

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 324

Introduced by McCollister, 20; Coash, 27; Craighead, 6; Crawford, 45;
Ebke, 32; Hughes, 44.

Read first time January 15, 2015

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to sanitary and improvement districts; to
- 2 amend sections 31-727, 31-729, and 31-740, Reissue Revised Statutes
- 3 of Nebraska; to provide authorization to contract for solid waste
- 4 collection services; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-727, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 31-727 (1)(a) A majority of the owners having an interest in the
4 real property within the limits of a proposed sanitary and improvement
5 district, situated in one or more counties in this state, may form a
6 sanitary and improvement district for the purposes of installing electric
7 service lines and conduits, a sewer system, a water system, an emergency
8 management warning system, a system of sidewalks, public roads, streets,
9 and highways, public waterways, docks, or wharfs, and related
10 appurtenances, contracting for water for fire protection and for resale
11 to residents of the district, contracting for police protection and
12 security services, contracting for solid waste collection services,
13 contracting for access to the facilities and use of the services of the
14 library system of one or more neighboring cities or villages, and
15 contracting for gas and for electricity for street lighting for the
16 public streets and highways within such proposed district, constructing
17 and contracting for the construction of dikes and levees for flood
18 protection for the district, and acquiring, improving, and operating
19 public parks, playgrounds, and recreational facilities.

20 (b) The sanitary and improvement district may also contract with a
21 county within which all or a portion of such sanitary and improvement
22 district is located or a city within whose zoning jurisdiction such
23 sanitary and improvement district is located for any public purpose
24 specifically authorized in this section.

25 (c) Sanitary and improvement districts located in any county which
26 has a city of the metropolitan class within its boundaries or in any
27 adjacent county which has adopted a comprehensive plan may contract with
28 other sanitary and improvement districts to acquire, build, improve, and
29 operate public parks, playgrounds, and recreational facilities for the
30 joint use of the residents of the contracting districts.

31 (d) Nothing in this section shall authorize districts to purchase

1 electric service and resell the same.

2 (e) The district, in lieu of establishing its own water system, may
3 contract with any utilities district, municipality, or corporation for
4 the installation of a water system and for the provision of water service
5 for fire protection and for the use of the residents of the district.

6 (f) For the purposes listed in this section, such majority of the
7 owners may make and sign articles of association in which shall be stated
8 (i) the name of the district, (ii) that the district will have perpetual
9 existence, (iii) the limits of the district, (iv) the names and places of
10 residence of the owners of the land in the proposed district, (v) the
11 description of the several tracts of land situated in the district owned
12 by those who may organize the district, (vi) the name or names and the
13 description of the real estate owned by such owners as do not join in the
14 organization of the district but who will be benefited thereby, and (vii)
15 whether the purpose of the corporation is installing gas and electric
16 service lines and conduits, installing a sewer system, installing a water
17 system, installing a system of public roads, streets, and highways,
18 public waterways, docks, or wharfs, and related appurtenances,
19 contracting for water for fire protection and for resale to residents of
20 the district, contracting for police protection and security services,
21 contracting for solid waste collection services, contracting for access
22 to the facilities and use of the services of the library system of one or
23 more neighboring cities or villages, contracting for street lighting for
24 the public streets and highways within the proposed district,
25 constructing or contracting for the construction of dikes and levees for
26 flood protection of the proposed district, acquiring, improving, and
27 operating public parks, playgrounds, and recreational facilities, or,
28 when permitted by this section, contracting with other sanitary and
29 improvement districts to acquire, build, improve, and operate public
30 parks, playgrounds, and recreational facilities for the joint use of the
31 residents of the contracting districts, contracting for any public

1 purpose specifically authorized in this section, or combination of any
2 one or more of such purposes, or all of such purposes. Such owners of
3 real estate as are unknown may also be set out in the articles as such.

4 (g) No sanitary and improvement district may own or hold land in
5 excess of ten acres, unless such land so owned and held by such district
6 is actually used for a public purpose, as provided in this section,
7 within three years of its acquisition. Any sanitary and improvement
8 district which has acquired land in excess of ten acres in area and has
9 not devoted the same to a public purpose, as set forth in this section,
10 within three years of the date of its acquisition, shall devote the same
11 to a use set forth in this section or shall divest itself of such land.
12 When a district divests itself of land pursuant to this section, it shall
13 do so by sale at public auction to the highest bidder after notice of
14 such sale has been given by publication at least three times for three
15 consecutive weeks prior to the date of sale in a legal newspaper of
16 general circulation within the area of the district.

