

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 998

Introduced by Wayne, 13.

Read first time January 12, 2022

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to the Municipal Inland Port Authority Act; to
2 amend sections 13-3301, 13-3303, 13-3304, 13-3305, 13-3306, 13-3307,
3 and 81-12,150, Revised Statutes Supplement, 2021; to define a term;
4 to change certification provisions; to provide for prioritization of
5 inland port authority proposals by the Department of Economic
6 Development; to provide for creation of an inland port authority
7 upon application by a nonprofit economic development corporation; to
8 provide powers; to change provisions relating to inland port
9 districts and rules and regulations relating to inland port
10 authority proposals; to harmonize provisions; to repeal the original
11 sections; and to declare an emergency.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-3301, Revised Statutes Supplement, 2021, is
2 amended to read:

3 13-3301 Sections 13-3301 to 13-3313 and section 4 of this act shall
4 be known and may be cited as the Municipal Inland Port Authority Act.

5 Sec. 2. Section 13-3303, Revised Statutes Supplement, 2021, is
6 amended to read:

7 13-3303 For purposes of the Municipal Inland Port Authority Act:

8 (1) Board means the board of commissioners of an inland port
9 authority;

10 (2) City means any city of the metropolitan class, city of the
11 primary class, or city of the first class which contains an area eligible
12 to be designated as an inland port district;

13 (3) Direct financial benefit means any form of financial benefit
14 that accrues to an individual directly, including compensation,
15 commission, or any other form of a payment or increase of money, or an
16 increase in the value of a business or property. Direct financial benefit
17 does not include a financial benefit that accrues to the public
18 generally;

19 (4) Family member means a spouse, parent, sibling, child, or
20 grandchild;

21 (5) Inland port authority means an authority created by a city,
22 county, or a city and one or more counties under the Municipal Inland
23 Port Authority Act to manage an inland port district;

24 (6) Inland port district means an area within the corporate
25 boundaries or extraterritorial zoning jurisdiction or both of a city,
26 within the boundaries of one or more counties, or within both the
27 corporate boundaries or extraterritorial zoning jurisdiction or both of a
28 city and the boundaries of one or more counties, and which meets at least
29 two of the following criteria:

30 (a) Is located within one mile of a navigable river or other
31 navigable waterway;

1 (b) Is located within one mile of a major rail line;

2 (c) Is located within two miles of any portion of the federally
3 designated National System of Interstate and Defense Highways or any
4 other four-lane divided highway; or

5 (d) Is located within two miles of a major airport;

6 (7) Intermodal facility means a hub or other facility for trade
7 combining any combination of rail, barge, trucking, air cargo, or other
8 transportation services;

9 (8) Major airport means an airport with commercial service as
10 defined by the Federal Aviation Administration; ~~and~~

11 (9) Major rail line means a rail line that is accessible to a Class
12 I railroad as defined by the federal Surface Transportation Board; and -

13 (10) Nonprofit economic development corporation means a chamber of
14 commerce or other mutual benefit or public benefit corporation organized
15 under the Nebraska Nonprofit Corporation Act to assist economic
16 development.

17 Sec. 3. Section 13-3304, Revised Statutes Supplement, 2021, is
18 amended to read:

19 13-3304 (1) Any city which encompasses an area greater than three
20 hundred acres eligible to be designated as an inland port district may
21 propose to create an inland port authority by ordinance, subject to the
22 cap on the total number of inland port districts provided in subsection
23 (4) of this section. In determining whether to propose the creation of an
24 inland port authority, the city shall consider the following criteria:

25 (a) The desirability and economic feasibility of locating an inland
26 port district within the corporate boundaries, extraterritorial zoning
27 jurisdiction, or both of the city;

28 (b) The technical and economic capability of the city and any other
29 public and private entities to plan and carry out development within the
30 proposed inland port district;

31 (c) The strategic location of the proposed inland port district in

1 proximity to existing and potential transportation infrastructure that is
2 conducive to facilitating regional, national, and international trade and
3 the businesses and facilities that promote and complement such trade;

4 (d) The potential impact that development of the proposed inland
5 port district will have on the immediate area; and

6 (e) The regional and statewide economic impact of development of the
7 proposed inland port district.

