

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 968**

Introduced by Scheer, 19.

Read first time January 16, 2014

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to sanitary and improvement districts; to amend  
2 section 31-727, Reissue Revised Statutes of Nebraska; to  
3 provide additional powers for certain districts subject  
4 to municipal approval; and to repeal the original  
5 section.  
6 Be it enacted by the people of the State of Nebraska,

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

3                   31-727 (1)(a) A majority of the owners having an interest  
4 in the real property within the limits of a proposed sanitary and  
5 improvement district, situated in one or more counties in this state,  
6 may form a sanitary and improvement district for the purposes of  
7 installing electric service lines and conduits, a sewer system, a  
8 water system, an emergency management warning system, a system of  
9 sidewalks, public roads, streets, and highways, public waterways,  
10 docks, or wharfs, and related appurtenances, contracting for water  
11 for fire protection and for resale to residents of the district,  
12 contracting for police protection and security services, contracting  
13 for access to the facilities and use of the services of the library  
14 system of one or more neighboring cities or villages, and contracting  
15 for gas and for electricity for street lighting for the public  
16 streets and highways within such proposed district, constructing and  
17 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  
21 contract with a county within which all or a portion of such sanitary  
22 and improvement district is located or a city within whose zoning  
23 jurisdiction such sanitary and improvement district is located for  
24 any public purpose specifically authorized in this section.

25                   (c) Sanitary and improvement districts located in any

1 county which has a city of the metropolitan class within its  
2 boundaries or in any adjacent county which has adopted a  
3 comprehensive plan may contract with other sanitary and improvement  
4 districts to acquire, build, improve, and operate public parks,  
5 playgrounds, and recreational facilities for the joint use of the  
6 residents of the contracting districts.

7 (d) Nothing in this section shall authorize districts to  
8 purchase electric service and resell the same.

9 (e) The district, in lieu of establishing its own water  
10 system, may contract with any utilities district, municipality, or  
11 corporation for the installation of a water system and for the  
12 provision of water service for fire protection and for the use of the  
13 residents of the district.

14 (f) For the purposes listed in this section, such  
15 majority of the owners may make and sign articles of association in  
16 which shall be stated (i) the name of the district, (ii) that the  
17 district will have perpetual existence, (iii) the limits of the  
18 district, (iv) the names and places of residence of the owners of the  
19 land in the proposed district, (v) the description of the several  
20 tracts of land situated in the district owned by those who may  
21 organize the district, (vi) the name or names and the description of  
22 the real estate owned by such owners as do not join in the  
23 organization of the district but who will be benefited thereby, and  
24 (vii) whether the purpose of the corporation is installing gas and  
25 electric service lines and conduits, installing a sewer system,

1 installing a water system, installing a system of public roads,  
2 streets, and highways, public waterways, docks, or wharfs, and  
3 related appurtenances, contracting for water for fire protection and  
4 for resale to residents of the district, contracting for police  
5 protection and security services, contracting for access to the  
6 facilities and use of the services of the library system of one or  
7 more neighboring cities or villages, contracting for street lighting  
8 for the public streets and highways within the proposed district,  
9 constructing or contracting for the construction of dikes and levees  
10 for flood protection of the proposed district, acquiring, improving,  
11 and operating public parks, playgrounds, and recreational facilities,  
12 or, when permitted by this section, contracting with other sanitary  
13 and improvement districts to acquire, build, improve, and operate  
14 public parks, playgrounds, and recreational facilities for the joint  
15 use of the residents of the contracting districts, contracting for  
16 any public purpose specifically authorized in this section, or  
17 combination of any one or more of such purposes, or all of such  
18 purposes. Such owners of real estate as are unknown may also be set  
19 out in the articles as such.

20 (g) No sanitary and improvement district may own or hold  
21 land in excess of ten acres, unless such land so owned and held by  
22 such district is actually used for a public purpose, as provided in  
23 this section, within three years of its acquisition. Any sanitary and  
24 improvement district which has acquired land in excess of ten acres  
25 in area and has not devoted the same to a public purpose, as set

1 forth in this section, within three years of the date of its  
2 acquisition, shall devote the same to a use set forth in this section  
3 or shall divest itself of such land. When a district divests itself  
4 of land pursuant to this section, it shall do so by sale at public  
5 auction to the highest bidder after notice of such sale has been  
6 given by publication at least three times for three consecutive weeks  
7 prior to the date of sale in a legal newspaper of general circulation  
8 within the area of the district.