17 (2) The articles of association shall further state that the owners
18 of real estate so forming the district for such purposes are willing and
19 obligate themselves to pay the tax or taxes which may be levied against
20 all the property in the district and special assessments against the real
21 property benefited which may be assessed against them to pay the expenses
22 that may be necessary to install a sewer or water system or both a sewer
23 and water system, the cost of water for fire protection, the cost of
24 grading, changing grade, paving, repairing, graveling, regravelling,
25 widening, or narrowing sidewalks and roads, resurfacing or relaying
26 existing pavement, or otherwise improving any public roads, streets, or
27 highways within the district, including protecting existing sidewalks,
28 streets, highways, and roads from floods or erosion which has moved
29 within fifteen feet from the edge of such sidewalks, streets, highways,
30 or roads, regardless of whether such flooding or erosion is of natural or
31 artificial origin, the cost of constructing public waterways, docks, or

1 wharfs, and related appurtenances, the cost of constructing or
2 contracting for the construction of dikes and levees for flood protection
3 for the district, the cost of contracting for water for fire protection
4 and for resale to residents of the district, the cost of contracting for
5 police protection and security services, the cost of contracting for
6 solid waste collection services, the cost of contracting for access to
7 the facilities and use of the services of the library system of one or
8 more neighboring cities or villages, the cost of electricity for street
9 lighting for the public streets and highways within the district, the
10 cost of installing gas and electric service lines and conduits, the cost
11 of acquiring, improving, and operating public parks, playgrounds, and
12 recreational facilities, and, when permitted by this section, the cost of
13 contracting for building, acquiring, improving, and operating public
14 parks, playgrounds, and recreational facilities, and the cost of
15 contracting for any public purpose specifically authorized in this
16 section, as provided by law.

17 (3) The articles shall propose the names of five or more trustees
18 who are (a) owners of real estate located in the proposed district or (b)
19 designees of the owners if the real estate is owned by a limited
20 partnership, a general partnership, a limited liability company, a
21 public, private, or municipal corporation, an estate, or a trust. These
22 five trustees shall serve as a board of trustees until their successors
23 are elected and qualified if such district is organized. No corporation
24 formed or hereafter formed shall perform any new functions, other than
25 those for which the corporation was formed, without amending its articles
26 of association to include the new function or functions.

27 (4) After the articles are signed, the same shall be filed in the
28 office of the clerk of the district court of the county in which such
29 sanitary and improvement district is located or, if such sanitary and
30 improvement district is composed of tracts or parcels of land in two or
31 more different counties, in the office of the clerk of the district court

1 for the county in which the greater portion of such proposed sanitary and
2 improvement district is located, together with a petition praying that
3 the same may be declared a sanitary and improvement district under
4 sections 31-727 to 31-762.

5 (5) Notwithstanding the repeal of sections 31-701 to 31-726.01 by
6 Laws 1996, LB 1321:

7 (a) Any sanitary and improvement district organized pursuant to such
8 sections and in existence on July 19, 1996, shall, after August 31, 2003,
9 be treated for all purposes as if formed and organized pursuant to
10 sections 31-727 to 31-762;

11 (b) Any act or proceeding performed or conducted by a sanitary and
12 improvement district organized pursuant to such repealed sections shall
13 be deemed lawful and within the authority of such sanitary and
14 improvement district to perform or conduct after August 31, 2003; and

15 (c) Any trustees of a sanitary and improvement district organized
16 pursuant to such repealed sections and lawfully elected pursuant to such
17 repealed sections or in conformity with the provisions of sections 31-727
18 to 31-762 shall be deemed for all purposes, on and after August 31, 2003,
19 to be lawful trustees of such sanitary and improvement district for the
20 term provided by such sections. Upon the expiration of the term of office
21 of a trustee or at such time as there is a vacancy in the office of any
22 such trustee prior to the expiration of his or her term, his or her
23 successors or replacement shall be elected pursuant to sections 31-727 to
24 31-762.

