

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 779

Introduced by Lathrop, 12; Ashford, 20; Avery, 28; Cook, 13; Cornett, 45; Mello, 5; Nordquist, 7.

Read first time January 07, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to political subdivisions; to amend sections
2 13-2602, 13-2605, 13-2607, 13-2609, 13-2702, 13-2703,
3 13-2704, 13-2705, 13-2706, and 13-2707, Reissue Revised
4 Statutes of Nebraska, section 13-2603, Revised Statutes
5 Cumulative Supplement, 2008, section 13-2610, Revised
6 Statutes Supplement, 2009, and section 13-2704, Reissue
7 Revised Statutes of Nebraska, as amended by section
8 8, Legislative Bill 3, One Hundred First Legislature,
9 First Special Session, 2009; to change provisions under
10 the Convention Center Facility Financing Assistance Act
11 and the Local Civic, Cultural, and Convention Center
12 Financing Act; to harmonize provisions; to provide an
13 operative date; to repeal the original sections; and to
14 declare an emergency.

LB 779

LB 779

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

1 Section 1. Section 13-2602, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2602 (1) The Legislature finds that it will be
4 beneficial to the economic well-being of the people of this state
5 that there be convention and meeting center facilities, ~~and~~ sports
6 ~~arena~~ facilities, and amusement park facilities of appropriate size
7 and quality to host regional, national, or international events.
8 Regional refers to states that border Nebraska; national refers
9 to states other than those that border Nebraska; and international
10 refers to nations other than the United States.

11 (2) The Legislature further finds that such facilities
12 may (a) generate new economic activity as well as additional state
13 and local taxes from persons residing within and outside the state
14 and (b) create new economic opportunities for residents.

15 (3) In order that the state may receive any long-term
16 economic and fiscal benefits from such facilities, a need exists to
17 provide some state assistance to political subdivisions endeavoring
18 to construct, acquire, substantially reconstruct, expand, operate,
19 improve, or equip such facilities.

20 (4) Therefor, it is deemed to be in the best interest of
21 both the state and its political subdivisions that the state assist
22 political subdivisions in financing the construction, acquisition,
23 substantial reconstruction, expansion, operation, improvement, or
24 equipping of such facilities.

25 (5) The amount of state assistance shall be limited

1 to a designated portion of state sales tax revenue collected
2 by retailers and operators doing business at such facilities on
3 sales pursuant to subdivision (9)(a) or (b) of section 13-2603,
4 ~~at such facilities,~~ state sales tax revenue collected on primary
5 and secondary box office sales of admissions to such facilities,
6 and state sales tax revenue collected by or on the premises
7 of associated hotels. If a retailer has been collecting state
8 sales tax revenue for more than twenty-four months prior to the
9 completion of a sports facility, only any increase in state sales
10 tax revenue each fiscal year beginning with the first fiscal year
11 after the completion of the sports facility shall be eligible as
12 state assistance to an eligible facility. State assistance for
13 an eligible facility shall also only include all state sales tax
14 revenue collected by retailers that had been doing business up to
15 twenty-four months prior to the completion of the sports facility
16 and all state sales tax revenue collected by retailers not on the
17 premises of the sports facility that are doing business prior to
18 twenty-four months after completion of the sports facility.

19 Sec. 2. Section 13-2603, Revised Statutes Cumulative
20 Supplement, 2008, is amended to read:

21 13-2603 For purposes of the Convention Center Facility
22 Financing Assistance Act:

23 (1) Amusement park facility means any facility that
24 offers rides, games, and other forms of entertainment in which the
25 public may participate for a consideration;

1 ~~(1)(a)~~ (2)(a) Associated hotel means any publicly owned
2 facility in which the public may, for a consideration, obtain
3 sleeping accommodations and which is located within two hundred
4 yards of an eligible facility; and

