

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 534

Introduced by Schimek, 27

Read first time January 17, 2007

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities and villages; to amend sections
2 18-501, 18-502, 18-503, 18-504, 18-505, 18-507, 18-508,
3 18-509, and 18-510, Reissue Revised Statutes of Nebraska,
4 and section 16-6,109, Revised Statutes Cumulative
5 Supplement, 2006; to change provisions relating to urban
6 storm water drainage; to provide powers and duties
7 for county boards; to harmonize provisions; to provide
8 severability; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 16-6,109, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 16-6,109 The powers granted by sections 16-6,106 to
4 16-6,109 are independent of and in addition to all other grants
5 of powers on the same or related subjects but may be exercised
6 jointly with or supplemented by the powers granted by existing
7 legislation, including, but not limited to, sections 16-667 to
8 16-672.11, 16-680, 16-683, 16-693, 18-401 to 18-411, 18-501 to
9 18-512 and sections 2 and 11 of this act, 19-1305, 23-320.07 to
10 23-320.13, and 31-501 to 31-553 and the Combined Improvement Act.

11 Sec. 2. Section 18-510, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~18-510~~ For purposes of sections 18-501 to 18-512 and
14 sections 2 and 11 of this act:

15 ~~The terms sewage (1) Sewage system, sewerage system,~~
16 storm sewer system, and disposal plant or plants as used herein
17 ~~are defined to~~ mean and include any system or works above or below
18 ground which has for its purpose any or all of the following: The
19 removal, discharge, conduction, carrying, treatment, purification,
20 storage, or disposal of the liquid and solid waste, and night soil,
21 and, subject to section 11 of this act, storm water of a city or
22 village. of a municipality. It is intended that sections 18-501
23 ~~to 18-512~~ the intent of the Legislature that such sections may be
24 employed in connection with sewage projects which do not include
25 the erection or enlargement of a sewage disposal plant; ~~-~~

1 (2) Urban area means an urban cluster or an urbanized
 2 area;

3 (3) Urban cluster means a densely settled territory that
 4 has at least two thousand five hundred but fewer than fifty
 5 thousand inhabitants; and

6 (4) Urbanized area means a statistical geographic area
 7 defined by the United States Department of Commerce, Bureau of
 8 the Census, consisting of a central place or places and adjacent
 9 densely settled territory that together contain at least fifty
 10 thousand inhabitants and have an overall population density of at
 11 least one thousand inhabitants per square mile.

12 Sec. 3. Section 18-501, Reissue Revised Statutes of
 13 Nebraska, is amended to read:

14 18-501 (1) Any city or village in this state is hereby
 15 authorized to may own, construct, equip, and operate, either within
 16 or ~~without~~ outside the corporate limits of such ~~municipality,~~
 17 city or village, a sewerage system, ~~including any storm sewer~~
 18 system including the natural drainage components of such system,
 19 ~~or~~ combination storm and sanitary sewer system, and plant or
 20 plants for the treatment, purification, storage, and disposal in a
 21 sanitary manner of the liquid and solid wastes, sewage, ~~and~~ night
 22 soil, and, subject to section 11 of this act, storm water of such
 23 city or village, ~~of such municipality or~~ ~~to~~ extend or improve
 24 any existing storm or sanitary sewer system or combination storm
 25 and sanitary sewer system, or, subject to section 11 of this act,

1 establish storm water management programs.

2 (2) Any city or village ~~shall have authority to~~ may
3 acquire by gift, grant, purchase, or condemnation necessary lands
4 therefor, either within or ~~without~~ outside the corporate limits of
5 such ~~municipality.~~ city or village.

6 (3) For the purpose of owning, operating, constructing,
7 maintaining, and equipping such sewage disposal plant and sewerage
8 system, including any storm sewer system or combination storm
9 and sanitary sewer system, referred to in subsections (1), (2),
10 and (4) of this section, or improving or extending such existing
11 system, any city or village ~~is authorized and empowered to~~ may
12 make a special levy of not to exceed three and five-tenths cents
13 on each one hundred dollars upon the taxable value of all the
14 taxable property within ~~any such municipality.~~ city or village. The
15 proceeds of the tax may be used for any of the purposes enumerated
16 in this section and for no other purpose.