25 (6) For the purposes of sections 31-727 to 31-762 and 31-771 to
26 31-780, unless the context otherwise requires:

27 (a) Public waterways means artificially created boat channels
28 dedicated to public use and providing access to navigable rivers or
29 streams;

30 (b) Operation and maintenance expenses means and includes, but is
31 not limited to, salaries, cost of materials and supplies for operation

1 and maintenance of the district's facilities, cost of ordinary repairs,
2 replacements, and alterations, cost of surety bonds and insurance, cost
3 of audits and other fees, and taxes;

4 (c) Capital outlay means expenditures for construction or
5 reconstruction of major permanent facilities having an expected long
6 life, including, but not limited to, street paving and curbs, storm and
7 sanitary sewers, and other utilities;

8 (d) Warrant means an investment security under article 8, Uniform
9 Commercial Code, in the form of a short-term, interest-bearing order
10 payable on a specified date issued by the board of trustees or
11 administrator of a sanitary and improvement district to be paid from
12 funds expected to be received in the future, and includes, but is not
13 limited to, property tax collections, special assessment collections, and
14 proceeds of sale of general obligation bonds;

15 (e) General obligation bond means an investment security under
16 article 8, Uniform Commercial Code, in the form of a long-term, written
17 promise to pay a specified sum of money, referred to as the face value or
18 principal amount, at a specified maturity date or dates in the future,
19 plus periodic interest at a specified rate; and

20 (f) Administrator means the person appointed by the Auditor of
21 Public Accounts pursuant to section 31-771 to manage the affairs of a
22 sanitary and improvement district and to exercise the powers of the board
23 of trustees during the period of the appointment to the extent prescribed
24 in sections 31-727 to 31-780.

25 Sec. 2. Section 31-729, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 31-729 All owners of real estate situated in the proposed district
28 who have not signed the articles of association and who may object to the
29 organization of the district or to any one or more of the proposed
30 trustees shall, on or before the time in which they are required to
31 answer, file any such objection in writing, stating (1) why such sanitary

1 and improvement district should not be organized and declared a public
2 corporation in this state, (2) why their land will not be benefited by
3 the installation of a sewer or water system, or both a sewer and water
4 system, a system of sidewalks, public roads, streets, and highways,
5 public waterways, docks or wharfs, and related appurtenances, and gas and
6 electricity for street lighting for the public streets and highways
7 within the district, by the contracting for solid waste collection
8 services, by the construction or contracting for the construction of
9 dikes and levees for flood protection for the district, gas or electric
10 service lines and conduits, and water for fire protection and the health
11 and property of the owners protected, by the acquisition, improvement and
12 operation of public parks, playgrounds, and recreational facilities, and,
13 where permitted by section 31-727, by the contracting with other sanitary
14 and improvement districts for the building, acquisition, improvement, and
15 operation of public parks, playgrounds, and recreational facilities for
16 the joint use of the residents of the contracting districts, (3) why
17 their land should not be embraced in the limits of such district, and (4)
18 their objections if any to any one or more of the proposed trustees.

19 Sec. 3. Section 31-740, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 31-740 (1) The board of trustees or the administrator of any
22 district organized under sections 31-727 to 31-762 shall have power to
23 provide for establishing, maintaining, and constructing gas and electric
24 service lines and conduits, an emergency management warning system, water
25 mains, sewers, and disposal plants and disposing of drainage, waste, and
26 sewage of such district in a satisfactory manner; for establishing,
27 maintaining, and constructing sidewalks, public roads, streets, and
28 highways, including grading, changing grade, paving, repaving, graveling,
29 regravelling, widening, or narrowing roads, resurfacing or relaying
30 existing pavement, or otherwise improving any road, street, or highway
31 within the district, including protecting existing sidewalks, streets,

1 highways, and roads from floods or erosion which has moved within fifteen
2 feet from the edge of such sidewalks, streets, highways, or roads,
3 regardless of whether such flooding or erosion is of natural or
4 artificial origin; for establishing, maintaining, and constructing public
5 waterways, docks, or wharfs, and related appurtenances; and for
6 constructing and contracting for the construction of dikes and levees for
7 flood protection for the district.

