

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 425

Introduced by Lautenbaugh, 18.

Read first time January 14, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to industrial areas; to amend sections 13-1111,
2 13-1112, 13-1113, 13-1114, 13-1115, 13-1116, 13-1117,
3 13-1118, 13-1119, 13-1120, and 13-1121, Reissue Revised
4 Statutes of Nebraska; to change provisions relating to
5 real estate tracts and the designation of industrial
6 areas as prescribed; and to repeal the original sections.

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

1 Section 1. Section 13-1111, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-1111 As used in sections 13-1111 to 13-1120, unless
4 the context otherwise requires:

5 (1) Industrial area ~~shall mean~~ means a tract of ~~land~~ real
6 estate used or reserved for the location of industry, except that
7 such ~~land~~ real estate may be used for agricultural purposes until the
8 use is converted for the location of industry as set forth in
9 sections 13-1111 to 13-1120; and

10 (2) ~~industry shall mean~~ Industry means (a) any enterprise
11 whose primary function, based on total annual gross receipts, is to
12 manufacture, process, assemble, or blend any agricultural,
13 manufactured, mineral, or chemical products; (b) any enterprise that
14 has as its primary function that of ~~storing,~~ warehousing, or
15 ~~distributing, and specifically excluding those operations whose~~
16 ~~primary function is to directly sell to the general public;~~ any
17 agricultural, manufactured, mineral, or chemical products; or (c) any
18 enterprise whose primary function is to research in connection with
19 ~~any of the foregoing, or primarily exists for the purpose of~~
20 ~~developing new products or new processes, to develop~~ new products or
21 new processes, or ~~improving~~ to improve existing products or ~~known~~
22 existing processes concerning agricultural, manufactured, mineral, or
23 chemical products. Industry does not include any enterprise involved
24 in the retail sale of its service, product, or process directly to
25 the general public.

1 The owner or owners of any contiguous tract of real
2 estate containing twenty acres or more, no part of which is within
3 the boundaries of any ~~incorporated city or village, municipality,~~
4 except cities of the metropolitan or primary class, may file or cause
5 to be filed with the county clerk of the county in which the greater
6 portion of such real estate tract is situated if situated in more
7 than one county, an application requesting the county board of such
8 county to designate such contiguous real estate tract as an
9 industrial area under sections 13-1111 to 13-1120.

10 Sec. 2. Section 13-1112, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 13-1112 Upon filing the petition under ~~the provisions of~~
13 section 13-1111, the county clerk, or if the real estate tract is
14 situated in more than one county, the county clerk of the county
15 having the greater portion of such real estate tract, shall notify
16 such municipal legislative bodies in whose area of zoning
17 jurisdiction an industrial tract is located in whole or in part as
18 shall have developed a comprehensive development plan and shall be
19 exercising zoning jurisdiction in the area concerned. Such
20 notification shall request approval or disapproval by the municipal
21 legislative body of the designation of such tract within thirty days
22 after receipt of such notification, which approval may be conditioned
23 upon terms agreed to between the ~~city~~ municipality and county. The
24 designation of any real estate tract as an industrial area shall be
25 in compliance with the zoning ordinances, subdivision regulations,

1 and appropriate ordinances and regulations of such ~~city or village.~~
2 municipality. If formal reply to the notification of the county
3 board's intention to designate such tract as an industrial area is
4 not received within thirty days, the county board shall construe such
5 inaction as approval of such designation.

6 Sec. 3. Section 13-1113, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 13-1113 Upon filing the petition, the county clerk, or,
9 if the real estate tract is situated in more than one county, the
10 county clerk of the county having the greater portion of such real
11 estate tract, shall designate and endorse thereon a day for the
12 hearing and determination of the petition by the county board of such
13 county which date shall not be less than thirty days nor more than
14 ninety days subsequent to the filing of ~~said~~ the petition. The county
15 clerk shall publish a notice once each week three successive weeks in
16 ~~some~~ a newspaper published and of general circulation in the county
17 or counties in which the real estate tract is located and, if no
18 newspaper is published in the county or counties, such notice shall
19 be published in ~~some~~ a newspaper having a general circulation
20 therein. The notice shall state the time and place of hearing and the
21 ~~land~~ real estate tract affected thereby.

