

AMENDMENTS TO LB 682

Introduced by Revenue

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 11 of this act shall be known
4 and may be cited as the Sewer Infrastructure Assistance Act.

5 Sec. 2. (1) The Legislature finds that municipalities of
6 the state face an urgent need to construct, upgrade, redevelop,
7 and replace sewer infrastructure facilities to reduce combined
8 sewer overflow. By providing sewer facilities, municipalities
9 provide the building blocks for economic development. Not only
10 does the investment in infrastructure generate an immediate stream
11 of economic activity, it also lays the groundwork for private
12 investment that will use the facilities so provided. Municipalities
13 currently are in critical need of assistance in providing these
14 facilities. Municipalities are limited in their ability to finance
15 major infrastructure projects and are generally required by federal
16 regulation to follow a cost-of-service user fee system to fund
17 wastewater operations and maintenance costs including replacement.
18 Additionally, many alternate financing options contain statutory
19 budget and tax levy restrictions. In order to minimize the burden
20 on property taxpayers in Nebraska, the Legislature finds that it
21 is fair and equitable to encourage the use of fees for services to
22 finance major infrastructure projects.

23 (2) The Legislature determines that it is in the public

1 interest to assist municipalities by establishing a fund to provide
2 funds to municipalities to be used to replace and redevelop sewer
3 infrastructure facilities to reduce combined sewer overflow.

4 (3) In order that the state may receive long-term
5 economic and fiscal benefits from such facilities, a need exists
6 to provide state assistance to municipalities endeavoring to
7 construct, acquire, substantially reconstruct, expand, operate,
8 improve, or equip such facilities.

9 (4) Therefor, it is deemed to be in the best interest
10 of the state and its municipalities that the state assist
11 municipalities in financing the construction, acquisition,
12 substantial reconstruction, expansion, operation, improvement, or
13 equipping of sewer infrastructure facilities.

14 (5) The amount of state assistance under the Sewer
15 Infrastructure Assistance Act shall be limited to the state sales
16 tax revenue collected by municipalities on the increase in monthly
17 sewer use fees on and after July 1, 2013, attributable to combined
18 sewer overflow projects.

19 Sec. 3. For purposes of the Sewer Infrastructure
20 Assistance Act:

21 (1) Board means a board consisting of the Director
22 of Environmental Quality, the chief executive officer of the
23 Department of Health and Human Services, and the State Fire
24 Marshal;

25 (2) Bond means a general obligation bond, redevelopment
26 bond, lease-purchase bond, revenue bond, or combination of any
27 such bonds and a loan from the Wastewater Treatment Facilities

1 Construction Loan Fund;

2 (3) Combined sewer overflow project means a municipal
3 project to reduce overflows from a combined sewer system pursuant
4 to a long-term control plan approved by the Department of
5 Environmental Quality;

6 (4) Eligible facility means any facility that is
7 constructed or installed pursuant to an approved long-term control
8 plan;

9 (5) General obligation bond means any bond or refunding
10 bond issued by a municipality and which is payable from the
11 proceeds of an ad valorem tax; and

12 (6) Revenue bond means any bond or refunding bond issued
13 by a municipality which is not payable from the proceeds of an ad
14 valorem tax.

15 Sec. 4. Any municipality that has acquired, constructed,
16 improved, or equipped or has approved a general obligation bond
17 issue or revenue bond issue to acquire, construct, improve, or
18 equip eligible facilities may apply to the board for state
19 assistance. The state assistance shall only be used (1) to
20 repay the debt borrowed through one or more issues of bonds
21 to be expended by the municipality to acquire, construct, improve,
22 and equip eligible facilities until repayment in full of the
23 amounts expended or borrowed by the municipality, including the
24 principal of and interest on bonds, for eligible facilities and
25 (2) to pay amounts to be expended by the municipality without
26 the issuance of bonds to acquire, construct, improve, and equip
27 eligible facilities.

1 Sec. 5. (1) All applications for state assistance under
2 the Sewer Infrastructure Assistance Act shall be in writing and
3 shall include a certified copy of the approving action of the
4 governing body of the applicant describing the proposed eligible
5 facility.

