

LEGISLATIVE BILL 94

Approved by the Governor May 9, 1983

Introduced by Vickers, 38

AN ACT relating to public improvements; to amend sections 16-622, 17-509, 17-510, and 19-2427, Revised Statutes Supplement, 1982; to provide for deferral from special assessments for certain agricultural use land; to provide procedures; and to repeal the original sections.

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

Section 1. That section 16-622, Revised Statutes Supplement, 1982, be amended to read as follows:

16-622. The cost of making such improvements of the streets and alleys within any street improvement district shall be assessed upon the lots and lands in such districts specially benefited thereby in proportion to such benefits. The amounts thereof shall, except as provided in sections 5 to 8 of this act, be determined by the mayor and council under the provisions of section 16-615. The assessment of the special tax for the cost of such improvements, except as provided in this section, shall be levied at one time and shall become delinquent in equal annual installments over such period of years, not to exceed twenty, as the mayor and city council may determine at the time of making the levy, the first such installment to become delinquent in fifty days after the date of such levy. Each of said installments, including those for graveling and the construction and replacement of pedestrian walks, plazas, walls, landscaping, lighting systems, and permanent facilities used in connection therewith as hereinafter provided, except the first, shall draw interest at a rate established by the mayor and council not exceeding the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of levy until the same shall become delinquent. After the same shall become delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon.

Should there be three or more of said installments delinquent and unpaid on the same property the mayor and city council may by resolution declare all future installments on such delinquent property to be due on a future fixed date. The resolution shall set forth the description of the property and the names of its record title owners and shall provide that all future installments shall become delinquent upon the date fixed. A copy of such resolution shall be published one time each week for not less than twenty days in a legal newspaper of general circulation published in the city and after the fixed date such future installments shall be deemed to be delinquent and the city may proceed to enforce and collect the total amount due and all future installments. As to assessments for graveling alone and without guttering or curbing, one-third of the total amount assessed against each lot or parcel of land shall become delinquent in fifty days after the date of the levy of the same, one-third in one year, and one-third in two years.

Sec. 2. That section 17-509, Revised Statutes Supplement, 1982, be amended to read as follows:

17-509. The governing body of any city of the second class or village shall have power to grade, partially, or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravell, macadamize, remacadamize, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any street, streets, alley, alleys, public grounds, public way or ways, or parts thereof, a street which divides the city or village corporate area and the area adjoining the city or village, construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities used in connection therewith, construct sidewalks, and improve the sidewalk space, at public cost, or by levy of special assessments on the property especially benefited thereby, proportionate to benefits, except as provided in sections 5 to 8 of this act, and by ordinance to create paving, repaving, grading, curbing, recurbing, resurfacing, graveling, or improvement districts therefor, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more of said improvements in one proceeding. Provided, that all All of the improvements hereinbefore named in this section shall be ordered as provided in sections 17-510 to 17-512, unless the governing body improves a street which divides the city or village corporate area and the area adjoining the city or village. Whenever the governing body of any city of the second class or village improves

any street which divides the city or village corporate area and the area adjoining the city or village, the governing body shall determine the sufficiency of petition as set forth in section 17-510 by the owners of the record title representing more than sixty per cent of the front footage of the property directly abutting upon the street to be improved, rather than sixty per cent of the resident owners. Whenever the governing body shall deem it necessary to make any of the improvements named in section 17-509 on a street which divides the city or village corporate area and the area adjoining the city or village, the governing body shall by ordinance create the improvement district pursuant to section 17-511 and the right of remonstrance shall be limited to owners of record title, rather than resident owners.

Sec. 3. That section 17-510, Revised Statutes Supplement, 1982, be amended to read as follows:

17-510. Whenever a petition signed by the owners of the record title representing more than sixty per cent of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or public grounds proposed to be improved, shall be presented and filed with the city clerk or village clerk, petitioning therefor, the governing body shall by ordinance create a paving, graveling, or other improvement district or districts, and shall cause such work to be done or such improvement to be made, and shall contract therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley, or alleys especially benefited thereby in such district in proportion to such benefits, except as provided in sections 5 to 8 of this act, to pay the cost of such improvement.

Sec. 4. That section 19-2427, Revised Statutes Supplement, 1982, be amended to read as follows:

19-2427. Supplemental to any existing law on the subject, any first or second-class city or village may, when creating a sewer or paving district, include land adjacent to such city or village. The city council or board of trustees shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby, except as provided in sections 5 to 8 of this act.

Sec. 5. (1) Whenever the governing body of a city of the first or second class or village creates a sewer or paving district which includes land adjacent to such city or village and such adjacent land is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special

assessments pursuant to sections 5 to 8 of this act.

(2) For purposes of sections 5 to 8 of this act the terms agricultural use and agricultural use zone shall have the meaning specified in section 77-1343.

Sec. 6. (1) Any owner of record title eligible for the deferral granted by section 5 of this act shall, to secure such assessment, make application to the city council or board of trustees of any city of the first or second class or village within ninety days after creation of the sewer or paving district which includes land adjacent to such city or village which is within an agricultural use zone and is used exclusively for agricultural use.

(2) Any owner of record title who makes application for the deferral provided by sections 5 to 8 of this act shall notify the county register of deeds of such application in writing prior to approval by the city council or board of trustees.

(3) The city council or board of trustees shall approve the application of any owner of record title upon determination that the property (a) is within an agricultural use zone and is used exclusively for agricultural use, and (b) the owner has met the requirement of subsection (2) of this section.

Sec. 7. The deferral provided for in sections 5 to 8 of this act shall be terminated upon any of the following events:

(1) Notification by the owner of record title to the city council or board of trustees to remove such deferral;

(2) Sale or transfer to a new owner who does not make a new application within sixty days of the sale or transfer, except as provided in subdivision (3) of this section;

(3) Transfer by reason of death of a former owner to a new owner who does not make application within one hundred twenty-five days of the transfer;

(4) The land is no longer being used as agricultural land; or

(5) Change of zoning to other than an agricultural zone.

Sec. 8. (1) Whenever property which has received a deferral pursuant to sections 5 to 8 of this act becomes disqualified for such deferral, the owner of record title of such property shall pay to the city or village an amount equal to:

(a) The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and

(b) Interest upon the special assessments not paid each year at the rate of six per cent from the dates at which such assessments would have been payable

if no deferral had been granted.

(2) In cases where the deferral provided by sections 5 to 8 of this act is terminated as a result of a sale or transfer described in subdivision (2) or (3) of section 7 of this act, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

Sec. 9. That original sections 16-622, 17-509, 17-510, and 19-2427, Revised Statutes Supplement, 1982, are repealed.