

## LEGISLATIVE BILL 196

Approved by the Governor March 15, 1995

Introduced by Maurstad, 30

AN ACT relating to street improvements; to amend sections 16-615, 17-509, and 17-511, Reissue Revised Statutes of Nebraska; to change consent requirements for grading; to provide for notice; to provide for funding by special assessment; and to repeal the original sections. Be it enacted by the people of the State of Nebraska,

Section 1. Section 16-615, Reissue Revised Statutes of Nebraska, is amended to read:

16-615. The mayor and council shall have power by ordinance to establish the grade of any street, avenue, or alley in the city or within a county industrial area as defined in section 13-1111 contiguous to such city. When the grade of any street, avenue, or alley ~~shall have been~~ established, the grade of all or any part shall not be changed unless the city clerk has sent notice of the proposed change in grade to the owners of the lots or land abutting upon the street, avenue, or alley or part of a street, avenue, or alley where such change of grade is to be made. The notice shall be sent to the addresses of the owners as they shall appear in the office of the register of deeds upon the date of the mailing of the notice. The notice shall be sent by regular United States mail, postage prepaid, postmarked at least twenty-one days before the date upon which the city council takes final action on approval of the ordinance authorizing the change in grade. The notice shall inform the owner of the nature of the proposed change, that final action by the city council is pending, and of the location where additional information on the project may be obtained. Following the adoption of an ordinance changing the grade of all or any part of a street, avenue, or alley, no change in grade shall be made unless the consent in writing of the owners of the lots or land abutting upon the street, or part of a street, where such change of grade is to be made, who represent a majority of the front footage thereon, is first obtained and not then until the damages to property owners which may be caused by such change of grade shall have been assessed and determined. The damages shall be ascertained and are determined as provided in sections 76-704 to 76-724.

For the purpose of paying the damages, if any, so awarded, the mayor and council shall have power to borrow money from any available fund in the amount necessary, which amount, upon the collection of the same by special assessment, ~~as herein provided,~~ shall be transferred from such special fund to the fund from which it has been borrowed. ~~No~~ PROVIDED; no street, avenue, or alley shall be worked to such grade or change of grade until the damages so assessed shall be tendered to such property owners or their agents. Before the mayor and council ~~shall~~ enter into any contract to grade any such street, avenue, or alley, the damages, if any, sustained by the property owners, shall be ascertained by condemnation proceedings. ~~For~~ and for the purpose of paying the damages awarded and the costs of the condemnation proceedings, the mayor and city council shall have power to levy a special tax upon the lots and lands abutting upon such street, avenue, or alley, or part thereof, so graded, as ~~shall~~ be adjudged by the mayor and council to be especially benefited ~~thereby,~~ in proportion to such benefits. Such special tax, or taxes, shall be collected as ~~provided in case of~~ other special taxes.

Sec. 2. Section 17-509, Reissue Revised Statutes of Nebraska, is amended to read:

17-509. The governing body of any city of the second class or village ~~may shall have power to~~ grade, partially, or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, 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 entirely or partially, and streets~~ street which divides ~~divide~~ 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; and used in connection therewith, construct sidewalks, and improve the sidewalk space. These projects may be funded~~ at public cost, or by the levy of special assessments on the property especially benefited ~~thereby, proportionate in proportion to such benefits, except as provided in sections 19-2428 to 19-2431. The governing body may~~ 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 the~~ improvements in one proceeding. All of the improvements ~~named in this section which are to be funded by a levy of special assessment on the property especially benefited~~ 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 percent of the front footage of the property directly abutting upon the street to be improved, rather than sixty percent of the resident owners. Whenever the governing body shall deem it necessary to make any of the improvements named in this section 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. Section 17-511, Reissue Revised Statutes of Nebraska, is amended to read:

17-511. Whenever the governing body deems it necessary to make ~~any~~ of the improvements ~~named in section 17-509 which are to be funded by a levy of special assessment on the property especially benefited~~, such governing body shall by ordinance create a paving, graveling, or other improvement district and, after the passage, approval, and publication of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the city or village if it is a daily newspaper or for two consecutive weeks if it is a weekly newspaper. If no legal newspaper is published in the city or village, the publication shall be in a legal newspaper of general circulation in the city or village. If the owners of the record title representing more than fifty percent of the front footage of the property directly abutting on the street or alley to be improved ~~shall~~ file with the city clerk or the village clerk within twenty days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance, but such ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the governing body shall immediately cause such work to be done or such improvement to be made, shall contract ~~therefor for the work or improvement~~, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited ~~thereby~~ in such district in proportion to such benefits to pay the cost of such improvement.

Sec. 4. Original sections 16-615, 17-509, and 17-511, Reissue Revised Statutes of Nebraska, are repealed.