22 Sec. 4. Section 13-1114, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 13-1114 At the time fixed in the notice or on any
25 adjourned day thereafter, any person interested may appear and be

1 heard at a public hearing before the county board of the county in
2 which the petition is filed. After such hearing, if the county board
3 ~~shall find~~ finds from the evidence produced that (1) such real estate
4 tract is suitable for use as an industrial area, (2) it will be
5 generally beneficial to the community, and (3) the owners of all the
6 ~~land~~ real estate embraced therein have consented to such designation,
7 such board shall designate such real estate tract as an industrial
8 area and cause a certified copy of such order to be filed and
9 recorded in the offices of the county assessor and the register of
10 deeds of the county or counties in which the real estate tract is
11 situated. If such real estate tract is located in whole or in part
12 within an unincorporated area over which any ~~city or village~~
13 municipality exercises zoning control, the designation of such real
14 estate tract as an industrial area must first be approved by the
15 municipal legislative body.

16 Sec. 5. Section 13-1115, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 13-1115 Upon designation of such real estate tract as an
19 industrial area by the county board of the county in which the
20 petition is filed, such designated area shall thereupon be used or
21 reserved for the location of industry. Such ~~land~~ real estate tract
22 may be used for agricultural purposes until the use is converted for
23 the location of industry as set forth in sections 13-1111 to 13-1120.
24 If such real estate tract has ~~a~~ an assessed taxable valuation of more
25 than ~~two hundred eighty six thousand~~ fifteen million dollars, it

1 shall not be subject to inclusion within the boundaries of any
2 incorporated city of the first or second class or village, except
3 that such real estate tract regardless of taxable valuation may be
4 annexed if (1) it is located in a county with a population in excess
5 of one hundred thousand persons, ~~and the city or village did not~~
6 ~~approve the original designation of such tract as an industrial area~~
7 ~~pursuant to section 13-1112,~~ (2) the annexation is stipulated in the
8 terms and conditions agreed upon between the county and the ~~city or~~
9 ~~village~~ municipality in any agreement entered into pursuant to
10 section 13-1112, or (3) the owners of a majority in value of the
11 property in such real estate tract as shown upon the last preceding
12 county assessment roll consent to such inclusion in writing or
13 petition the ~~city council or village board~~ municipality to annex such
14 area.

15 Sec. 6. Section 13-1116, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 13-1116 During the period any area is designated as an
18 industrial area as provided by sections 13-1111 to 13-1120, the
19 county board in which the greater area of the real estate tract is
20 located shall have exclusive jurisdiction for zoning and otherwise
21 regulating the use of the industrial area in such a way as to confer
22 upon the owners and users thereof the benefits of a designated real
23 estate tract to be held and reserved for industrial purposes only.
24 Such ~~÷ Provided, such~~ authority shall not be granted to the county
25 board if the zoning of such designated area is within the

1 jurisdiction of any ~~city or village.~~ municipality.

2 Sec. 7. Section 13-1117, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 13-1117 During the time any real estate tract is
5 designated as an industrial area, as provided by sections 13-1111 to
6 13-1120, the owners of such designated area shall provide at their
7 expense for water, electricity, sewer, and fire and police
8 protection.

9 Sec. 8. Section 13-1118, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 13-1118 The boundaries of the designated industrial area
12 may be changed to include other ~~tracts of~~ real estate tracts
13 containing not less than ten acres when contiguous to the area
14 designated as an industrial area by filing a petition, publishing a
15 notice thereof, and having a hearing on the petition in the same
16 manner as when an original petition to designate a contiguous real
17 estate tract as an industrial area is filed. The county board of the
18 county in which the petition was filed shall designate such
19 additional real estate tract in the industrial area to which the real
20 estate tract is to be attached if the board ~~shall find~~ finds that the
21 conditions of ~~the provisions of~~ section 13-1114 are complied with.
22 After such designation by such county board, such real estate tract
23 that is designated as part of the industrial area shall be governed
24 by ~~the provisions of~~ sections 13-1111 to 13-1120 as though it was
25 part of the original designated real estate tract as an industrial

1 area.

2 Sec. 9. Section 13-1119, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 13-1119 The boundaries of a designated industrial area
5 may be changed to exclude one or more real estate tracts, or parts of
6 the real estate tracts, ~~of real estate~~ within the area upon the
7 request of the owner or owners of the real estate tracts, or parts of
8 the real estate tracts, proposed to be excluded, and by the owners
9 filing a petition, publishing a notice thereof, and having a hearing
10 on the petition in the same manner as when an original petition to
11 designate a contiguous real estate tract as an industrial area is
12 filed. The county clerk of the county in which the real estate tract
13 proposed to be excluded is situated shall cause a copy of the
14 published notice to be mailed by certified mail, within five days
15 after the first publication of the notice, to each of the owners of
16 record and other persons, if any, in possession of the real estate
17 tract not proposed to be excluded from the industrial area, whose
18 addresses are known to the county clerk. After the hearing, if the
19 county board ~~shall find~~ finds that the best interests of the
20 community and the industrial area will be served by the exclusion of
21 the real estate tracts, the county board shall enter an order
22 excluding the real estate tracts, or parts of the real estate tracts,
23 requested to be excluded. When a certified copy of such order is
24 filed with the register of deeds and county assessor of the county or
25 counties in which the real estate tract excluded is located, such

1 real estate tracts, or parts of the real estate tracts, shall no
2 longer be an industrial area.