8 (2) Any city and one or more counties in which a city of the
9 metropolitan class, city of the primary class, or city of the first class
10 is located, or in which the extraterritorial zoning jurisdiction of such
11 city is located, which encompass an area greater than three hundred acres
12 eligible to be designated as an inland port district may enter into an
13 agreement pursuant to the Interlocal Cooperation Act to propose joint
14 creation of an inland port authority, subject to the cap on the total
15 number of inland port districts provided in subsection (4) of this
16 section. In determining whether to propose the creation of an inland port
17 authority, the city and counties shall consider the following criteria:

18 (a) The desirability and economic feasibility of locating an inland
19 port district within the corporate boundaries or extraterritorial zoning
20 jurisdiction or both of the city, or within both the corporate boundaries
21 or extraterritorial zoning jurisdiction or both of a city and the
22 boundaries of one or more counties;

23 (b) The technical and economic capability of the city and county or
24 counties and any other public and private entities to plan and carry out
25 development within the proposed inland port district;

26 (c) The strategic location of the proposed inland port district in
27 proximity to existing and potential transportation infrastructure that is
28 conducive to facilitating regional, national, and international trade and
29 the businesses and facilities that promote and complement such trade;

30 (d) The potential impact that development of the proposed inland
31 port district will have on the immediate area; and

1 (e) The regional and statewide economic impact of development of the
2 proposed inland port district.

3 (3) Any county with a population greater than twenty thousand
4 inhabitants according to the most recent federal census or the most
5 recent revised certified count by the United States Bureau of the Census
6 which encompasses an area greater than three hundred acres eligible to be
7 designated as an inland port district may propose to create an inland
8 port authority by resolution, subject to the cap on the total number of
9 inland port districts provided in subsection (4) of this section. In
10 determining whether to propose the creation of an inland port authority,
11 the county shall consider the following criteria:

12 (a) The desirability and economic feasibility of locating an inland
13 port district within the county;

14 (b) The technical and economic capability of the county and any
15 other public or private entities to plan and carry out development within
16 the proposed inland port district;

17 (c) The strategic location of the proposed inland port district in
18 proximity to existing and potential transportation infrastructure that is
19 conducive to facilitating regional, national, and international trade and
20 the businesses and facilities that promote and complement such trade;

21 (d) The potential impact that development of the proposed inland
22 port district will have on the immediate area; and

23 (e) The regional and statewide economic impact of development of the
24 proposed inland port district.

25 (4) No more than five inland port districts may be designated
26 statewide. No inland port authority shall designate more than one inland
27 port district, and no inland port authority may be created without also
28 designating an inland port district.

29 (5) Following the adoption of an ordinance, resolution, or execution
30 of an agreement pursuant to the Interlocal Cooperation Act proposing
31 creation of an inland port authority, the city clerk or county clerk

1 shall transmit a copy of such ordinance, resolution, or agreement to the
2 Department of Economic Development along with an application for approval
3 of the proposal. Upon receipt of such ordinance, resolution, or agreement
4 and application, the department shall evaluate the proposed inland port
5 authority to determine whether the proposal meets the criteria in
6 subsection (1), (2), or (3) of this section, whichever is applicable, as
7 well as any prioritization criteria developed by the department. Upon a
8 determination that the proposed inland port authority sufficiently meets
9 such criteria, the Director of Economic Development shall certify to the
10 city clerk or county clerk whether the proposed creation of such inland
11 port authority exceeds the cap on the total number of inland port
12 districts pursuant to subsection (4) of this section. If the department
13 determines that the proposed inland port authority sufficiently meets
14 such criteria and does not exceed such cap, the inland port authority
15 shall be deemed created. If the proposed inland port authority does not
16 sufficiently meet such criteria or exceeds such cap, the city shall
17 repeal such ordinance, the county shall repeal such resolution, or the
18 city and county or counties shall rescind such agreement and the proposed
19 inland port authority shall not be created.

20 Sec. 4. (1) In the event that a city, a city and one or more
21 counties, or a county, as such are described in subsections (1), (2), and
22 (3) of section 13-3304, has or have not proposed to create an inland port
23 authority as provided in such section, a nonprofit economic development
24 corporation which serves such city, such city and one or more counties,
25 or such county may propose to create an inland port authority using the
26 criteria in subsection (1), (2), or (3) of section 13-3304, whichever is
27 applicable, by submitting an application to the Department of Economic
28 Development.

