

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 481

Introduced by Raybould, 28.

Read first time January 17, 2023

Committee:

- 1 A BILL FOR AN ACT relating to housing incentives; to adopt the Housing
- 2 Incentive District Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 15 of this act shall be known and may be
2 cited as the Housing Incentive District Act.

3 Sec. 2. The purpose of the Housing Incentive District Act is to
4 encourage the development and renovation of housing in cities and
5 counties in this state by authorizing cities and counties to assist
6 directly in the financing of public improvements that will support
7 housing in areas that experience a shortage of housing.

8 Sec. 3. For purposes of the Housing Incentive District Act:

9 (1) Authority means the Nebraska Investment Finance Authority;

10 (2) City means an incorporated city or village in this state;

11 (3) County means any county in this state;

12 (4) Developer means the person, firm, or corporation responsible
13 under an agreement with the governing body to develop housing or related
14 public facilities in a district;

15 (5) Director means the Director of Economic Development;

16 (6) District means a housing incentive district established in
17 accordance with the act;

18 (7) Governing body means the village board of a village, the city
19 council of a city, or the county board of a county;

20 (8) Housing development activities means the construction or
21 rehabilitation of infrastructure necessary to support construction of new
22 residential dwellings and the actual construction of residential
23 dwellings;

24 (9) Real property taxes means and includes all taxes levied on an ad
25 valorem basis upon land and improvements thereon; and

26 (10) Taxing subdivision means any county, city, school district, or
27 other political subdivision levying real property taxes, the territory or
28 jurisdiction of which includes a housing incentive district.

29 Sec. 4. (1) The governing body of any city or county is hereby
30 authorized to designate housing incentive districts within such city or
31 county. Any city governing body may designate one or more such districts

1 in such city, and any county governing body may designate one or more
2 such districts in any part of the unincorporated territory of such
3 county. Prior to making such a designation, the governing body shall
4 conduct a housing needs analysis to determine what, if any, housing needs
5 exist within the proposed district. After conducting the analysis, the
6 governing body shall adopt a resolution containing a legal description of
7 the proposed district, a map depicting the existing parcels of real
8 estate in the proposed district, and a statement containing the following
9 findings:

10 (a) There is a shortage of quality housing of various price ranges
11 in the city or county despite the best efforts of public and private
12 housing developers;

13 (b) The shortage of quality housing can be expected to persist, and
14 additional financial incentives are necessary in order to encourage the
15 private sector to construct or renovate housing in such city or county;

16 (c) The shortage of quality housing is a substantial deterrent to
17 the future economic growth and development of such city or county; and

18 (d) The future economic well-being of the city or county depends on
19 the governing body providing additional incentives for the construction
20 or renovation of quality housing in such city or county.

21 (2) The resolution containing the findings described in subsection
22 (1) of this section shall be published at least once in a legal newspaper
23 in or of general circulation in the city or county.

24 (3) Upon publication of the resolution as required in subsection (2)
25 of this section, the governing body shall send a certified copy of the
26 resolution to the director, requesting that the director review the
27 resolution and advise the governing body whether the director agrees with
28 the findings contained therein. If the director advises the governing
29 body in writing that the director agrees with each of the findings of the
30 governing body, the governing body may proceed to establish the district
31 as set forth in the Housing Incentive District Act. If the director fails

1 to agree with the findings, the director shall advise the governing body
2 in writing of the specific reasons therefor.