8 (2) The board of trustees or the administrator of any district may
9 contract for access to the facilities and use of the services of the
10 library system of one or more neighboring cities or villages, for solid
11 waste collection services, and for electricity for street lighting for
12 the public streets and highways within the district and shall have power
13 to provide for building, acquisition, improvement, maintenance, and
14 operation of public parks, playgrounds, and recreational facilities, and,
15 when permitted by section 31-727, for contracting with other sanitary and
16 improvement districts for the building, acquisition, improvement,
17 maintenance, and operation of public parks, playgrounds, and recreational
18 facilities for the joint use of the residents of the contracting
19 districts, and for contracting for any public purpose specifically
20 authorized in this section. Power to construct clubhouses and similar
21 facilities for the giving of private parties within the zoning
22 jurisdiction of any city or village is not included in the powers granted
23 in this section. Any sewer system established shall be approved by the
24 Department of Health and Human Services.

25 (3) Prior to the installation of any of the improvements or services
26 provided for in this section, the plans or contracts for such
27 improvements or services, other than for public parks, playgrounds, and
28 recreational facilities, whether a district acts separately or jointly
29 with other districts as permitted by section 31-727, shall be approved by
30 the public works department of any municipality when such improvements or
31 any part thereof or services are within the area of the zoning

1 jurisdiction of such municipality. If such improvements or services are
2 without the area of the zoning jurisdiction of any municipality, plans
3 for such improvements shall be approved by the county board of the county
4 in which such improvements are located. Plans and exact costs for public
5 parks, playgrounds, and recreational facilities shall be approved by
6 resolution of the governing body of such municipality or county after a
7 public hearing. Purchases of public parks, playgrounds, and recreational
8 facilities so approved may be completed and shall be valid
9 notwithstanding any interest of any trustee of the district in the
10 transaction. Such approval shall relate to conformity with the master
11 plan and the construction specifications and standards established by
12 such municipality or county. When no master plan and construction
13 specifications and standards have been established, such approval shall
14 not be required. When such improvements are within the area of the zoning
15 jurisdiction of more than one municipality, such approval shall be
16 required only from the most populous municipality, except that when such
17 improvements are furnished to the district by contract with a particular
18 municipality, the necessary approval shall in all cases be given by such
19 municipality. The municipality or county shall be required to approve
20 plans for such improvements and shall enforce compliance with such plans
21 by action in equity.

22 (4) The district may construct its sewage disposal plant and other
23 sewerage or water improvements, or both, in whole or in part, inside or
24 outside the boundaries of the district and may contract with corporations
25 or municipalities for disposal of sewage and use of existing sewerage
26 improvements and for a supply of water for fire protection and for resale
27 to residents of the district. It may also contract with any corporation,
28 public power district, electric membership or cooperative association, or
29 municipality for access to the facilities and use of the services of the
30 library system of one or more neighboring cities or villages, for solid
31 waste collection services, for the installation, maintenance, and cost of

1 operating a system of street lighting upon the public streets and
2 highways within the district, for installation, maintenance, and
3 operation of a water system, or for the installation, maintenance, and
4 operation of electric service lines and conduits, and to provide water
5 service for fire protection and use by the residents of the district. It
6 may also contract with any corporation, municipality, or other sanitary
7 and improvement district, as permitted by section 31-727, for building,
8 acquiring, improving, and operating public parks, playgrounds, and
9 recreational facilities for the joint use of the residents of the
10 contracting parties. It may also contract with a county within which all
11 or a portion of such sanitary and improvement district is located or a
12 city within whose zoning jurisdiction the sanitary and improvement
13 district is located for intersection and traffic control improvements,
14 which improvements serve or benefit the district and which may be within
15 or without the corporate boundaries of the district, and for any public
16 purpose specifically authorized in this section.

17 (5) Each sanitary and improvement district shall have the books of
18 account kept by the board of trustees of the district examined and
19 audited by a certified public accountant or a public accountant for the
20 year ending June 30 and shall file a copy of the audit with the office of
21 the Auditor of Public Accounts by December 31 of the same year. Such
22 audits may be waived by the Auditor of Public Accounts upon proper
23 showing by the district that the audit is unnecessary. Such examination
24 and audit shall show (a) the gross income of the district from all
25 sources for the previous year, (b) the amount spent for access to the
26 facilities and use of the services of the library system of one or more
27 neighboring cities or villages, (c) the amount spent for solid waste
28 collection services, (d) the amount spent for sewage disposal, (e) the
29 amount expended on water mains, (f) the gross amount of sewage
30 processed in the district, (g) the cost per thousand gallons of
31 processing sewage, (h) the amount expended each year for (i)