29 (2) Following the submission of an application from a nonprofit
30 economic development corporation proposing the creation of an inland port
31 authority, the Department of Economic Development shall evaluate the

1 proposed inland port authority to determine whether the proposal meets
2 the criteria in subsection (1), (2), or (3) of section 13-3304, whichever
3 is applicable, as well as any prioritization criteria developed by the
4 department. Upon a determination that the proposed inland port authority
5 sufficiently meets such criteria, the Director of Economic Development
6 shall certify to the nonprofit economic development corporation and the
7 city clerk or county clerk or clerks whether the proposed creation of
8 such inland port authority exceeds the cap on the total number of inland
9 port districts pursuant to subsection (4) of section 13-3304. If the
10 proposed inland port authority sufficiently meets such criteria and does
11 not exceed such cap, such city, such city and one or more counties, or
12 such county shall create an inland port authority pursuant to subsection
13 (1), (2), or (3) of section 13-3304, whichever is applicable, based on
14 the criteria utilized by the nonprofit economic development corporation
15 pursuant to subsection (1) of this section.

16 Sec. 5. Section 13-3305, Revised Statutes Supplement, 2021, is
17 amended to read:

18 13-3305 (1) The city council of any city which has created an inland
19 port authority pursuant to subsection (1) of section 13-3304 shall
20 designate what areas within the corporate limits, extraterritorial zoning
21 jurisdiction, or both of the city shall comprise the inland port
22 district, subject to the limitations of the Municipal Inland Port
23 Authority Act. The boundaries of any inland port district shall be filed
24 with the city clerk and shall become effective upon approval of the city
25 council. The city council may from time to time enlarge or reduce the
26 area comprising any inland port district, except that such district shall
27 not be reduced to an area less than three hundred acres. Any change of
28 boundaries shall be filed with the city clerk and become effective upon
29 such filing.

30 (2) The city council of any city and county board or boards of any
31 county or counties which have created an inland port authority pursuant

1 to subsection (2) of section 13-3304 shall designate what areas within
2 the corporate limits, extraterritorial zoning jurisdiction, or both of
3 the city or within the county or counties shall comprise the inland port
4 district, subject to the limitations of the Municipal Inland Port
5 Authority Act. The boundaries of any inland port district shall be filed
6 with the city clerk and the county clerk or clerks and shall become
7 effective upon approval of the city council and the county board or
8 boards. The city council and the county board or boards may from time to
9 time enlarge or reduce the area comprising any inland port district,
10 except that such district shall not be reduced to an area less than three
11 hundred acres. Any change of boundaries shall be filed with the city
12 clerk and the county clerk or clerks and become effective upon such
13 filing.

14 (3) The county board of any county which has created an inland port
15 authority pursuant to subsection (3) of section 13-3304 shall designate
16 what areas within the county shall comprise the inland port district,
17 subject to the limitations of the Municipal Inland Port Authority Act.
18 The boundaries of any inland port district shall be filed with the county
19 clerk and shall become effective upon approval of the county board. The
20 county board may from time to time enlarge or reduce the area comprising
21 any inland port district, except that such district shall not be reduced
22 to an area less than three hundred acres. Any change of boundaries shall
23 be filed with the county clerk and become effective upon such filing.

24 (4) Not more than twenty-five percent of the area within an inland
25 port district designated pursuant to this section may be noncontiguous
26 with the remaining portions of such inland port district. Such
27 noncontiguous area shall be no more than one-quarter mile from the
28 remaining portions of such inland port district.

29 (5) Nothing in this section shall require that any real property
30 located within the boundaries of an inland port district be owned by an
31 inland port authority or the city or county or counties in which such

1 real property is located.