3 Sec. 5. (1) Upon receipt of the approval of the director as
4 provided in section 4 of this act, the governing body may proceed with
5 the establishment of the district. Before doing so, the governing body
6 shall adopt a plan for the development or redevelopment of housing and
7 public facilities in the proposed district. Such plan may include one or
8 more projects. The length of any individual project shall not exceed
9 fifteen years. The plan shall include, but not be limited to, the
10 following:

11 (a) The legal description and map required in section 4 of this act;

12 (b) The existing assessed value of the real estate in the proposed
13 district, listing the land and improvement values separately;

14 (c) A list of the names and addresses of the owners of record of all
15 real estate parcels within the proposed district;

16 (d) A description of the housing and public facility project or
17 projects that are proposed to be constructed or improved in the proposed
18 district, and the location thereof;

19 (e) A listing of the names, addresses, and specific interests in
20 real estate in the proposed district of the developers responsible for
21 the development of the housing and public facilities in the proposed
22 district;

23 (f) The contractual assurances, if any, the governing body has
24 received from such developer or developers, guaranteeing the financial
25 feasibility of specific housing projects in the proposed district; and

26 (g) A comprehensive analysis of the feasibility of providing housing
27 tax incentives in the district as provided in the Housing Incentive
28 District Act, which shows that the public benefits derived from such
29 district will exceed the costs and that the income from the tax
30 incentives, together with other sources of funding, will be sufficient to
31 pay for the project or projects.

1 (2) Prior to the adoption of the plan and designation of the
2 district, the governing body shall adopt a resolution stating that the
3 governing body is considering such action. The resolution shall provide
4 notice that a public hearing will be held to consider the adoption of the
5 plan and designation of the district and shall contain the following
6 information:

7 (a) The date, time, and place of the public hearing;

8 (b) The information described in subdivisions (1)(a) through (d) of
9 this section;

10 (c) A summary of the contractual assurances by the developer and
11 comprehensive feasibility analysis;

12 (d) A statement that the plan is available for inspection at the
13 office of the clerk of the city or county during normal business hours;
14 and

15 (e) A statement inviting members of the public to review the plan
16 and attend the public hearing on the date announced in the resolution.

17 (3) The date fixed for the public hearing shall not be less than
18 thirty nor more than seventy days following the date of the adoption of
19 the resolution described in subsection (2) of this section. Such
20 resolution shall be published at least once in a legal newspaper in or of
21 general circulation in the city or county, with the final publication
22 being not less than one week and not more than two weeks preceding the
23 date fixed for the public hearing.

24 (4) A certified copy of the resolution shall be delivered to the
25 planning commission of the city or county and the school board of any
26 school district levying taxes on property within the proposed district.
27 If the resolution is adopted by a city governing body, a certified copy
28 shall also be delivered to the governing body of the county in which the
29 proposed district will be located. If the resolution is adopted by a
30 county governing body, a certified copy shall also be delivered to the
31 governing body of any city located within three miles of such proposed

1 district.

2 Sec. 6. (1) At the public hearing described in section 5 of this
3 act, a representative of the city or county shall present the proposed
4 plan for the development or renovation of housing in the proposed
5 district. Each project proposed for the district shall be identified and
6 explained. At the hearing, the developer or developers that have
7 contracted with the city or county to undertake such project shall be
8 identified and present in person or through a representative. Following
9 the presentation, all interested persons shall be given an opportunity to
10 be heard. The governing body for good cause shown may recess such hearing
11 to a time and date certain, which shall be fixed in the presence of
12 persons in attendance at the hearing.

13 (2) Upon conclusion of the public hearing, the governing body may
14 adopt the plan for the district and may establish the district by
15 ordinance or, in the case of any county, by resolution. The boundaries of
16 such district shall not include any area not designated in the notice
17 required by section 5 of this act. Any addition of area to the district
18 or any substantial change to the plan shall be subject to the same
19 procedure for public notice and hearing as required for the initial
20 establishment of the district.

21 (3) The ordinance or resolution establishing the district shall be
22 null and void if, within thirty days following the conclusion of the
23 public hearing:

24 (a) The governing body of any city located within three miles of a
25 district proposed to be established by a county determines by ordinance
26 that the proposed district will have an adverse effect on such city; or

27 (b) The governing body of the county in which a city governing body
28 proposes to establish such a district determines by resolution that the
29 proposed district will have an adverse effect on such county.