5 (b) Beginning with applications for financial assistance
6 received on or after February 1, 2008, associated hotel means any
7 publicly or privately owned facility in which the public may, for a
8 consideration, obtain sleeping accommodations and which is located
9 within (i) four hundred fifty yards of an eligible a convention
10 and meeting center facility or an amusement park facility or (ii)
11 one thousand yards of a sports facility, measured from the eligible
12 such facility but not from any parking facility or other structure;

13 ~~(2)~~ (3) Board means a board consisting of the Governor,
14 the State Treasurer, the chairperson of the Nebraska Investment
15 Council, the chairperson of the Nebraska State Board of Public
16 Accountancy, and a professor of economics on the faculty of a
17 state postsecondary educational institution appointed to a two-year
18 term on the board by the Coordinating Commission for Postsecondary
19 Education. For administrative and budget purposes only, the board
20 shall be considered part of the Department of Revenue;

21 ~~(3)~~ (4) Bond means a general obligation bond,
22 redevelopment bond, lease-purchase bond, revenue bond, or
23 combination of any such bonds;

24 ~~(4)~~ (5) Convention and meeting center facility means
25 a temperature-controlled building and personal property primarily

1 used as a convention and meeting center, including an auditorium,
2 an exhibition hall, a facility for onsite food preparation and
3 serving, an onsite, directly connected parking facility for the
4 use of the convention and meeting center facility, and an
5 onsite administrative office of the convention and meeting center
6 facility;

7 ~~(5)(a)~~ (6) Eligible facility means (a) any publicly
8 owned convention and meeting center facility approved for state
9 assistance on or before June 1, 2007, (b) any publicly owned sports
10 arena facility attached to such convention and meeting center
11 facility, ~~or~~ (c) any publicly or privately owned convention and
12 meeting center facility or publicly or privately owned sports arena
13 facility acquired, constructed, improved, or equipped after June
14 1, 2007, or (d) any publicly or privately owned amusement park
15 facility approved for state assistance on or after the operative
16 date of this act; and

17 ~~(b)~~ Beginning with applications for financial assistance
18 received on or after February 1, 2008, eligible facility does not
19 include any publicly or privately owned sports arena facility with
20 a seating capacity greater than sixteen thousand seats;

21 ~~(6)~~ (7) General obligation bond means any bond or
22 refunding bond issued by a political subdivision and which is
23 payable from the proceeds of an ad valorem tax;

24 ~~(7)~~ (8) Political subdivision means any local
25 governmental body formed and organized under state law and any

1 joint entity or joint public agency created under state law to act
 2 on behalf of political subdivisions which has statutory authority
 3 to issue general obligation bonds;

4 (9) Retailer means a retailer as defined in section
 5 77-2701.32 that is:

6 (a) Doing business at a convention and meeting center
 7 facility or an amusement park facility; or

8 (b) Doing business at or within one thousand yards of
 9 a sports facility if the retailer is not doing business on the
 10 premises of a convention and meeting center facility, an amusement
 11 park facility, or another sports facility;

12 ~~(8)~~ (10) Revenue bond means any bond or refunding bond
 13 issued by a political subdivision which is limited or special
 14 rather than a general obligation bond of the political subdivision
 15 and which is not payable from the proceeds of an ad valorem tax;
 16 and

17 ~~(9)~~ (11) Sports arena facility means any enclosed
 18 temperature-controlled building primarily used for competitive
 19 sports, including stadiums, arenas, dressing and locker facilities,
 20 concession areas, parking facilities, and onsite administrative
 21 offices connected with operating the facilities.

22 Sec. 3. Section 13-2605, Reissue Revised Statutes of
 23 Nebraska, is amended to read:

24 13-2605 (1) All applications for state assistance under
 25 the Convention Center Facility Financing Assistance Act shall be in

1 writing and shall include a certified copy of the approving action
2 of the governing body of the applicant describing the proposed
3 eligible facility and the anticipated financing.

4 (2) The application shall contain:

5 (a) A description of the proposed financing of the
6 eligible facility, including the estimated principal and interest
7 requirements for the bonds proposed to be issued in connection
8 with the eligible facility or the amounts necessary to repay the
9 original investment by the applicant in the eligible facility;

10 (b) Documentation of local financial commitment to
11 support the project, including all public and private resources
12 pledged or committed to the project; and

13 (c) Any other project information deemed appropriate by
14 the board.