1 maintenance and repairs, (ii) new equipment, (iii) new construction work,
2 and (iv) property purchased, (i h) a detailed statement of all items of
3 expense, (j i) the number of employees, (k j) the salaries and fees paid
4 employees, (l k) the total amount of taxes levied upon the property
5 within the district, and (m l) all other facts necessary to give an
6 accurate and comprehensive view of the cost of carrying on the activities
7 and work of such sanitary and improvement district. The reports of all
8 audits provided for in this section shall be and remain a part of the
9 public records in the office of the Auditor of Public Accounts. The
10 expense of such audits shall be paid out of the funds of the district.
11 The Auditor of Public Accounts shall be given access to all books and
12 papers, contracts, minutes, bonds, and other documents and memoranda of
13 every kind and character of such district and be furnished all additional
14 information possessed by any present or past officer or employee of any
15 such district, or by any other person, that is essential to the making of
16 a comprehensive and correct audit.

17 (6) If any sanitary and improvement district fails or refuses to
18 cause such annual audit to be made of all of its functions, activities,
19 and transactions for the fiscal year within a period of six months
20 following the close of such fiscal year, unless such audit has been
21 waived, the Auditor of Public Accounts shall, after due notice and a
22 hearing to show cause by such district, appoint a certified public
23 accountant or public accountant to conduct the annual audit of the
24 district and the fee for such audit shall become a lien against the
25 district.

26 (7) Whenever the sanitary sewer system or any part thereof of a
27 sanitary and improvement district is directly or indirectly connected to
28 the sewerage system of any city, such city, without enacting an ordinance
29 or adopting any resolution for such purpose, may collect such city's
30 applicable rental or use charge from the users in the sanitary and
31 improvement district and from the owners of the property served within

1 the sanitary and improvement district. The charges of such city shall be
2 charged to each property served by the city sewerage system, shall be a
3 lien upon the property served, and may be collected from the owner or the
4 person, firm, or corporation using the service. If the city's applicable
5 rental or service charge is not paid when due, such sum may be recovered
6 by the municipality in a civil action or it may be assessed against the
7 premises served in the same manner as special taxes or assessments are
8 assessed by such city and collected and returned in the same manner as
9 other municipal special taxes or assessments are enforced and collected.
10 When any such tax or assessment is levied, it shall be the duty of the
11 city clerk to deliver a certified copy of the ordinance to the county
12 treasurer of the county in which the premises assessed are located and
13 such county treasurer shall collect the same as provided by law and
14 return the same to the city treasurer. Funds of such city raised from
15 such charges shall be used by it in accordance with laws applicable to
16 its sewer service rental or charges. The governing body of any city may
17 make all necessary rules and regulations governing the direct or indirect
18 use of its sewerage system by any user and premises within any sanitary
19 and improvement district and may establish just and equitable rates or
20 charges to be paid to such city for use of any of its disposal plants and
21 sewerage system. The board of trustees shall have power, in connection
22 with the issuance of any warrants or bonds of the district, to agree to
23 make a specified minimum levy on taxable property in the district to pay,
24 or to provide a sinking fund to pay, principal and interest on warrants
25 and bonds of the district for such number of years as the board may
26 establish at the time of making such agreement and shall also have power
27 to agree to enforce, by foreclosure or otherwise as permitted by
28 applicable laws, the collection of special assessments levied by the
29 district. Such agreements may contain provisions granting to creditors
30 and others the right to enforce and carry out the agreements on behalf of
31 the district and its creditors.

1 (8) The board of trustees or administrator shall have power to sell
2 and convey real and personal property of the district on such terms as it
3 or he or she shall determine, except that real estate shall be sold to
4 the highest bidder at public auction after notice of the time and place
5 of the sale has been published for three consecutive weeks prior to the
6 sale in a newspaper of general circulation in the county. The board of
7 trustees or administrator may reject such bids and negotiate a sale at a
8 price higher than the highest bid at the public auction at such terms as
9 may be agreed.

10 Sec. 4. Original sections 31-727, 31-729, and 31-740, Reissue
11 Revised Statutes of Nebraska, are repealed.