

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 986

Introduced by Hansen, 26.

Read first time January 11, 2018

Committee:

1 A BILL FOR AN ACT relating to municipalities; to amend sections 19-4030
2 and 19-5313, Revised Statutes Supplement, 2017; to adopt the
3 Neighborhood Improvement District Act; to change provisions relating
4 to special assessments for a business improvement district or
5 riverfront development district as prescribed; to provide a duty for
6 the Revisor of Statutes; and to repeal the original sections.

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

1 Section 1. Sections 1 to 24 of this act shall be known and may be
2 cited as the Neighborhood Improvement District Act.

3 Sec. 2. The Legislature finds that municipalities in the state
4 contain many older neighborhoods in need of revitalization but lack the
5 funds with which to provide and maintain improvements. The purpose of the
6 Neighborhood Improvement District Act is to provide a means by which such
7 municipalities may raise the necessary funds to be used for the purpose
8 of providing and maintaining the improvements authorized by the act, and
9 to stimulate the development of public improvements by providing an
10 equitable and politically expeditious method of financing such
11 improvements.

12 Sec. 3. For purposes of the Neighborhood Improvement District Act:

13 (1) Assessable unit means front foot, square foot, equivalent front
14 foot, or other unit of assessment established under the proposed method
15 of assessment set forth in a city ordinance creating a neighborhood
16 improvement district;

17 (2) Homeowners association means a nonprofit corporation duly
18 incorporated under the laws of the State of Nebraska for the purpose of
19 enforcing the restrictive covenants established upon the real property
20 legally described in the articles of incorporation and located within the
21 corporate limits of a municipality. Each member of such association must
22 be an owner of a lot located within the plat or subdivision and, by
23 virtue of membership or ownership of a lot, obligated to pay costs for
24 the administration, maintenance, and care of the common area within the
25 plat or subdivision. Homeowners association includes associations of
26 residential homeowners, nonresidential property owners, or both;

27 (3) Municipality means any city of the metropolitan class, city of
28 the primary class, city of the first class, or city of the second class;

29 (4) Neighborhood means a well-defined and established area of the
30 municipality zoned primarily for residential use;

31 (5) Neighborhood association means an organization that is

1 recognized or endorsed by a municipality as representing all of the
2 residents within a specifically defined geographical area, with the
3 organization representing those residents on a wide range of issues
4 through an open meeting process with elected officers and regularly
5 scheduled meetings; and

6 (6) Record owner means the fee owner of real property as shown in
7 the records of the office of the register of deeds in the county in which
8 the neighborhood area is located. A contract purchaser of real property
9 shall be considered the record owner and the only person entitled to
10 petition pursuant to section 9 or 15 of this act or protest pursuant to
11 section 10 or 16 of this act, if the contract is recorded in the office
12 of the register of deeds in the county in which the neighborhood area is
13 located.

14 Sec. 4. Pursuant to the Neighborhood Improvement District Act, a
15 municipality may impose a special assessment upon the property within a
16 neighborhood improvement district. The proceeds from such special
17 assessment or other available funds may be used for the purposes stated
18 in section 5 of this act.

19 Sec. 5. Any funds available under section 4 of this act may be used
20 for any one or more of the following purposes:

21 (1) Improvement of any public place or facility in the neighborhood
22 improvement district area, including landscaping, physical improvements
23 for decoration or security purposes, and plantings;

24 (2) Construction or installation of pedestrian plazas, sidewalks,
25 parks, public restrooms, meeting and display facilities, bus stop
26 shelters, lighting, benches or other seating furniture, sculptures, trash
27 receptacles, shelters, fountains, pedestrian and vehicular overpasses and
28 underpasses, and any other useful or necessary public improvements or
29 projects whether capital or noncapital in nature;

30 (3) Creation and implementation of a plan for improving the general
31 architectural design of public areas in the neighborhood improvement

1 district;

2 (4) The development and promotion of any public or social activities
3 and public events within the neighborhood improvement district area;

4 (5) Maintenance, repair, and reconstruction of any improvements or
5 facilities authorized by the Neighborhood Improvement District Act;

6 (6) Establishing or assisting with neighborhood watch programs; and

7 (7) Employing or contracting for personnel, including administrators
8 for any improvement program under the act, and providing for any service
9 as may be necessary or proper to carry out the purposes of the
10 Neighborhood Improvement District Act.

11 Sec. 6. A neighborhood improvement district may be created as
12 provided by the Neighborhood Improvement District Act and shall be within
13 the boundaries of a neighborhood.