15 (3) Upon receiving an application for state assistance,
16 the board shall review the application and notify the applicant of
17 any additional information needed for a proper evaluation of the
18 application.

19 (4) Any state assistance received pursuant to the act
20 shall be used only for public purposes.

21 (5) If a convention and meeting center facility, a sports
22 facility, or an amusement park facility (a) is deemed an eligible
23 facility by the board, (b) has received state assistance pursuant
24 to the act, and (c) is located within (i) the corporate limits of
25 a city of the metropolitan class or (ii) a county in which such

1 city is located, such facility shall develop a plan in conjunction
2 with other such facilities to coordinate events to be attracted
3 and hosted by such facilities. The event coordination plan shall
4 include, but not be limited to, determinations regarding marketing
5 and scheduling.

6 Sec. 4. Section 13-2607, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 13-2607 (1) After consideration of the application and
9 the evidence, the board shall issue a finding of whether the
10 convention and meeting center facility, ~~or~~ sports arena facility,
11 or amusement park facility described in the application is eligible
12 for state assistance.

13 (2) If the board finds that the facility described in the
14 application is an eligible facility and that state assistance is in
15 the best interest of the state, the application shall be approved.

16 (3) In determining whether state assistance is in the
17 best interest of the state, the board shall consider the fiscal and
18 economic capacity of the applicant to finance the local share of
19 the eligible facility.

20 (4) A majority of the board members constitutes a quorum
21 for the purpose of conducting business. All actions of the board
22 shall be by a majority vote of all the board members, one of whom
23 must be the Governor.

24 Sec. 5. Section 13-2609, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 13-2609 (1) If an application is approved, the Tax
2 Commissioner shall:

3 (a) Audit or review audits of the approved convention
4 and meeting center facility, sports ~~arena~~ facility, amusement park
5 facility, or associated hotel to determine the state sales tax
6 revenue collected by retailers and operators doing business at
7 such facilities on sales pursuant to subdivision (9)(a) or (b)
8 of section 13-2603, at such facilities, state sales tax revenue
9 collected on primary and secondary box office sales of admissions
10 to such facilities, and state sales tax revenue collected by or
11 on the premises of associated hotels. If a retailer has been
12 collecting state sales tax revenue for more than twenty-four months
13 prior to the completion of a sports facility, only any increase
14 in state sales tax revenue each fiscal year beginning with the
15 first fiscal year after the completion of the sports facility
16 shall be eligible as state assistance to an eligible facility.
17 State assistance for an eligible facility shall also only include
18 all state sales tax revenue collected by retailers that had been
19 doing business up to twenty-four months prior to the completion of
20 the sports facility and all state sales tax revenue collected by
21 retailers not on the premises of the sports facility that are doing
22 business prior to twenty-four months after completion of the sports
23 facility; and

24 (b) Certify annually the amount of state sales tax
25 revenue collected by retailers and operators doing business at

1 ~~such facilities~~ on sales pursuant to subdivision (9) (a) or (b)
2 of section 13-2603, at such facilities, state sales tax revenue
3 collected on primary and secondary box office sales of admissions
4 to such facilities, and state sales tax revenue collected by or
5 on the premises of associated hotels, to the State Treasurer.
6 If a retailer has been collecting state sales tax revenue for
7 more than twenty-four months prior to the completion of a sports
8 facility, only any increase in state sales tax revenue each fiscal
9 year beginning with the first fiscal year after the completion
10 of the sports facility shall be eligible as state assistance to
11 an eligible facility. State assistance for an eligible facility
12 shall also only include all state sales tax revenue collected by
13 retailers that had been doing business up to twenty-four months
14 prior to the completion of the sports facility and all state sales
15 tax revenue collected by retailers not on the premises of the
16 sports facility that are doing business prior to twenty-four months
17 after completion of the sports facility.