30 Sec. 7. (1) Any governing body that has established a district as
31 provided in the Housing Incentive District Act may purchase or otherwise

1 acquire real property, but such property shall not be acquired through
2 the exercise of the power of eminent domain. Relocation assistance
3 payments shall be provided by the city or county in accordance with the
4 Relocation Assistance Act to any tenants required to be relocated as a
5 result of the acquisition of such property for any project in the
6 district.

7 (2) Any property acquired by a city or county under the Housing
8 Incentive District Act may be sold or leased to any developer in
9 accordance with the plan for the district adopted under section 6 of this
10 act and under such conditions as shall have been agreed to prior to the
11 adoption of the plan. The city or county and the developers may agree to
12 any additional terms and conditions, but if the developer requests to be
13 released from any obligations agreed to and embodied in the plan, such
14 release shall constitute a substantial change and shall be subject to the
15 requirements provided in subsection (2) of section 6 of this act.

16 Sec. 8. (1) Any city or county that has established a housing
17 incentive district as provided in the Housing Incentive District Act may
18 issue special obligation bonds to finance the implementation of the plan
19 adopted for the district by the governing body. Such special obligation
20 bonds shall be made payable, both as to principal and interest:

21 (a) From property tax increments allocated to, and paid into, a
22 special fund of the city or county under section 10 of this act;

23 (b) From revenue of the city or county derived from or held in
24 connection with the implementation of the project or projects in the
25 district;

26 (c) From any private sources or contributions or other financial
27 assistance from the state or federal government;

28 (d) From any financial sureties or other guarantees provided by the
29 developer;

30 (e) From a pledge of any other lawfully available city or county
31 revenue sources, including, but not limited to, a portion of the local

1 sales and use tax revenue imposed by the city or county; or

2 (f) By any combination of the payment sources described in
3 subdivisions (a) through (e) of this subsection.

4 (2) The city or county may pledge the payment sources described in
5 subsection (1) of this section to the repayment of the special obligation
6 bonds prior to, simultaneously with, or subsequent to the issuance of
7 such bonds.

8 (3) Bonds issued under this section shall not be general obligations
9 of the city or county, nor in any event shall they give rise to a charge
10 against the general credit or taxing powers of the city or county, or be
11 payable out of any funds or properties other than those set forth in this
12 section. Such bonds shall so state on their face.

13 (4) The bonds issued under this section shall be special obligations
14 of the city or county and are declared to be negotiable instruments. The
15 bonds shall be executed by the mayor and clerk of the city or, in the
16 case of counties, by the chairperson of the county board and clerk of the
17 county, and shall be sealed with the corporate seal of the city or
18 county. All details pertaining to the issuance of such special obligation
19 bonds shall be determined by ordinance of the city or resolution of the
20 county. All special obligation bonds issued pursuant to the Housing
21 Incentive District Act shall be exempt from all state taxes. The special
22 obligation bonds shall contain the following recitals:

23 (a) The authority under which such special obligation bonds are
24 issued and that they are in conformity with the provisions, restrictions,
25 and limitations thereof; and

26 (b) That such special obligation bonds and the interest thereon are
27 to be paid from the money and revenue described in subsection (1) of this
28 section.

29 (5) The maximum maturity on bonds issued under this section shall
30 not exceed sixteen years.

31 (6) Any city or county issuing special obligation bonds under this

1 section may refund all or part of such issue pursuant to section 10-142.

2 (7) In the event the city or county defaults in the payment of any
3 special obligation bonds, no public funds shall be used to pay the
4 holders thereof except as otherwise specifically authorized in the
5 Housing Incentive District Act.

6 (8) Any and all terms, conditions, exclusions, and limitations which
7 are otherwise applicable to bonds issued pursuant to the Community
8 Development Law shall also be applicable to bonds issued pursuant to this
9 section.

