewal notes, such notes in any case to mature not later than thirty months from the date of incurring the indebtedness represented thereby in an amount not exceeding the total estimated cost of the project for which the notes are to be issued including issuance expenses. Payment of such notes shall be made from any money or revenue which the authority may have available

for such purpose or from the proceeds of the sale of bonds of the authority, or such notes may be exchanged for a like amount of such bonds. The authority may pledge such money or revenue of the authority, subject to prior pledges thereof, if any, for the payment of such notes, and may in addition secure the notes in the same manner as herein provided for bonds in this section. All notes shall be issued and sold in the same manner as bonds, and any authority shall have power to make contracts for the future sale from time to time of notes on terms and conditions stated in such contracts. The , and the authority shall have power to pay such consideration as it shall deem proper for any commitments to purchase notes in the future. Such notes may also be collaterally secured by pledges and deposits with a bank or trust company, in trust for the payment of such notes, of bonds in an aggregate amount at least equal to the amount of such notes and, in any event, in an amount deemed by the issuing authority sufficient to provide for the payment of the notes in full at the maturity thereof. The authority issuing such notes may provide in the collateral agreement that the notes may be exchanged for bonds held as collateral security for the notes, or that the trustee may sell the bonds if the notes are not otherwise paid at maturity, and apply the proceeds of such sale to the payment of the notes. The notes may be sold at public or private sale for such price or prices as the authority shall determine.

(5) It is the intention hereof that any pledge of revenue, income, receipts, profits, charges, fees, or other money made by an authority for the payment of bonds shall be valid and binding from the time such pledge is made, that the revenue, income, receipts, profits, charges, fees, and other money so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without the physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(6) Neither the members of a board nor any person executing bonds or notes shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

(7) An authority shall have power out of any funds available therefor to purchase bonds or notes of such authority. Any bonds so purchased may be held, canceled, or resold by the authority subject to and in accordance with any agreements with bondholders.

Sec. 5. That section 13-502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-502. (1) The purpose of ~~this act~~ the Nebraska Budget Act is to require governing bodies of this state to which ~~this the~~ act applies to follow prescribed budget practices and procedures and make available to the public pertinent information pertaining to the financial requirements and expectations of such governing bodies so that intelligent and informed support, opposition, criticism, suggestions, or observations can be made by those affected.

(2) ~~The~~ PROVIDED, that this act shall not apply to governing bodies which have a budget of less than five thousand dollars per year.

Sec. 6. That section 13-908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-908. Except as otherwise provided in ~~this act~~ the Political Subdivisions Tort Claims Act, in all suits brought under ~~this the~~ act, the political subdivision shall be liable in the same manner, and to the same extent as a private individual under like circumstances, except that no writ of execution shall issue against a political subdivision. Disposition of or offer to settle any claim made under ~~this the~~ act shall not be competent evidence of liability of the political subdivision or any employee or ~~the~~ amount of damages.

Sec. 7. That section 13-916, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-916. The governing body of any political subdivision, including any school district, educational service unit, or technical community college, may purchase a policy of liability insurance insuring against all or any part of the liability which might be incurred under ~~this act~~, the Political Subdivisions Tort Claims Act and also may purchase insurance covering those claims specifically excepted from the coverage of ~~this the~~ act by section 13-910. Any independent or autonomous board or commission in the political subdivision having authority to disburse funds for a particular purpose of the subdivision without approval

of the governing body also may procure liability insurance within the field of its operation. The procurement of insurance shall constitute a waiver of the defense of governmental immunity as to those exceptions listed in section 13-910 to the extent, and only to the extent, stated in such policy. The existence or lack of insurance shall not be material in the trial of any suit except to the extent necessary to establish any such waiver. Whenever a claim or suit against a political subdivision is covered by liability insurance or by group self-insurance provided by a risk management pool, the provisions of the insurance policy on defense and settlement or the provisions of the agreement forming the risk management pool and related documents providing for defense and settlement of claims covered under such group self-insurance shall be applicable notwithstanding any inconsistent provisions of ~~this the~~ act.