17 (4) ~~In the event~~ If the present or proposed sewage
18 disposal system or storm sewer system of any city or village does
19 not comply with the provisions of any other law relating to sewer
20 systems, sewage disposal, or water pollution, such city or village
21 shall levy each year a tax of seven cents on each one hundred
22 dollars of taxable valuation for such purpose until sufficient
23 funds are available for the financing of a system in compliance
24 with law. ~~In the event~~ If any city or village is otherwise raising
25 funds for such purpose, equivalent to such a levy, it shall not be

1 required, in addition thereto, to make such levy.

2 Sec. 4. Section 18-502, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 18-502 For the purpose of owning, operating,
5 constructing, and equipping ~~such a~~ sewage disposal plant or
6 sewerage system, including any storm sewer system, subject to
7 section 11 of this act, or improving or extending such existing
8 system, ~~a municipality~~ or, subject to section 11 of this act,
9 establishing storm water management programs and improvements, a
10 city or village may issue revenue bonds therefor. Such revenue
11 bonds, ~~as provided in this section,~~ shall not impose any general
12 liability upon the ~~municipality~~ city or village but shall be
13 secured only by the revenue ~~as hereinafter provided~~ of such utility
14 as provided in sections 18-501 to 18-512 and sections 2 and 11 of
15 this act. Such revenue bonds shall be sold ~~for not less than par~~
16 ~~and~~ bear interest at a rate set by the ~~city council~~. governing
17 body of such city or village. The amount of such revenue bonds,
18 either issued or outstanding, shall not be included in computing
19 the maximum amount of bonds which the said ~~municipality~~ city or
20 village may be authorized ~~to~~ issue under its charter or any statute
21 of this state.

22 Sec. 5. Section 18-503, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 18-503 The governing body of ~~such municipality~~ a city
25 or village may make all necessary rules and regulations governing

1 the use, operation, and control ~~thereof~~ of a disposal plant and
2 sewerage system, including any storm sewer system, subject to
3 section 11 of this act. The governing body may establish just and
4 equitable rates or charges to be paid to it for the use of such
5 disposal plant and sewerage system, including any such storm sewer
6 system, by each person, firm, or corporation whose premises are
7 served thereby. If the ~~service~~ use charge so established is not
8 paid when due, such sum may be recovered by the ~~municipality~~ city
9 or village in a civil action, or it may be certified to the tax
10 assessor and assessed against the premises served, and collected
11 or returned in the same manner as other ~~municipal~~ city or village
12 taxes are certified, assessed, collected, and returned. Charges to
13 be paid for the use of a storm sewer system shall be proportionate
14 to the storm water contribution of the premises served and based
15 upon sound engineering principles, as determined by the city or
16 village, and may include allowances or adjustments for impervious
17 land surfaces and land uses and credits for storm water quantity
18 and quality best management practices. The city or village shall
19 also establish a system of exemption from storm water charges for
20 the property of the state and its governmental subdivisions to the
21 extent used or being developed for use by the state or governmental
22 subdivision for a public purpose as described in subdivision (1) (a)
23 of section 77-202 and other property as the city or village may
24 determine.

25 Sec. 6. Section 18-504, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 18-504 (1) Revenue bonds which are issued, as provided
3 in section 18-502, shall not be a general obligation of the
4 ~~municipality,~~ city or village but shall be paid only out of the
5 revenue received from the ~~service~~ use charges as provided in
6 section 18-503.

7 (2) If a ~~service~~ use rate is charged, as a part of the
8 revenue, as provided in subsection (1) of this section, to be paid
9 as ~~herein~~ provided in this section, such portion thereof as may
10 be deemed sufficient shall be set aside as a sinking fund for the
11 payment of the interest on ~~said bonds,~~ such bonds and the principal
12 thereof at maturity.

13 (3) ~~It shall be the duty of the~~ The governing body of
14 the ~~municipality~~ to city or village shall charge rates for the
15 ~~service~~ use of the sewerage system, including any storm sewer
16 system, subject to section 11 of this act as referred to in
17 subsection (1) of this section, which rates shall be sufficient, at
18 all times, to pay the cost of operation and maintenance thereof,
19 ~~and~~ to pay the principal of and interest upon all revenue bonds
20 issued, under ~~the provisions of~~ section 18-502, to pay the cost
21 of development, establishment, and implementation of storm water
22 management programs, subject to section 11 of this act, and to
23 carry out any covenants that may be provided in the ordinance
24 authorizing the issuance of any such bonds.

