

LEGISLATIVE BILL 69

Approved by the Governor February 13, 1973

Introduced by Snyder, 14

AN ACT to amend sections 14-1803, 14-1805, 14-1812, and 14-1813, Revised Statutes Supplement, 1972, relating to metropolitan transit authorities; to provide for appointment of members of a board of a transit authority for cities of the metropolitan class as prescribed; to fix terms of members; to fix duties of the authority; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 14-1803, Revised Statutes Supplement, 1972, be amended to read as follows:

14-1803. Any city of the metropolitan class may create by ordinance a transit authority to be managed and controlled by a board of five members which shall be elected appointed as provided in section 14-1813, and shall have full and exclusive jurisdiction and control over all facilities owned or acquired by such city for a public passenger transportation system; Provided, that the governing body of such city, in the exercise of its discretion, shall find and determine in the ordinance creating such transit authority that its creation is expedient and necessary. The chairman of such transit authority shall be paid, as compensation for his services, not more than two hundred fifty dollars per month. Each other member of such transit authority shall be paid, as compensation for his services, not more than two hundred dollars per month. All salaries and compensation shall be obligations against and paid solely from the revenue of such transit authority. Members of such transit authority shall also be entitled to reimbursement for expenses paid or incurred in the performance of the duties imposed upon them by sections 14-1801 to 14-1814, 14-1816, 14-1818 to 14-1823, 14-1825 and 14-1826. The board may delegate to one or more of the members, or to its officers, agents, and employees, such powers and duties as it may deem proper. Any transit authority created pursuant to sections 14-1801 to 14-1814, 14-1816, 14-1818 to 14-1823, 14-1825 and 14-1826 shall have and retain full and exclusive jurisdiction and control over all public passenger transportation systems in such city, excluding taxicabs and railroad systems, with the right and duty to charge and collect revenue for

the operation and maintenance of such systems and for the benefit of the holders of any of its bonds or other liabilities. In the event such authority ceases to exist, its rights and properties shall pass to and vest in such city.

Sec. 2. That section 14-1805, Revised Statutes Supplement, 1972, be amended to read as follows:

14-1805. For the purpose of accomplishing the object and purpose of sections 14-1801 to 14-1814, 14-1816, 14-1818 to 14-1823, 14-1825 and 14-1826, the authority shall possess all the necessary powers of a public body corporate and governmental subdivision of the State of Nebraska, including the following powers, the enumeration of which shall not be construed as a limitation on the general powers herein conferred:

(1) To maintain a principal office in the city of the metropolitan class in which created;

(2) To adopt the official seal of the authority and to alter the same at its pleasure;

(3) To employ a general manager, engineers, accountants, attorneys, financial experts, and such other employees and agents as may be necessary in its judgment, to fix the compensation of and to discharge the same, to negotiate with employees and enter into contracts of employment, and to employ persons singularly or collectively, and, with the consent of such city, to use the services of agents, employees and facilities of such city, including the city attorney as legal advisor to such authority, for which such authority shall reimburse such city a proper proportion of the compensation or cost thereof;

(4) To adopt by-laws and enact rules and regulations for the regulation of its affairs and for the conduct of its business;

(5) To acquire, lease, own, maintain, and operate for public service a public passenger transportation system excluding taxicabs and railroad systems, within or without a city of the metropolitan class as herein defined;

(6) To sue and be sued in its own name, but execution shall not, in any case, issue against any of its property; Provided, that the lessor, vendor, or trustee under any agreement, lease, conditional sales contract, conditional lease contract, or equipment trust certificates, as provided for in subdivision (15) of this

section, may repossess the equipment described therein upon default;

(7) To acquire, lease and hold such real or personal property and any rights, interests, or easements therein as may be necessary or convenient for the purposes of the authority and to sell, assign, and convey the same;

(8) To make and enter into any and all contracts and agreements with any individual, public or private corporation or agency of the State of Nebraska, public or private corporation or agency of any state of the United States adjacent and contiguous to the city of the metropolitan class as herein defined, and the United States of America, as may be necessary or incidental to the performance of its duties and the execution of its powers under sections 14-1801 to 14-1814, 14-1816, 14-1818 to 14-1823, 14-1825 and 14-1826, and to enter into agreements authorized under the Interlocal Cooperative Act;

(9) To contract with an operating and management company for the purpose of operating, servicing and maintaining any public passenger transportation systems of such authority;

(10) To acquire and hold capital stock in any passenger transportation system, excluding taxicabs and railroad systems, solely for the purpose of lawfully acquiring the physical property of such corporation for public use;

(11) To borrow money and issue and sell negotiable bonds, notes, or other evidence of indebtedness, to provide for the rights of the holders thereof and to pledge all or any part of the income of the authority received as herein provided to secure the payment thereof; Provided, the authority shall not have the power to pledge the credit or taxing power of the state or any political subdivision thereof, except such tax receipts as may be authorized herein, or to place any lien or encumbrance on any property owned by the state, county, or city used by the authority;

(12) To receive and accept from the government of the United States of America or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation, donations or loans or grants for or in aid of the acquisition or operation of passenger transportation facilities, and to administer, hold, use, and apply the same for the purposes for which such grants or donations may have been made;

(13) To exercise the right of eminent domain under and pursuant to the Constitution, statutes and laws of the State of Nebraska to acquire private property, including any existing private passenger transportation system, but excluding any taxicabs, railroad, and air passenger transportation systems, which is necessary for the passenger transportation purposes of the authority and including the right to acquire rights and easements across, under, or over the right-of-way of any railroad. Exercise of the right of eminent domain shall be pursuant to sections 76-704 to 76-724;

