

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 471

Final Reading

Introduced by Karpisek, 32; Mello, 5.

Read first time January 14, 2011

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to the Local Option Municipal Economic
2 Development Act; to amend sections 18-2708, 18-2709,
3 18-2714, and 18-2717, Reissue Revised Statutes of
4 Nebraska; to redefine terms; to expand and change
5 restrictions on appropriations from local sources of
6 revenue for the use of economic development programs; and
7 to repeal the original sections.

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

1 Section 1. Section 18-2708, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2708 Local sources of revenue ~~shall mean~~ means the
4 city's property tax, ~~or~~ the city's local option sales tax, or any
5 other general tax levied by the city or generated from municipally
6 owned utilities or grants, donations, or state and federal funds
7 received by the city subject to any restrictions of the grantor,
8 donor, or state or federal law. Funds generated from municipally
9 owned utilities shall be used for utility-related purposes or
10 activities associated with the economic development program as
11 determined by the city council, including, but not limited to, load
12 management, energy efficiency, energy conservation, incentives for
13 load growth, line extensions, land purchase, site development, and
14 demand side management measures.

15 Sec. 2. Section 18-2709, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 18-2709 (1) Qualifying business ~~shall mean~~ means any
18 corporation, partnership, limited liability company, or sole
19 proprietorship which derives its principal source of income from any
20 of the following: The manufacture of articles of commerce; the
21 conduct of research and development; the processing, storage,
22 transport, or sale of goods or commodities which are sold or traded
23 in interstate commerce; the sale of services in interstate commerce;
24 headquarters facilities relating to eligible activities as listed in
25 this section; telecommunications activities, including services

1 providing advanced telecommunications capability; or tourism-related
2 activities.

3 (2) Qualifying business also means:

4 (a) In cities of the first and second class and villages,
5 a business ~~shall also be a qualifying business if it~~ that derives its
6 principal source of income from the construction or rehabilitation of
7 housing;

8 (b) A ~~. In cities with a population of more than two~~
9 ~~thousand five hundred inhabitants and less than ten thousand~~
10 ~~inhabitants, a business shall also be a qualifying business if it~~
11 that derives its principal source of income from retail trade, except
12 that no more than forty percent of the total revenue generated
13 pursuant to the Local Option Municipal Economic Development Act for
14 an economic development program in any twelve-month period and no
15 more than twenty percent of the total revenue generated pursuant to
16 the act for an economic development program in any five-year period,
17 commencing from the date of municipal approval of an economic
18 development program, shall be used by the city for or devoted to the
19 use of retail trade businesses. For purposes of this ~~section,~~
20 subdivision, retail trade shall mean means a business which is
21 principally engaged in the sale of goods or commodities to ultimate
22 consumers for their own use or consumption and not for resale; and -

23 (c) In cities with a population of two thousand five
24 hundred inhabitants or less, a business shall be a qualifying
25 business even though it derives its principal source of income from

1 activities other than those set out in this section.

2 (3) If a business which would otherwise be a qualifying
3 business employs people and carries on activities in more than one
4 city in Nebraska or will do so at any time during the first year
5 following its application for participation in an economic
6 development program, it shall be a qualifying business only if, in
7 each such city, it maintains employment for the first two years
8 following the date on which such business begins operations in the
9 city as a participant in its economic development program at a level
10 not less than its average employment in such city over the twelve-
11 month period preceding participation.

12 (4) A qualifying business need not be located within the
13 territorial boundaries of the city from which it is or will be
14 receiving financial assistance.

15 Sec. 3. Section 18-2714, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 18-2714 (1) After approval by the voters of an economic
18 development program, the governing body of the city shall, within
19 forty-five days after such approval, establish the economic
20 development program by ordinance in conformity with the terms of such
21 program as set out in the original enabling resolution.

22 (2) After the adoption of the ordinance establishing the
23 economic development program, such ordinance shall only be amended
24 (a) to conform to the provisions of any existing or future state or
25 federal law or (b) after notice, at least one public hearing, and a

1 two-thirds vote of the members of the governing body of the city,
2 when necessary to accomplish the purposes of the original enabling
3 resolution.

4 (3) The governing body of a city shall not amend the
5 economic development program so as to fundamentally alter its basic
6 structure or goals, either with regard to the qualifying businesses
7 that are eligible to participate, the local sources of revenue used
8 to fund the program, the uses of the funds collected, or the basic
9 terms set out in the original enabling resolution, without submitting
10 the proposed changes to a new vote of the registered voters of the
11 city in the manner provided for in section 18-2713.

12 (4) The governing body of a city may, at any time after
13 the adoption of the ordinance establishing the economic development
14 program, by a two-thirds vote of the members of the governing body,
15 repeal the ordinance in its entirety and end the economic development
16 program, subject only to the provisions of any existing contracts
17 relating to such program and the rights of any third parties arising
18 from those contracts. Prior to such vote by the governing body, it
19 shall publish notice of its intent to consider the repeal and hold a
20 public hearing on the issue. Any funds in the custody of the city for
21 such economic development program which are not spent or committed at
22 the time of the repeal and any funds to be received in the future
23 from the prior operation of the economic development program shall be
24 placed into the general fund of the city.

25 Sec. 4. Section 18-2717, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 18-2717 (1) No city shall appropriate from funds derived
3 directly from local sources of revenue for all approved economic
4 development programs, in each year during which such programs are in
5 existence, an amount in excess of four-tenths of one percent of the
6 taxable valuation of the city in the year in which the funds are
7 collected.

8 (2) Notwithstanding the provisions of subsections (1) and
9 (3) of this section, no city of the metropolitan or primary class
10 shall appropriate from funds derived directly from local sources of
11 revenue more than ~~three~~five million dollars for all approved
12 economic development programs in any one year, no city of the first
13 class shall appropriate from funds derived directly from local
14 sources of revenue more than ~~two~~four million dollars for all
15 approved economic development programs in any one year, and no city
16 of the second class or village shall appropriate from funds derived
17 directly from local sources of revenue more than ~~one~~three million
18 dollars for all approved economic development programs in any one
19 year.

20 (3) Notwithstanding the provisions of subsections (1) and
21 (2) of this section, no city shall appropriate from funds derived
22 directly from local sources of revenue an amount for an economic
23 development program in excess of the total amount approved by the
24 voters at the election or elections in which the economic development
25 program was submitted or amended.

1 (4) The restrictions on the appropriation of funds from
2 local sources of revenue as set out in subsections (1) through (3) of
3 this section shall apply only to the appropriation of funds derived
4 directly from local sources of revenue. Sales tax collections in
5 excess of the amount which may be appropriated as a result of the
6 restrictions set out in such subsections shall be deposited in the
7 city's economic development fund and invested as provided for in
8 section 18-2718. Any funds in the city's economic development fund
9 not otherwise restricted from appropriation by reason of the city's
10 ordinance governing the economic development program or this section
11 may be appropriated and spent for the purposes of the economic
12 development program in any amount and at any time at the discretion
13 of the governing body of the city subject only to section 18-2716.

14 (5) The restrictions on the appropriation of funds from
15 local sources of revenue shall not apply to the reappropriation of
16 funds which were appropriated but not expended during previous fiscal
17 years.

18 Sec. 5. Original sections 18-2708, 18-2709, 18-2714, and
19 18-2717, Reissue Revised Statutes of Nebraska, are repealed.