3 Sec. 10. Section 13-1120, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 13-1120 When the owner or owners of all of the contiguous
6 real estate tracts of ~~real estate~~ designated as an industrial area as
7 provided by sections 13-1111 to 13-1118, ~~shall~~ file with the county
8 board of the county in which such real estate ~~is~~ tracts are located,
9 or the greater portion of such real estate tracts, a petition
10 requesting that the designation of the whole of the real estate
11 tracts as an industrial area be terminated, the county board shall
12 enter an order determining that such real estate tracts shall no
13 longer be considered an industrial area. When a certified copy of
14 such order is filed with the register of deeds and the county
15 assessor of the county or counties in which the real estate ~~is~~ tracts
16 are located, such real estate tracts shall no longer be considered an
17 industrial area.

18 Sec. 11. Section 13-1121, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 13-1121 Beginning in 1980 and every even-numbered year
21 thereafter during the month of March, the appropriate county board
22 may, of its own volition, or shall, at the request of the municipal
23 governing body having zoning jurisdiction over the designated
24 industrial ~~tract~~, area, review any or all real estate tracts, or
25 portions of such real estate tracts, contained in any industrial

1 ~~areas~~ area in its jurisdiction. When the review is at the request of
2 the municipal governing body having zoning jurisdiction over the
3 designated industrial ~~tract,~~ area, the county board shall notify such
4 municipal governing body of the date, time, and location of the
5 review hearing. ~~If the~~ The county board ~~determines during the review~~
6 ~~that there is a problem with the industrial area designation~~ shall
7 notify the owner of any real estate tract, or a portion of such real
8 estate tract, the county board shall give notice of a such review
9 hearing. The notice shall be sent to the real estate tract owner by
10 certified mail and shall be published on at least one occasion in a
11 newspaper published and of general circulation in the county or
12 counties in which the real estate tract is located, and if no such
13 newspaper exists, the notice shall be published in a newspaper having
14 a general circulation therein. If the owner of the real estate tract
15 is by registered or certified mail to the owners of the tract, or a
16 portion of such tract, if such owners are known, within ninety days
17 prior to the hearing, and if the owners are not known or cannot be
18 located, then by publishing the county board shall publish a notice
19 three successive weeks in some a newspaper published and of general
20 circulation in the county or counties in which the real estate tract
21 is located, and if no such newspaper is published in the county, such
22 notice shall be published in some a newspaper having a general
23 circulation in such county. ~~If after the hearing the county board~~
24 ~~finds that the industrial area or a portion thereof is no longer~~
25 ~~suitable for industrial purposes, or~~ The review hearing shall be held

1 within ninety days after the request from the municipal governing
2 body. At the hearing, the county board shall determine if the real
3 estate tract is no longer eligible for the industrial area
4 designation, is being used for a nonindustrial enterprises, or
5 enterprise, has had no improvements or industrial buildings thereon
6 within seven years from the date of the original industrial area
7 designation, or is not in compliance with the zoning ordinances of
8 any city or village municipality exercising zoning control of it, or
9 is not platted in accordance with such zoning ordinances, or is no
10 longer in compliance with the definition of industry as set forth in
11 section 13-1111. If the county board determines that the real estate
12 tract is no longer eligible for the industrial area designation, the
13 board shall enter a written order removing such designation from the
14 real estate tract, or the portion of the real estate tract. , such
15 county board shall remove the designation of industrial area from
16 such tract or portion of such tract. Any real estate tract or portion
17 of such real estate tract used or reserved for industry prior to
18 August 24, 1979, shall not be removed from the industrial area
19 designation against the wishes of its owners as long as the use of
20 such real estate tract or portion continues to be in compliance with
21 the definition of industry as set forth in section 13-1111. A
22 certified copy of such written order shall be filed with the register
23 of deeds and the county assessor of the county or counties in which
24 the real estate tract is located.

25 Sec. 12. Original sections 13-1111, 13-1112, 13-1113,

- 1 13-1114, 13-1115, 13-1116, 13-1117, 13-1118, 13-1119, 13-1120, and
- 2 13-1121, Reissue Revised Statutes of Nebraska, are repealed.