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

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

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

1 new function or functions.

2 (4) After the articles are signed, the same shall be  
3 filed in the office of the clerk of the district court of the county  
4 in which such sanitary and improvement district is located or, if  
5 such sanitary and improvement district is composed of tracts or  
6 parcels of land in two or more different counties, in the office of  
7 the clerk of the district court for the county in which the greater  
8 portion of such proposed sanitary and improvement district is  
9 located, together with a petition praying that the same may be  
10 declared a sanitary and improvement district under sections 31-727 to  
11 31-762.

12 (5) Notwithstanding the repeal of sections 31-701 to  
13 31-726.01 by Laws 1996, LB 1321:

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

18 (b) Any act or proceeding performed or conducted by a  
19 sanitary and improvement district organized pursuant to such repealed  
20 sections shall be deemed lawful and within the authority of such  
21 sanitary and improvement district to perform or conduct after August  
22 31, 2003; and

23 (c) Any trustees of a sanitary and improvement district  
24 organized pursuant to such repealed sections and lawfully elected  
25 pursuant to such repealed sections or in conformity with the

1 provisions of sections 31-727 to 31-762 shall be deemed for all  
2 purposes, on and after August 31, 2003, to be lawful trustees of such  
3 sanitary and improvement district for the term provided by such  
4 sections. Upon the expiration of the term of office of a trustee or  
5 at such time as there is a vacancy in the office of any such trustee  
6 prior to the expiration of his or her term, his or her successors or  
7 replacement shall be elected pursuant to sections 31-727 to 31-762.

8           (6)(a) A sanitary and improvement district that meets the  
9 requirements of this subsection shall have the additional powers  
10 provided for in subdivision (b) of this section, subject to the  
11 approval and restrictions established by a city council or village  
12 board within whose zoning jurisdiction the sanitary and improvement  
13 district is located. The sanitary and improvement district shall be  
14 (i) located in a county with a population greater than five thousand  
15 and less than eight thousand inhabitants, (ii) located in a county  
16 different from the county of the municipality within whose zoning  
17 jurisdiction such sanitary and improvement district is located, (iii)  
18 unable to incorporate due to its close proximity to a municipality,  
19 and (iv) unable to be annexed by a municipality with zoning  
20 jurisdiction because the sanitary and improvement district is not  
21 adjacent or contiguous to such municipality.

22           (b) Any sanitary and improvement district that meets the  
23 requirements of subdivision (1)(a) of this subsection shall have only  
24 the following additional powers, subject to the approval and  
25 restrictions of the city council or village board within whose zoning

1 jurisdiction such sanitary and improvement district is located. Such  
2 sanitary and improvement district shall have the power to (i)  
3 regulate and license dogs and other animals, (ii) regulate and  
4 provide for streets and sidewalks, including the removal of  
5 obstructions and encroachments, (iii) regulate parking on public  
6 roads and rights of way relating to snow removal and access by  
7 emergency vehicles, and (iv) regulate the parking of abandoned motor  
8 vehicles.

9 ~~(6)~~-(7) For the purposes of sections 31-727 to 31-762 and  
10 31-771 to 31-780, unless the context otherwise requires:

11 (a) Public waterways means artificially created boat  
12 channels dedicated to public use and providing access to navigable  
13 rivers or streams;

14 (b) Operation and maintenance expenses means and  
15 includes, but is not limited to, salaries, cost of materials and  
16 supplies for operation and maintenance of the district's facilities,  
17 cost of ordinary repairs, replacements, and alterations, cost of  
18 surety bonds and insurance, cost of audits and other fees, and taxes;

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

23 (d) Warrant means an investment security under article 8,  
24 Uniform Commercial Code, in the form of a short-term, interest-  
25 bearing order payable on a specified date issued by the board of

1 trustees or administrator of a sanitary and improvement district to  
2 be paid from funds expected to be received in the future, and  
3 includes, but is not limited to, property tax collections, special  
4 assessment collections, and proceeds of sale of general obligation  
5 bonds;

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

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

16 Sec. 2. Original section 31-727, Reissue Revised Statutes  
17 of Nebraska, is repealed.