25 (4) The holders of any of the revenue bonds or any of

1 the coupons of any revenue bonds~~7~~ issued under subsection (1) of
 2 this section, in any civil action, mandamus, or other proceeding,1
 3 may enforce and compel the performance of all duties required by
 4 this section and the covenants made by the ~~municipality~~ city or
 5 village in the ordinance providing for the issuance of such bonds,
 6 including the making and collecting of sufficient rates or charges
 7 for the specified purposes and for the proper application of the
 8 income therefrom.

9 Sec. 7. Section 18-505, Reissue Revised Statutes of
 10 Nebraska, is amended to read:

11 18-505 (1) For the purpose of providing for ~~such a~~ a
 12 sewage disposal plant and sewerage system, including any storm
 13 sewer system, subject to section 11 of this act, or improving
 14 or extending ~~such an~~ an existing system, any ~~such municipality~~ city
 15 or village may also enter into a contract with any corporation
 16 organized under or authorized by the laws of this state to engage
 17 ~~in the business herein mentioned,~~ to receive and treat,1 in the
 18 manner hereinbefore mentioned~~,~~ the sewage and night soil thereof,
 19 described in section 18-501, sewage, night soil, or storm water of
 20 the city or village and to construct~~,~~ and provide the facilities
 21 and services as ~~hereinbefore~~ described in sections 18-501 to 18-507
 22 and sections 2 and 11 of this act.

23 (2)(a) Such contract may ~~also~~ authorize the corporation
 24 to charge the owners of the premises served ~~such a service rate~~
 25 ~~therefor~~ a use rate as the governing body of such ~~municipality~~

1 city or village may determine to be just and reasonable, ~~or the~~
2 ~~municipality may~~ or (b) the city or village may (i) contract to pay
3 the ~~said~~ corporation a flat rate for such service, ~~and pay therefor~~
4 out of its general fund or the proceeds of any tax levy applicable
5 to the purposes of such contract, ~~or~~ (ii) assess the owners of the
6 property served a reasonable charge ~~therefor~~ to be collected as
7 ~~hereinbefore~~ provided in section 18-503 and paid into a fund to be
8 used to defray such contract charges.

9 Sec. 8. Section 18-507, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 18-507 Whenever the governing body of any city or village
12 ~~shall have~~ has ordered the installation of a sewerage system
13 and sewage disposal plant or the improvement or extension of
14 an existing system, including any storm sewer system, subject
15 to section 11 of this act the fact that such order was issued
16 shall be recited in the official minutes of the governing
17 body. The ~~said~~ governing body shall thereupon require that
18 plans and specifications be ~~prepared~~ of such sewerage system
19 and sewage disposal plant, including any storm sewer system, or
20 such improvement or extension be prepared. Upon approval of such
21 plans, the governing body shall thereupon advertise for sealed bids
22 for the construction of ~~said~~ the improvements once a week for
23 three weeks in a legal paper published in or of general circulation
24 within ~~said municipality,~~ the city or village, and the contract
25 shall be awarded to the lowest responsible bidder.

1 Sec. 9. Section 18-508, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-508 The owner of any sewerage system or sewage
4 disposal plant, including any storm sewer system, provided for
5 in sections 18-501 to 18-507 and sections 2 and 11 of this act, or
6 the municipality, is hereby authorized to city or village, subject
7 to section 11 of this act, may extend the same system beyond the
8 limits of the city or village which it serves, under the same
9 conditions as nearly as may be possible as within such corporate
10 limits and to charge to users of its services reasonable and fair
11 rates consistent with those charged or which might be charged
12 within such corporate limits and consistent with the expense of
13 extending and maintaining the same for the users thereof outside
14 such corporate limits at a fair return to the owner thereof. The
15 mayor and city council of any city or the board of trustees of any
16 village ~~shall have authority to~~ may enter into contracts with users
17 of such sewerage system; ~~PROVIDED,~~ system, except that no contract
18 shall call for furnishing of such service for a period in excess of
19 twenty years.