14 Sec. 7. (1) The mayor, with the approval of the city council, shall
15 appoint a neighborhood improvement board consisting of residents and
16 property owners within the neighborhood to be improved. The boundaries of
17 the neighborhood improvement district shall be declared by resolution of
18 the city council at or prior to the time of the appointment of the
19 neighborhood improvement board. The neighborhood improvement board shall
20 make recommendations to the city council for the establishment of a plan
21 or plans for improvements in the neighborhood improvement district. The
22 neighborhood improvement board may make recommendations to the
23 municipality as to the use of any special assessment funds collected, and
24 may administer such funds if so directed by the mayor and city council.
25 The neighborhood improvement board shall also review and make
26 recommendations to the municipality regarding expansion of the boundaries
27 of the neighborhood improvement district under sections 14 to 17 of this
28 act.

29 (2) The mayor, with approval of the city council, may designate an
30 existing neighborhood association board or homeowners association board
31 within the neighborhood as the neighborhood improvement board in lieu of

1 appointing a neighborhood improvement board under subsection (1) of this
2 section.

3 Sec. 8. Unless the mayor designates an existing neighborhood
4 association board or homeowners association board as the neighborhood
5 improvement board pursuant to subsection (2) of section 7 of this act,
6 the neighborhood improvement board shall consist of five or more members
7 to serve such terms as the city council by resolution determines. The
8 mayor, with the approval of the city council, shall fill any vacancy for
9 the term vacated. A board member may serve more than one term. The board
10 shall select from its members a chairperson and a secretary.

11 Sec. 9. If the city council has not acted to call a hearing to
12 create a neighborhood improvement district as provided in section 12 of
13 this act, it shall do so when presented with a petition signed by the
14 record owners of at least thirty percent of the assessable front footage
15 in a neighborhood.

16 Sec. 10. (1) Whenever a hearing is held pursuant to section 12 of
17 this act, the city council shall:

18 (a) Hear all protests and receive evidence for or against the
19 proposed action;

20 (b) Rule upon all written protests received prior to the close of
21 the hearing, which ruling shall be final; and

22 (c) Continue the hearing from time to time as the city council may
23 deem necessary.

24 (2) If a special assessment is to be used, proceedings shall
25 terminate if written protest is made prior to the close of the hearing by
26 the record owners of more than fifty percent of the assessable units in
27 the proposed neighborhood improvement district.

28 Sec. 11. If the city council decides to change the boundaries of
29 the proposed neighborhood improvement district or to change the proposed
30 modifications to the boundaries of an existing neighborhood improvement
31 district or districts from those recommended by the neighborhood

1 improvement board, the hearing shall be continued to a time at least
2 fifteen days after such decision, and notice showing the boundary
3 amendments shall be given as prescribed in section 13 of this act. The
4 city council may not expand the proposed boundaries recommended by the
5 neighborhood improvement board without the city council's proposed
6 boundaries being considered by the neighborhood improvement board.

7 Sec. 12. (1) Upon receiving a recommendation from the neighborhood
8 improvement board, the city council may create one or more neighborhood
9 improvement districts. The city council, following a hearing, may
10 establish or reject any proposed neighborhood improvement district or
11 districts. If the city council decides to establish any neighborhood
12 improvement district, it shall adopt an ordinance to that effect. Such
13 ordinance shall contain the following information:

14 (a) A statement that notice of hearing was given, including the date
15 or dates on which notice was given, in accordance with section 13 of this
16 act;

17 (b) The time and place the hearing was held concerning the formation
18 of the neighborhood improvement district;

19 (c) A statement that a neighborhood improvement district has been
20 established;

21 (d) The purposes of the neighborhood improvement district, and the
22 public improvements or facilities to be included in such district;

23 (e) A description of the boundaries of the neighborhood improvement
24 district;

25 (f) A statement that the real property in the neighborhood
26 improvement district will be subject to the special assessment authorized
27 by the Neighborhood Improvement District Act;

28 (g) The proposed method of assessment to be imposed within the
29 neighborhood improvement district; and

30 (h) Any penalties imposed for failure to pay the special assessment.

31 (2) In the use of a special assessment, the assessment shall be

1 fairly and equitably based upon the special benefit to the property
2 within the neighborhood improvement district.

3 Sec. 13. (1) At least ten days prior to the date of any hearing
4 under sections 12, 14, or 15 of this act, notice of such hearing shall be
5 given by:

6 (a) One publication of the notice of hearing in a legal newspaper in
7 or of general circulation in the municipality;

8 (b) Mailing a copy of the notice of hearing to each owner of taxable
9 property in the proposed, modified, or expanded neighborhood improvement
10 district as shown on the latest tax rolls of the county treasurer for
11 such county; and

12 (c) Providing a copy of the notice of hearing to any neighborhood
13 association registered pursuant to subsection (2) of this section in the
14 manner requested by such neighborhood association unless the board of any
15 such neighborhood association has been designated as the neighborhood
16 improvement district board pursuant to subsection (2) of section 7 of
17 this act.