2 Sec. 6. Section 13-3306, Revised Statutes Supplement, 2021, is
3 amended to read:

4 13-3306 (1) An inland port authority shall have the power to:

5 (a) Plan, facilitate, and develop the inland port district in
6 conjunction with the city, the county or counties, and other public and
7 private entities, including the development of publicly-owned
8 infrastructure and improvements within the inland port district;

9 (b) Engage in marketing and business recruitment activities and
10 efforts to encourage and facilitate development of the inland port
11 district;

12 (c) Apply for and take all other necessary actions for the
13 establishment of a foreign trade zone, as provided under federal law,
14 within the inland port district;

15 (d) Issue and sell revenue bonds as provided in section 13-3308;

16 (e) Acquire, own, lease, sell, or otherwise dispose of interest in
17 and to any real property and improvements located thereon, and in any
18 personal property, and construct buildings and other structures necessary
19 to fulfill the purposes of the inland port authority;

20 (f) Acquire rights-of-way and property of any kind or nature within
21 the inland port district necessary for its purposes by purchase or
22 negotiation;

23 (g) Enter into lease agreements for real or personal property,
24 either as lessee or lessor;

25 (h) Sue and be sued in its own name;

26 (i) Enter into contracts and other instruments necessary,
27 incidental, or convenient to the performance of its duties and the
28 exercise of its powers, including, but not limited to, agreements under
29 the Interlocal Cooperation Act with the city, the county or counties, or
30 any other political subdivision of this or any other state;

31 (j) Borrow money from private lenders, from the state, or from the

1 federal government as may be necessary for the operation and work of the
2 inland port authority;

3 (k) Accept appropriations, including funds transferred by the
4 Legislature pursuant to section 81-12,146, contributions, gifts, grants,
5 or loans from the United States, the State of Nebraska, political
6 subdivisions, or other public and private agencies, individuals,
7 partnerships, or corporations;

8 (l) Provide grants to any business located within the boundaries of
9 the inland port district including funds received pursuant to the Site
10 and Building Development Act;

11 (m) ~~(l)~~ Employ such managerial, engineering, legal, technical,
12 clerical, accounting, advertising, administrative, or other assistance as
13 may be deemed advisable, or to contract with independent contractors for
14 any such assistance;

15 (n) ~~(m)~~ Adopt, alter, or repeal its own bylaws, rules, and
16 regulations governing the manner in which its business may be transacted,
17 except that such bylaws, rules, and regulations shall not exceed the
18 powers granted to the inland port authority by the Municipal Inland Port
19 Authority Act;

20 (o) ~~(n)~~ Enter into agreements with private operators or public
21 entities for the joint development, redevelopment, reclamation, and other
22 uses of property within the inland port district;

23 (p) ~~(o)~~ Own and operate an intermodal facility and other publicly-
24 owned infrastructure and improvements within the boundaries of the inland
25 port district; and

26 (q) ~~(p)~~ Establish and charge fees to businesses and customers
27 utilizing the services offered by the inland port authority within the
28 inland port district as required for the proper maintenance, development,
29 operation, and administration of the inland port authority.

30 (2) An inland port authority shall neither possess nor exercise the
31 power of eminent domain.

1 Sec. 7. Section 13-3307, Revised Statutes Supplement, 2021, is
2 amended to read:

3 13-3307 (1) The State of Nebraska and any municipality, county, or
4 other political subdivision of the state may, in its discretion, with or
5 without consideration, transfer or cause to be transferred to any inland
6 port authority or place in its possession or control, by lease or other
7 contract or agreement, either for a limited period or in fee, any real
8 property within its inland port district.

9 (2) Nothing in this section shall:

10 (a) In ~~in~~ any way impair, alter, or change any obligations of such
11 entities, contractual or otherwise, existing prior to August 28, 2021;
12 or -

13 (b) Require that any real property located within the boundaries of
14 an inland port district be owned by an inland port authority or the city
15 or county or counties in which such real property is located.

16 Sec. 8. Section 81-12,150, Revised Statutes Supplement, 2021, is
17 amended to read:

18 81-12,150 The Department of Economic Development may adopt and
19 promulgate rules and regulations to carry out the Site and Building
20 Development Act, including rules and regulations relating to reviewing
21 and prioritizing inland port authority proposals pursuant to section
22 13-3304 and section 4 of this act and providing financial assistance to
23 any inland port authority created under the Municipal Inland Port
24 Authority Act.

25 Sec. 9. Original sections 13-3301, 13-3303, 13-3304, 13-3305,
26 13-3306, 13-3307, and 81-12,150, Revised Statutes Supplement, 2021, are
27 repealed.

28 Sec. 10. Since an emergency exists, this act takes effect when
29 passed and approved according to law.