Sec. 8. That section 13-919, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-919. (1) Every claim against a political subdivision permitted under ~~this act~~ the Political Subdivisions Tort Claims Act shall be forever barred, unless within one year after such claim accrued, the claim is made in writing to the governing body. Except as otherwise provided in this section, all suits permitted by ~~this the~~ act shall be forever barred unless begun within two years after such claim accrued. The time to begin a suit ~~under this act~~ shall be extended for a period of six months from the date of mailing of notice to the claimant by the governing body as to the final disposition of the claim or from the date of withdrawal of the claim from the governing body under section 13-906, if the time to begin suit would otherwise expire before the end of such period.

(2) If a claim is made or filed under any other law of this state and a determination is made by a political subdivision or court that ~~this the~~ act provides the exclusive remedy for the claim, the time to make a claim and to begin suit under ~~this the~~ act shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by the political subdivision, if the time to make the claim and to begin suit under ~~this the~~ act would otherwise expire before the end of such period. The time to begin suit ~~under this act~~ may be further extended as provided in subsection (1) of this section.

(3) If a claim is made or a suit is begun under ~~this the~~ act, and if a determination is made by the political subdivision or by the court that the claim or suit is not permitted under ~~this the~~ act for any other reason than lapse of time, the time to make a claim or to begin a suit under any other applicable law of this state shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by the political subdivision, if the time to make the claim or begin the suit under such other law would otherwise expire before the end of such period.

(4) If a claim is brought under the Nebraska Hospital-Medical Liability Act, the filing of a request for review under section 44-2840 shall extend the time to begin suit under the Political Subdivisions Tort Claims Act an additional ninety days following the issuance of the opinion by the medical review panel if the time to begin suit under the Political Subdivisions Tort Claims Act would otherwise expire before the end of such ninety-day period.

(5) This section and section 25-213 shall be the only statutes of limitations applicable to tort claims as defined in ~~this the~~ act.

Sec. 9. That section 18-2153, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-2153. The powers conferred by ~~this act sections 18-2147 to 18-2153~~ shall be in addition and supplemental to the powers conferred by ~~sections 18-2101 to 18-2144; the Community Development Law~~ and by any other law and shall be independent of and in addition to any other provision of the laws of the State of Nebraska with reference to the matters covered hereby. The provisions of ~~this act such sections~~ and all grants of power, authority, rights, or discretion to a city or village and to an authority created under the provisions of ~~this act the Community Development Law~~ shall be liberally construed, and all incidental powers necessary to carry into effect the provisions of such sections are hereby expressly granted to and conferred upon a city or village or an authority created pursuant to ~~sections 18-2101 to 18-2144; and this act the Community Development Law.~~

Sec. 10. That section 23-114.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-114.05. The erection, construction,

reconstruction, alteration, repair, conversion, maintenance, or use of any building, structure, automobile trailer, or land in violation of this act sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02, 23-373, and 23-376 or of any regulation made by the county board under the provisions of this act such sections shall be a misdemeanor. Any person, partnership, association, club, or corporation violating the provisions of this act such sections or of any regulation of the county board, or erecting, constructing, reconstructing, altering, or converting any structure without having first obtained a permit as required by the provisions of this act, shall be guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense. In addition to other remedies, the county board or the proper local authorities of the county, as well as any owner or owners of real estate within the district affected by the regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, or to prevent the illegal act, conduct, business, or use in or about such premises. Any taxpayer or taxpayers of the county may institute proceedings to compel specific performance, by the proper official or officials, of any duty imposed by the provisions of this act such sections or in resolutions adopted pursuant to the provisions of this act such sections.

Sec. 11. That original sections 2-3201, 2-3228, 2-3235, 3-507, 13-502, 13-908, 13-916, 13-919, 18-2153, and 23-114.05, Reissue Revised Statutes of Nebraska, 1943, are repealed.