(14) Subject to the continuing rights of the public to the use thereof, to use any public road, street, or other public way in any city of the metropolitan class for transportation of passengers;

(15) To purchase and dispose of equipment, including motor buses, and to execute any agreement, lease, conditional sales contract, conditional lease contract, and equipment trust note or certificate to effect such purpose;

(16) To pay for any equipment and rentals therefor in installments and to give evidence by equipment trust notes or certificates of any deferred installments, and title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid;

(17) To certify annually to the local lawmaking body of the city of the metropolitan class such tax for the fiscal year commencing on the first day of the following January as, in its discretion and judgment, the authority determines to be necessary, which shall not exceed in any one year one mill on the dollar on the taxable duly assessed value of all tangible real and personal property in such city of the metropolitan class, and the local lawmaking body of such city of the metropolitan class is authorized to and shall levy and collect such tax in the same manner as other taxes in such city;

(18) To apply for and accept grants and loans from the government of the United States of America, or any agency or instrumentality thereof, to be used for any of the authorized purposes of the authority, and to enter into any agreement with the government of the United States of America, or any agency or instrumentality thereof, in relation to such grants or loans, subject to the provisions hereof;

(19) To determine routes and to change the same subject to the provisions hereof;

(20) To fix rates, fares, and charges for transportation; provided, that the revenue derived from rates, from the taxation herein provided, and from any grants or loans herein authorized shall at all times be sufficient in the aggregate to provide for the payment of: (a) All operating costs of the transit authority, (b) interest on and principal of all revenue bonds, revenue certificates, equipment trust notes or certificates, and other obligations of the authority, and to meet all other charges upon such revenue as may be provided by any trust agreement executed by such authority in connection with the issuance of revenue bonds or certificates under sections 14-1801 to 14-1814, 14-1816, 14-1818 to 14-1823, 14-1825 and 14-1826, and (c) for the payment of any other costs and charges, acquisition, installation, replacement, or reconstruction of equipment, structures, or rights-of-way not financed through the issuance of revenue bonds or certificates;

(21) To provide free transportation for firemen and policemen in uniform in the city of the metropolitan class in which they are employed and for employees of such authority when in uniform or upon presentation of proper identification;

(22) To enter into agreements with the Post Office Department of the United States of America or its successors for the transportation of mail and letter carriers and the payment therefor;

(23) To exercise all powers usually granted to corporations, public and private, necessary or convenient to carry out the powers granted by sections 14-1801 to 14-1814, 14-1416, 14-1818 to 14-1823, 14-1825 and 14-1826; and

(24) To establish pension and retirement plans for officers and employees and to adopt any existing pension and retirement plans and any existing pension and retirement contracts for officers and employees of any passenger transportation system purchased or otherwise acquired pursuant to sections 14-1801 to 14-1814, 14-1416, 14-1818 to 14-1823, 14-1825 and 14-1826.

Sec. 3. That section 14-1812, Revised Statutes Supplement, 1972, be amended to read as follows:

14-1812. The governing body of the authority shall be a board to be known as The Transit Authority of Board, filling out the blank with the name

of the city, which shall consist of five members, to be elected appointed as provided in section 14-1813.

Sec. 4. That section 14-1813, Revised Statutes Supplement, 1972, be amended to read as follows:

14-1813. ~~Within ten days after the creation of the authority (1) the mayor, with the approval of the city council, shall appoint two members of the board who shall serve until their successors, elected at the first general city election following such appointment, shall qualify and take office; (2) the mayor, with the approval of the city council, shall appoint two members of the board who shall serve until their successors, elected at the second general city election following such appointment, shall qualify and take office; and (3) the mayor, with the approval of the city council, shall appoint one member of the board who shall serve until his successor, elected at the third general city election following such appointment, shall qualify and take office. Upon the expiration of the terms of such appointed officers, members of the board shall be nominated and elected in the manner provided by law for the election of officers of the city concerned and shall take office at the same time as the officers of such city. Members of such board shall be residents of the city for which such authority is created, and, except for members initially appointed, shall serve for a term of four years. Any vacancy on such board, resulting other than from expiration of a term of office, shall be filled by temporary appointment by the mayor, with the approval of the city council, until a successor can be elected, at the next general city election, to serve the unexpired portion, if any, of the term. Whenever any city of the metropolitan class shall create an authority, the board shall consist of five members to be selected as follows: (1) The mayor, with the approval of the city council shall appoint one member who shall serve for one year, one member who shall serve for two years, one member who shall serve for three years, one member who shall serve for four years, and one member who shall serve for five years; and (2) upon the expiration of the term of each appointed officer, the mayor, with the approval of the city council, shall appoint a member who shall serve for a term of five years. Members of such board shall be residents of the city for which such authority is created. In cities of the metropolitan class where a board has been heretofore appointed, the mayor, with the approval of the city council, shall by resolution redesignate the terms of the members of such board in accordance with the provisions of this act; Provided, that until such redesignation is made the terms shall stand as provided for in the original appointment. Any~~

vacancy on such board, resulting other than from expiration of a term of office, shall be filled by the mayor, with the approval of the city council, and such appointee shall serve the unexpired portion, if any, of the term of the member whose office was vacated. Each member, before entering upon the duties of his office, shall file with the city clerk his oath that he will duly and faithfully perform all the duties of his office to the best of his ability, and a bond in the penal sum of five thousand dollars executed by one or more qualified sureties for the faithful performance of his duties. If any member shall fail to file such oath and bond on or before the first day of the term for which he was appointed or elected, his office shall be deemed to be vacant. A member of such board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the city council, in the district court of the county in which such city is located.

Sec. 5. That original sections 14-1803, 14-1805, 14-1812, and 14-1813, Revised Statutes Supplement, 1972, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.