10 Sec. 9. (1) Any city or county that has established a housing
11 incentive district as provided in the Housing Incentive District Act may
12 use the proceeds of the special obligation bonds issued under section 8
13 of this act or any uncommitted funds derived from the payment sources
14 described in subsection (1) of section 8 of this act to implement
15 specific projects identified within the housing incentive district plan,
16 including, without limitation:

17 (a) Acquisition of property within a specific project area or areas
18 as provided in section 7 of this act;

19 (b) Payment of relocation assistance;

20 (c) Site preparation;

21 (d) Sanitary and storm sewers and lift stations;

22 (e) Drainage conduits, channels, and levees;

23 (f) Street grading, paving, graveling, macadamizing, curbing,
24 guttering, and surfacing;

25 (g) Street lighting fixtures, connections, and facilities;

26 (h) Underground gas, water, heating, and electrical services and
27 connections located within the public right-of-way;

28 (i) Sidewalks; and

29 (j) Water mains and extensions.

30 (2) None of the proceeds from the sale of special obligation bonds
31 issued under section 8 of this act shall be used for the construction of

1 buildings or other structures to be owned by or to be leased to any
2 developer of a residential housing project within the district.

3 Sec. 10. (1) All real property located within a district
4 established in accordance with the Housing Incentive District Act shall
5 be assessed and taxed for ad valorem tax purposes pursuant to law in the
6 same manner that such property would be assessed and taxed if located
7 outside such district, and all ad valorem taxes levied on such property
8 shall be paid to and collected by the county treasurer in the same manner
9 as other taxes are paid and collected. Except as otherwise provided in
10 this section, the county treasurer shall distribute such taxes as may be
11 collected in the same manner as if such property were located outside the
12 district. Each district established under the act shall constitute a
13 separate taxing unit for the purpose of the computation and levy of
14 taxes.

15 (2) Beginning with the first payment of taxes that are levied
16 following the date of the approval of any district, the real property
17 taxes received by the county treasurer resulting from taxes that are
18 levied by a taxing subdivision on property located within such district
19 shall be divided as follows:

20 (a) The county treasurer first shall allocate and pay to each such
21 taxing subdivision all of the real property taxes collected that are
22 produced from that portion of the current assessed valuation of the real
23 property within the district which is equal to the total assessed value
24 of such real property on the date of the establishment of the district;
25 and

26 (b) Any real property taxes produced from that portion of the
27 current assessed valuation of the real property within the district in
28 excess of the total assessed value of such real property on the date of
29 the establishment of the district shall be allocated and paid by the
30 county treasurer as follows:

31 (i) In districts established by a city, the amount shall be paid to

1 the treasurer of the city and deposited in a special fund of the city to
2 pay the cost of housing projects in the district, including the payment
3 of principal of and interest on any special obligation bonds issued by
4 such city to finance, in whole or in part, such housing projects; or

5 (ii) In districts established by a county, the amount shall be
6 deposited by the county treasurer in a special fund of the county to pay
7 the cost of housing projects in the district, including the payment of
8 principal of and interest on any special obligation bonds issued by such
9 county to finance, in whole or in part, such housing projects.

10 (3) If the special obligation bonds and interest thereon have been
11 paid before the completion of a project, the city or county may continue
12 to use the funds described in subdivision (2)(b) of this section for any
13 purpose authorized by the Housing Incentive District Act until such time
14 as the project is completed, but for not to exceed fifteen years from the
15 date of the establishment of the district. When such special obligation
16 bonds and interest thereon have been paid and the project is completed,
17 all money thereafter received from real property taxes within such
18 district shall be allocated and paid to the respective taxing
19 subdivisions in the same manner as are other ad valorem taxes.