18 (2) The notice required by subdivision (1)(c) of this section shall
19 be provided to any neighborhood association which is registered pursuant
20 to this subsection and whose area of concern is located, in whole or in
21 part, within a one-mile radius of the existing or proposed boundaries of
22 the neighborhood improvement district. Each neighborhood association
23 desiring to receive such notice shall register with the municipality the
24 area of concern of such association and provide the name of and contact
25 information for the individual designated to receive notice on behalf of
26 such association and the requested manner of service, whether by email or
27 regular, certified, or registered mail. The registration shall be in
28 accordance with any rule or ordinance adopted by the city council.

29 (3) Any notice of hearing for any hearing required by section 12 of
30 this act shall contain the following information:

31 (a) A description of the boundaries of the proposed neighborhood

1 improvement district;

2 (b) The time and place of a hearing to be held by the city council
3 to consider establishment of the neighborhood improvement district;

4 (c) The proposed public facilities or improvements to be made or
5 maintained within any such neighborhood improvement district; and

6 (d) The proposed or estimated costs for such improvements or
7 facilities within the proposed neighborhood improvement district and the
8 method by which the revenue shall be raised. If a special assessment is
9 proposed, the notice shall also state the proposed method of assessment.

10 (4) Any notice of hearing for any hearing required by section 14 or
11 15 of this act shall contain the following information:

12 (a) A description of the boundaries of the area to be added to the
13 existing neighborhood improvement district and a description of the new
14 boundaries of the modified neighborhood improvement district;

15 (b) The time and place of a hearing to be held by the city council
16 to consider establishment of the modified neighborhood improvement
17 district;

18 (c) The new public facilities or improvements, if any, to be made or
19 maintained within any such neighborhood improvement district; and

20 (d) The proposed or estimated costs for new or existing improvements
21 and facilities within the proposed modified neighborhood improvement
22 district and the method by which the revenue shall be raised. If a
23 special assessment is proposed, the notice shall also state the proposed
24 method of assessment.

25 Sec. 14. Upon receiving a recommendation to expand the boundaries
26 of an existing neighborhood improvement district from the neighborhood
27 improvement board, the city council may expand the boundaries of one or
28 more neighborhood improvement districts by adopting an ordinance to
29 expand the boundaries of such neighborhood improvement district or
30 districts. Prior to adopting the ordinance, a hearing shall be held to
31 consider the ordinance.

1 Sec. 15. If a city council has not acted to call a hearing to
2 expand district boundaries as provided in section 14 of this act, it
3 shall do so when presented with a petition signed by the record owners of
4 at least thirty percent of the assessable front footage in a portion of a
5 neighborhood proposed to be added to an existing neighborhood improvement
6 district.

7 Sec. 16. (1) Whenever a hearing is held to expand neighborhood
8 improvement district boundaries under section 14 or 15 of this act, the
9 city council shall:

10 (a) Hear all protests and receive evidence for or against the
11 proposed action;

12 (b) Rule upon all written protests received prior to the close of
13 the hearing, which ruling shall be final; and

14 (c) Continue the hearing from time to time as the city council may
15 deem necessary.

16 (2) If a special assessment is to be used, proceedings shall
17 terminate if written protest is made prior to the close of the hearing by
18 the record owners of more than fifty percent of the assessable units in
19 the modified neighborhood improvement district as proposed.

20 Sec. 17. (1) The city council, following a hearing under section 14
21 or 15 of this act, may expand the boundaries of any neighborhood
22 improvement district or districts. If the city council decides to expand
23 the boundaries, it shall adopt an ordinance to that effect. The ordinance
24 shall contain the following information:

25 (a) The name of the neighborhood improvement district to be
26 expanded;

27 (b) A statement that notice of hearing was given, including the date
28 or dates on which notice was given, in accordance with section 13 of this
29 act;

30 (c) The time and place the hearing was held concerning the new
31 boundaries of such neighborhood improvement district;

1 (d) The purposes of the boundary expansion and any new public
2 improvements or facilities to be included in such neighborhood
3 improvement district;

4 (e) A description of the new boundaries of such neighborhood
5 improvement district;

6 (f) A statement that the real property in the modified neighborhood
7 improvement district will be subject to the special assessment authorized
8 by the Neighborhood Improvement District Act;

9 (g) The proposed method of assessment to be imposed within the
10 neighborhood improvement district; and

11 (h) Any penalties imposed for failure to pay the special assessment.