18 (2) State sales tax revenue collected by retailers ~~and~~
19 ~~operators~~ that are not eligible facilities ~~but are doing business~~
20 ~~at eligible facilities~~ shall be reported on informational returns
21 developed by the Department of Revenue and provided to any such
22 retailers ~~and operators~~ by the eligible facility. The informational
23 returns shall be submitted to the department by the retailer ~~or~~
24 ~~operator~~ by the twenty-fifth day of the month following the month
25 the sales taxes are collected. The Tax Commissioner shall use

1 the data from the informational returns and sales tax returns
2 of eligible facilities and associated hotels to determine the
3 appropriate amount of state sales tax revenue.

4 (3) Changes made to the Convention Center Facility
5 Financing Assistance Act by ~~Laws 2007, LB 551,~~ this legislative
6 bill shall apply to (a) applications for assistance submitted
7 on and after January 1, 2009, and (b) state sales tax revenue
8 collected commencing on July 1, 2006-2010.

9 Sec. 6. Section 13-2610, Revised Statutes Supplement,
10 2009, is amended to read:

11 13-2610 (1) Upon the annual certification under section
12 13-2609, the State Treasurer shall transfer after the audit
13 the amount certified to the Convention Center Support Fund. The
14 Convention Center Support Fund is created. Any money in the fund
15 available for investment shall be invested by the state investment
16 officer pursuant to the Nebraska Capital Expansion Act and the
17 Nebraska State Funds Investment Act.

18 (2) (a) It is the intent of the Legislature to appropriate
19 from the fund to any political subdivision for which an application
20 for state assistance under the Convention Center Facility Financing
21 Assistance Act has been approved an amount not to exceed (i)
22 seventy percent of the state sales tax revenue collected by
23 retailers and operators doing business at such facilities on sales
24 pursuant to subdivision (9) (a) or (b) of section 13-2603, at
25 such facilities, state sales tax revenue collected on primary

1 and secondary box office sales of admissions to such facilities,
2 and state sales tax revenue collected by or on the premises
3 of associated hotels, (ii) seventy-five million dollars for any
4 one approved project, or (iii) the total cost of acquiring,
5 constructing, improving, or equipping the eligible facility. State
6 assistance shall not be used for an operating subsidy or other
7 ancillary facility. If a retailer has been collecting state
8 sales tax revenue for more than twenty-four months prior to
9 the completion of a sports facility, only any increase in state
10 sales tax revenue each fiscal year beginning with the first fiscal
11 year after the completion of the sports facility shall be eligible
12 as state assistance to an eligible facility. State assistance for
13 an eligible facility shall also only include all state sales tax
14 revenue collected by retailers that had been doing business up to
15 twenty-four months prior to the completion of the sports facility
16 and all state sales tax revenue collected by retailers not on the
17 premises of the sports facility that are doing business prior to
18 twenty-four months after completion of the sports facility.

19 (b) Ten percent of such funds appropriated to a city
20 of the metropolitan class under this subsection shall be equally
21 distributed to areas with a high concentration of poverty to (i)
22 showcase important historical aspects of such areas or (ii) assist
23 with the reduction of street and gang violence in such areas.

24 (c) Each area with a high concentration of poverty that
25 has been distributed funds under subdivision (b) of this subsection

1 shall establish a development fund and form a committee which
2 shall identify and research potential projects and make final
3 determinations on the use of state sales tax revenue received for
4 such projects.

5 (d) A committee formed in subdivision (c) of this
6 subsection shall include the following three members:

7 (i) The member of the city council whose district
8 includes a majority of the census tracts which each contain a
9 percentage of persons below the poverty line of greater than thirty
10 percent, as determined by the most recent federal decennial census,
11 within the area with a high concentration of poverty;

12 (ii) The commissioner of the county whose district
13 includes a majority of the census tracts which each contain a
14 percentage of persons below the poverty line of greater than thirty
15 percent, as determined by the most recent federal decennial census,
16 within the area with a high concentration of poverty; and

17 (iii) A resident of the area with a high concentration of
18 poverty, appointed by the other two members of the committee.