20 Sec. 10. Section 18-509, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 18-509 (1) The mayor and city council of any city or the
23 board of trustees of any village, in addition to other sources of
24 revenue available to the city or village and subject to section 11
25 of this act, may by ordinance set up a rental or use charge, to

1 be collected from users of any system of sewerage, including any
2 storm sewer system, and provide methods for collection thereof. The
3 charges shall be charged to each property served by the sewerage
4 system or storm sewer system, shall be a lien upon the property
5 served, and may be collected either from the owner or the person,
6 firm, or corporation requesting the service. Charges to be paid for
7 the use of a storm sewer system shall be proportionate to the storm
8 water contribution of the premises served and based upon sound
9 engineering principles, as established by the city or village, and
10 may include allowances or adjustments for impervious land surfaces
11 and land uses and credits for storm water quantity and quality
12 best management practices. The city or village may also establish
13 a system of exemption from storm water charges for the property of
14 the state and its governmental subdivisions to the extent used or
15 being developed for use by the state or governmental subdivision
16 for a public purpose as described in subdivision (1)(a) of section
17 77-202 and other property as the city or village may determine.

18 (2) All money raised from the charges, referred to in
19 subsection (1) of this section, shall be used for maintenance or
20 operation of the existing system, for payment of principal and
21 interest on bonds issued as is provided for in section 17-925,
22 18-502, 18-506, or 19-1305, ~~or~~ to create a reserve fund for the
23 purpose of future maintenance or construction of a new sewer system
24 for the city or village, or to develop, establish, and implement
25 storm water management programs subject to section 11 of this

1 act. Any funds raised from ~~this~~ such charge shall be placed in a
2 separate fund and not be used for any other purpose or diverted to
3 any other fund.

4 Sec. 11. The provisions of sections 18-501 to 18-512 and
5 section 2 of this act authorizing a city to establish use charges
6 for a storm sewer system and the development, establishment,
7 and implementation of storm water management programs shall be
8 applicable only to the urban area of cities which are required
9 by federal law to develop, establish, and implement storm water
10 management programs and secure a storm water discharge permit under
11 the National Pollutant Discharge Elimination System.

12 Sec. 12. A county board by resolution may establish
13 storm water management areas and implement storm water management
14 programs within the county. For purposes of funding the cost of
15 capital improvements and paying the operational and maintenance
16 costs of a county storm water management program in a county's
17 storm water management area, (1) a county encompassing a city
18 described in section 11 of this act or (2) a county that is
19 required by federal law to have its own storm water management
20 program may, by resolution of its county board, adopt a system of
21 storm water management charges to be charged against real property
22 in the urban area of such storm water management area and may issue
23 revenue bonds or refunding bonds payable from the proceeds of such
24 charges, all upon such terms as the county board by resolution
25 determines are reasonable. Such charges shall be designed to be

1 proportionate to the storm water runoff contribution of such real
2 property and based upon sound engineering principles that may
3 include allowances and adjustments for impervious surface area and
4 land uses and credits for storm water quantity and quality best
5 management practices. Such charges shall be collected in the same
6 manner as ad valorem taxes or in such other manner as the county
7 board determines appropriate and shall not be deemed to be special
8 benefit assessments. A county shall also establish a system for
9 exemption from storm water charges for the property of the state
10 and its governmental subdivisions to the extent used or being
11 developed for use by the state or governmental subdivision for a
12 public purpose as described in subdivision (1) (a) of section 77-202
13 and other property as the city or village may determine. The county
14 board shall provide an appeals process for aggrieved parties. A
15 county shall not impose storm water management charges against real
16 property that is being charged with storm water management charges
17 by a city described in section 11 of this act. Any funds raised
18 from the charges authorized by this section shall be placed in a
19 separate fund and shall not be used for any purpose other than for
20 storm water management programs.

21 Sec. 13. If any section in this act or any part of any
22 section is declared invalid or unconstitutional, the declaration
23 shall not affect the validity or constitutionality of the remaining
24 portions.

25 Sec. 14. Original sections 18-501, 18-502, 18-503,

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1 18-504, 18-505, 18-507, 18-508, 18-509, and 18-510, Reissue Revised
2 Statutes of Nebraska, and section 16-6,109, Revised Statutes
3 Cumulative Supplement, 2006, are repealed.