12 (2) In the use of a special assessment, the assessment shall be
13 fairly and equitably based upon the special benefit to the property
14 within the neighborhood improvement district.

15 Sec. 18. A municipality may levy a special assessment against the
16 real estate located in a neighborhood improvement district, to the extent
17 of the special benefit thereto, for the purpose of paying all or any part
18 of the total costs and expenses of performing any authorized work, except
19 maintenance, repair, and reconstruction costs, within such neighborhood
20 improvement district. The amount of each special assessment shall be
21 determined by the city council sitting as a board of equalization.
22 Assessments shall be levied in accordance with the method of assessment
23 proposed in the ordinance creating the neighborhood improvement district.
24 If the city council finds that the proposed method of assessment does not
25 provide a fair and equitable method of apportioning costs, then it may
26 assess the costs under such method as the city council finds to be fair
27 and equitable. Notice of a hearing on any special assessments to be
28 levied under the Neighborhood Improvement District Act shall be given to
29 the landowners in such neighborhood improvement district by publication
30 of the description of the land, the amount proposed to be assessed, and
31 the general purpose for which such assessment is to be made one time each

1 week for three weeks in a daily or weekly legal newspaper in or of
2 general circulation in the municipality. The notice shall provide the
3 date, time, and place of hearing to hear any objections or protests by
4 landowners in the neighborhood improvement district as to the amount of
5 assessment made against their land. A direct appeal to the district court
6 of the county in which such municipality is located may be taken from the
7 decision of the city council in the same manner and under like terms and
8 conditions as appeals may be taken from the amount of special assessments
9 levied in street improvement districts in such municipality as now
10 provided by law. All special assessments levied under the act shall be
11 liens on the property and shall be certified for collection and collected
12 in the same manner as special assessments for improvements and street
13 improvement districts of the municipality are collected. If any part of a
14 neighborhood improvement district overlaps with a business improvement
15 district in which a special assessment is already being levied pursuant
16 to section 19-4030, or a riverfront development district in which a
17 special assessment is already being levied pursuant to section 19-5313,
18 the municipality creating the neighborhood improvement district shall not
19 impose the neighborhood improvement district's special assessment within
20 the overlapping area.

21 Sec. 19. If, subsequent to the levy of special assessments, the use
22 of any parcel of land shall change so that, had the new use existed at
23 the time of making such levy, the assessment on such parcel would have
24 been higher than the assessment actually made, an additional assessment
25 may be made on such parcel by the city council taking into consideration
26 the new and changed use of the property. Reassessments or changes in the
27 rate of levy of assessments may be made by the city council after notice
28 and hearing as provided in section 18 of this act. The city council shall
29 adopt a resolution of intention to change the rate of levy at least
30 fifteen days prior to the hearing required for changes. This resolution
31 shall specify the proposed change and shall give the time and place of

1 the hearing.

2 Sec. 20. The total amount of assessments levied under the
3 Neighborhood Improvement District Act shall not exceed the total costs
4 and expenses of performing the authorized work. The levy of any
5 additional assessment shall not reduce or affect in any manner the
6 assessments previously levied. The assessments levied must be for the
7 purposes specified in the ordinances and the proceeds shall not be used
8 for any other purpose.

9 Sec. 21. A municipality may levy a special assessment against the
10 real estate located in a neighborhood improvement district to the extent
11 of special benefit to such real estate, for the purpose of paying all or
12 any part of the cost of maintenance, repair, and reconstruction,
13 including utility costs of any improvement or facility in the district.
14 Neighborhood improvement districts created for assessment of maintenance,
15 repair, and reconstruction costs, including utility costs of improvements
16 or facilities which are authorized by the Neighborhood Improvement
17 District Act, but which were not acquired or constructed pursuant to the
18 act, may be assessed as provided in the act. The city council may levy
19 such assessments under either of the following methods:

20 (1) The city council, sitting as a board of equalization, may, not
21 more frequently than annually, determine the costs of maintenance or
22 repair and reconstruction of a facility. Such costs shall be assessed to
23 the real estate located in such neighborhood improvement district in
24 accordance with the proposed method of assessment. If the city council
25 finds that the method of assessment proposed in the ordinance creating
26 the neighborhood improvement district does not provide a fair and
27 equitable method of apportioning such costs, the it may assess the costs
28 under such method as the city council finds to be fair and equitable. At
29 the hearing on such assessments, objections may be made to the total cost
30 and the proposed allocation of such costs among the parcels of real
31 estate in such neighborhood improvement district; or