19 (e) A committee formed in subdivision (c) of this
20 subsection shall solicit project ideas from the public and shall
21 hold a public hearing in the area with a high concentration
22 of poverty. Notice of a proposed hearing shall be provided in
23 accordance with the procedures for notice of a public hearing
24 pursuant to section 18-2115. The committee shall research potential
25 projects in its area and make the final determination regarding the

1 annual distribution of funding to such projects.

2 (f) For purposes of this subsection, an area with a high
3 concentration of poverty means an area within the corporate limits
4 of a city of the metropolitan class consisting of one or more
5 contiguous census tracts, as determined by the most recent federal
6 decennial census, which contain a percentage of persons below the
7 poverty line of greater than thirty percent, and all census tracts
8 contiguous to such tract or tracts, as determined by the most
9 recent federal decennial census.

10 (3) State assistance to the political subdivision shall
11 no longer be available upon the retirement of the bonds issued
12 to acquire, construct, improve, or equip the facility or any
13 subsequent bonds that refunded the original issue or when state
14 assistance reaches the amount determined under subdivision (2)(a)
15 of this section, whichever comes first.

16 (4) The remaining thirty percent of state sales tax
17 revenue collected by retailers and operators doing business at
18 ~~such facilities~~ on sales pursuant to subdivision (9)(a) or (b)
19 of section 13-2603, at such facilities, state sales tax revenue
20 collected on primary and secondary box office sales of admissions
21 to such facilities, and state sales tax revenue collected by
22 or on the premises of associated hotels, shall be appropriated
23 by the Legislature to the Local Civic, Cultural, and Convention
24 Center Financing Fund. If a retailer has been collecting state
25 sales tax revenue for more than twenty-four months prior to the

1 completion of a sports facility, only any increase in state sales
 2 tax revenue each fiscal year beginning with the first fiscal year
 3 after the completion of the sports facility shall be eligible as
 4 state assistance to an eligible facility. State assistance for
 5 an eligible facility shall also only include all state sales tax
 6 revenue collected by retailers that had been doing business up to
 7 twenty-four months prior to the completion of the sports facility
 8 and all state sales tax revenue collected by retailers not on the
 9 premises of the sports facility that are doing business prior to
 10 twenty-four months after completion of the sports facility.

11 ~~(5) Any municipality that has applied for and received a~~
 12 ~~grant of assistance under the Local Civic, Cultural, and Convention~~
 13 ~~Center Financing Act may not receive state assistance under the~~
 14 ~~Convention Center Facility Financing Assistance Act.~~

15 Sec. 7. Section 13-2702, Reissue Revised Statutes of
 16 Nebraska, is amended to read:

17 13-2702 The purpose of the Local Civic, Cultural, and
 18 Convention Center Financing Act is to support the development of
 19 civic, cultural, and convention centers and the rehabilitation of
 20 historic buildings throughout Nebraska. Furthermore, the act is
 21 intended to support projects that attract new civic, cultural, and
 22 convention activity to Nebraska from outside of Nebraska.

23 Sec. 8. Section 13-2703, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 13-2703 For purposes of the Local Civic, Cultural, and

1 Convention Center Financing Act:

2 (1) Center means a civic, cultural, or convention
3 facility or area, and includes the portion of the Nebraska State
4 Capitol Environs District made up of the areas and the full width
5 of the right-of-way boundary streets described in subdivision
6 (1)(d) of section 90-303;

7 (2) Department means the Department of Economic
8 Development; ~~and~~

9 (3) Fund means the Local Civic, Cultural, and Convention
10 Center Financing Fund; ~~and-~~

11 (4) Historic building means any building listed or
12 eligible to be listed in the National Register of Historic Places
13 in accordance with criteria established by the Secretary of the
14 Interior.