6 (2) The application shall contain:

7 (a) A description of the proposed financing of the
8 eligible facility, including the estimated principal and interest
9 requirements for bonds proposed to be issued in connection with the
10 eligible facility or, if no bonds are to be issued, a description
11 of the costs of the eligible facility; and

12 (b) Any other project information deemed appropriate by
13 the board.

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

18 Sec. 6. (1) After consideration of the application and
19 determination that the application conforms to all requirements
20 for eligibility for state assistance under the Sewer Infrastructure
21 Assistance Act, the board shall issue a finding that the combined
22 sewer overflow project described in the application is eligible for
23 state assistance.

24 (2) If the board finds that the project described in
25 the application is an eligible facility, the application shall be
26 approved.

27 (3) A majority of the board members constitutes a quorum

1 for the purpose of conducting business. All actions of the board
2 shall be by a majority vote of all the board members.

3 Sec. 7. If an application is approved, the Tax
4 Commissioner shall:

5 (1) Audit or review audits of the sewer use fees
6 collected by the municipality to determine the state sales tax
7 revenue and local option sales tax revenue collected by the
8 municipality on the increase in monthly sewer use fees on and after
9 July 1, 2013, attributable to the combined sewer overflow project;
10 and

11 (2) Certify annually the amount of such state sales tax
12 revenue collected by the municipality on such increased fees to the
13 State Treasurer.

14 Sec. 8. (1) The Sewer Infrastructure Fund is created.
15 Upon the annual certification under section 7 of this act, the
16 State Treasurer shall transfer the amount certified from the
17 General Fund to the Sewer Infrastructure Fund. Any money in the
18 fund available for investment shall be invested by the state
19 investment officer pursuant to the Nebraska Capital Expansion Act
20 and the Nebraska State Funds Investment Act.

21 (2) The board shall distribute from the fund to any
22 municipality for which an application for state assistance under
23 the Sewer Infrastructure Assistance Act has been approved an
24 amount not to exceed the lesser of the total cost of acquiring,
25 constructing, improving, or equipping the eligible facility or
26 the total state sales tax revenue collected by the municipality
27 on the increase in monthly sewer use fees on and after July 1,

1 2013, attributable to the combined sewer overflow project. The
2 distribution shall be conditioned upon the municipality using the
3 local option sales tax revenue collected on the increase in monthly
4 sewer use fees attributable to the combined sewer overflow project
5 for the same purposes as permitted for the funds distributed under
6 this section notwithstanding any terms or conditions set forth
7 in the resolution proposing the local option sales tax. Funds
8 distributed under this section shall be used only to assist with
9 the costs of acquiring, constructing, improving, or equipping the
10 eligible facilities, including any financing costs, shall be kept
11 in a separate fund, and shall not be used to fund the general
12 operations of the municipality.

13 (3) State assistance to the applicant shall no longer
14 be available upon the retirement of the bonds issued to acquire,
15 construct, improve, or equip the eligible facility or any
16 subsequent bonds that refunded the original issue, or if bonds
17 are not issued, upon payment of the cost to acquire, construct,
18 improve, or equip the eligible facility or when state assistance
19 reaches the amount determined under subsection (2) of this section,
20 whichever comes first.

21 Sec. 9. The applicant may issue from time to time its
22 bonds and refunding bonds to finance and refinance the acquisition,
23 construction, improvement, and equipping of eligible facilities and
24 appurtenant public facilities that are a part of the same project.
25 The bonds may be sold by the applicant in such manner and for such
26 price as the applicant deems appropriate.

27 Sec. 10. The Department of Revenue shall submit an annual

1 report to the Legislature on or before August 1 of each year which
2 includes, but is not limited to, a description of the demand for
3 state assistance under the Sewer Infrastructure Assistance Act, a
4 list of the recipients and amounts of state assistance awarded
5 pursuant to the act in the previous fiscal year, the status of each
6 project awarded state assistance, and an estimate of the number of
7 jobs created or sustained by each such project. The department may
8 require recipients of financial assistance to provide reports to
9 enable the department to fulfill the requirements of this section.

10 Sec. 11. The Department of Revenue may adopt and
11 promulgate rules and regulations to carry out the Sewer
12 Infrastructure Assistance Act.