20 Sec. 11. (1) After the adoption by the governing body of a housing
21 incentive district plan which contains the provisions required by section
22 5 of this act, the clerk of the city or county shall transmit a copy of
23 the description of the land within the district, a copy of the ordinance
24 or resolution adopting the plan, and a map or plat indicating the
25 boundaries of the district to the clerk, assessor, and treasurer of the
26 county in which the district is located and to the governing bodies of
27 any taxing subdivisions that levy taxes upon any property in the
28 district. Such documents shall be transmitted as promptly as practicable
29 following the adoption or modification of the plan.

30 (2) The county assessor of any county in which a district is
31 authorized by a city or county shall certify the amount of any increase

1 in the assessed valuation of real property within the district to the
2 county clerk on or before July 1 of each year.

3 Sec. 12. (1) The authority is hereby authorized to develop a
4 program of grants to cities or counties to carry out housing development
5 activities in accordance with the Housing Incentive District Act. Cities
6 or counties to be awarded grants pursuant to such program shall be
7 selected by the authority in accordance with rules and regulations
8 adopted and promulgated by the authority.

9 (2) A city or county shall submit a request for grant funds to the
10 authority in a form and manner prescribed by the authority. Such request
11 shall include a statement of such city's or county's proposed housing
12 development activities, projected use of grant funds, and any other
13 information related to the grant required by the authority.

14 (3) As part of any request for grant funds, the requesting city or
15 county shall certify to the authority:

16 (a) That the city or county will provide matching funds in an amount
17 equal to (i) at least ten percent of the total amount of funds granted to
18 the city or county if the grant funds are to be used for construction or
19 rehabilitation of infrastructure or (ii) at least fifty percent of the
20 total amount of funds granted to the city or county if the grant funds
21 are to be used for a purpose other than construction or rehabilitation of
22 infrastructure; and

23 (b) That the city or county will comply with all requirements of the
24 Housing Incentive District Act and will abide by all federal, state, and
25 local laws.

26 (4) The authority shall adopt and promulgate rules and regulations
27 regarding the application procedure, grant periods, grant evaluation and
28 reporting criteria, the filing of forms that support the request for
29 grant awards, the method and manner of payment of grant funds to any city
30 or county, and any other matter the authority deems necessary to carry
31 out the grant program.

1 Sec. 13. (1) Each city or county receiving grant funds under
2 section 12 of this act shall submit to the authority, at a time
3 determined by the authority, a performance and evaluation report
4 concerning the use of such grant funds, along with an assessment by the
5 city or county of the relationship of such use to the housing development
6 activities identified in the city's or county's statement submitted
7 pursuant to subsection (2) of section 12 of this act. The city's or
8 county's report shall include an evaluation of the housing development
9 activities, the nature of and reasons for any changes in such activities,
10 and an evaluation of the use of the grant funds for such activities.

11 (2) The authority shall, on at least an annual basis, make such
12 reviews and audits as may be necessary or appropriate to determine:

13 (a) Whether the city or county has carried out its housing
14 development activities in a timely manner;

15 (b) Whether the city or county has carried out those activities and
16 its certification in accordance with the requirements of the Housing
17 Incentive District Act and all federal, state, and local laws; and

18 (c) Whether the city or county has a continuing capacity to carry
19 out those activities in a timely manner.

20 (3) Insofar as they relate to grant funds provided under section 12
21 of this act, the financial transactions of cities or counties may be
22 audited under such rules and regulations as may be adopted and
23 promulgated by the authority. The authority shall report the final
24 results of any audits conducted pursuant to this section to the Clerk of
25 the Legislature and the Governor during the legislative session
26 immediately following the audit.

27 Sec. 14. (1) The proceeds of any grant funds received pursuant to
28 section 12 of this act shall only be used for expenditures incurred in
29 carrying out housing development activities.

30 (2) The authority may award up to two million dollars of grants each
31 year pursuant to section 12 of this act.

1 Sec. 15. It is the intent of the Legislature to appropriate two
2 million dollars each fiscal year for purposes of carrying out the grant
3 program described in section 12 of this act.