15 Sec. 9. Section 13-2704, Reissue Revised Statutes of
16 Nebraska, as amended by section 8, Legislative Bill 3, One Hundred
17 First Legislature, First Special Session, 2009, is amended to read:

18 13-2704 The Local Civic, Cultural, and Convention Center
19 Financing Fund is created. The fund shall be administered by the
20 department. ~~Transfers may be made from the fund to the General~~
21 ~~Fund at the direction of the Legislature.~~ Any money in the Local
22 Civic, Cultural, and Convention Center Financing Fund available
23 for investment shall be invested by the state investment officer
24 pursuant to the Nebraska Capital Expansion Act and the Nebraska
25 State Funds Investment Act. The fund may be used for assistance for

1 the construction of new centers or the renovation or expansion of
2 existing centers or for the conversion, rehabilitation, or reuse
3 of historic buildings. The fund may not be used for planning,
4 programming, marketing, advertising, and related activities.

5 Sec. 10. Section 13-2705, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 13-2705 The department may conditionally approve grants
8 of assistance from the fund to eligible and competitive applicants
9 within the following limits:

10 (1) A grant request shall be at least twenty thousand
11 dollars but no more than:

12 (a) For a city of the primary class, one million dollars;

13 (b) For a municipality with a population of forty
14 thousand but less than one hundred thousand, five hundred thousand
15 dollars;

16 (c) For a municipality with a population of twenty
17 thousand but less than forty thousand, four hundred thousand
18 dollars;

19 (d) For a municipality with a population of ten thousand
20 but less than twenty thousand, three hundred thousand dollars;

21 (e) For a municipality with a population of five thousand
22 but less than ten thousand, two hundred thousand dollars; and

23 (f) For a municipality with a population of less than
24 five thousand, one hundred thousand dollars; and

25 (2) Assistance from the fund shall not amount to more

1 than fifty percent of the cost of construction, renovation, or
2 expansion. ~~and~~

3 ~~(3) A municipality shall not be awarded more than one~~
4 ~~grant in any five-year period.~~

5 Sec. 11. Section 13-2706, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 13-2706 Any municipality, except a city that has received
8 funding under the Convention Center Facility Financing Assistance
9 Act, of the metropolitan class, may apply for a grant of assistance
10 from the fund. Application shall be made on forms developed by the
11 department.

12 Sec. 12. Section 13-2707, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 13-2707 The department shall evaluate all applications
15 for grants of assistance based on the following criteria:

16 (1) Attraction impact. Funding decisions by the
17 department shall be based in part on the likelihood of the project
18 attracting new cultural, civic, or convention activity to Nebraska
19 from outside of Nebraska. A project with greater out-of-state draw
20 shall be preferred over a project with less impact;

21 (2) Socioeconomic impact. The project's potential for
22 long-term positive impacts on the local and regional economy and
23 society;

24 (3) Financial support. Assistance from the fund shall
25 be matched at least equally from local sources. At least eighty

1 percent of the local match must be in cash. Projects with a higher
2 level of local matching funds shall be preferred as compared to
3 those with a lower level of matching funds;

4 (4) Readiness. The applicant's fiscal and economic
5 capacity to finance the local share and ability to proceed and
6 implement its plan and operate the ~~convention center~~ or historic
7 building; and

8 (5) Project location. A project shall be located in the
9 municipality that applies for the grant.

10 Sec. 13. This act becomes operative on July 1, 2010.

11 Sec. 14. Original sections 13-2602, 13-2605, 13-2607,
12 13-2609, 13-2702, 13-2703, 13-2704, 13-2705, 13-2706, and 13-2707,
13 Reissue Revised Statutes of Nebraska, section 13-2603, Revised
14 Statutes Cumulative Supplement, 2008, section 13-2610, Revised
15 Statutes Supplement, 2009, and section 13-2704, Reissue Revised
16 Statutes of Nebraska, as amended by section 8, Legislative Bill
17 3, One Hundred First Legislature, First Special Session, 2009, are
18 repealed.

19 Sec. 15. Since an emergency exists, this act takes effect
20 when passed and approved according to law.