1 (2) After notice is given to the owners as provided in section 18 of
2 this act, the city council may establish and may change from time to time
3 the percentage of such costs for maintenance, repair, and reconstruction
4 which each parcel of real estate in any neighborhood improvement district
5 shall pay. The city council shall annually determine the total amount of
6 such costs for each period since costs were last assessed, and shall,
7 after a hearing, assess such costs to the real estate in the neighborhood
8 improvement district in accordance with the percentages previously
9 established at such hearing. Notice of such hearing shall be given as
10 provided in section 18 of this act and shall state the total costs and
11 percentage to be assessed to each parcel of real estate. Unless
12 objections are filed with the city clerk at least five days before the
13 hearing, all objections to the amount of total costs and the assessment
14 percentages shall be deemed to have been waived and the assessments shall
15 be levied as stated in such notice except that the city council may
16 reduce any assessment percentage.

17 Sec. 22. The city council may dissolve a neighborhood improvement
18 district by ordinance after a hearing before the city council. The city
19 council shall adopt a resolution of intention to dissolve the area at
20 least fifteen days prior to the hearing required by this section. The
21 resolution shall give the time and place of the hearing.

22 Sec. 23. Upon dissolution of a neighborhood improvement district,
23 any proceeds of the assessment, or assets acquired with such proceeds,
24 shall be subject to disposition as the city council shall determine.

25 Sec. 24. A municipality is authorized to receive, administer, and
26 disburse donated funds or grants of federal or state funds for the
27 purposes of, and in the manner authorized by, the Neighborhood
28 Improvement District Act.

29 Sec. 25. Section 19-4030, Revised Statutes Supplement, 2017, is
30 amended to read:

31 19-4030 A city may levy a special assessment against the real estate

1 located in a business improvement district, to the extent of the special
2 benefit thereto, for the purpose of paying all or any part of the total
3 costs and expenses of performing any authorized work, except maintenance,
4 repair, and reconstruction costs, within such district. The amount of
5 each special assessment shall be determined by the city council sitting
6 as a board of equalization. Assessments shall be levied in accordance
7 with the method of assessment proposed in the ordinance creating the
8 district. If the city council finds that the proposed method of
9 assessment does not provide a fair and equitable method of apportioning
10 costs, then it may assess the costs under such method as the city council
11 finds to be fair and equitable. Notice of a hearing on any special
12 assessments to be levied under the Business Improvement District Act
13 shall be given to the landowners in such district by publication of the
14 description of the land, the amount proposed to be assessed, and the
15 general purpose for which such assessment is to be made one time each
16 week for three weeks in a daily or weekly newspaper of general
17 circulation published in the city. The notice shall provide the date,
18 time, and place of hearing to hear any objections or protests by
19 landowners in the district as to the amount of assessment made against
20 their land. A direct appeal to the district court of the county in which
21 such city is located may be taken from the decision of the city council
22 in the same manner and under like terms and conditions as appeals may be
23 taken from the amount of special assessments levied in street improvement
24 districts in such city as now provided by law. All special assessments
25 levied under the act shall be liens on the property and shall be
26 certified for collection and collected in the same manner as special
27 assessments for improvements and street improvement districts of the city
28 are collected. If any part of a business improvement district overlaps
29 with a riverfront development district in which a special assessment is
30 already being levied pursuant to section 19-5313, or a neighborhood
31 improvement district in which a special assessment is already being

1 levied pursuant to section 18 of this act, the city creating the business
2 improvement district shall not impose the business improvement district's
3 special assessment within the overlapping area.

4 Sec. 26. Section 19-5313, Revised Statutes Supplement, 2017, is
5 amended to read:

6 19-5313 (1) A city may levy a special assessment against the real
7 estate located in a district, to the extent of the special benefit
8 thereto, for the purpose of paying all or any part of the total costs and
9 expenses of such district. The amount of each special assessment shall be
10 determined by the city council sitting as a board of equalization.
11 Assessments shall be levied in accordance with the method of assessment
12 proposed in the ordinance creating the district. If the city council
13 finds that the proposed method of assessment does not provide a fair and
14 equitable method of apportioning costs, then it may assess the costs
15 under such method as the city council finds to be fair and equitable.
16 Notice of a hearing on any such tax levied under the Riverfront
17 Development District Act shall be given to the landowners in such
18 district, and appeals may be taken, in the manner provided in section
19 19-5314.

20 (2) All special assessments levied under the act shall be liens on
21 the property and shall be certified for collection and collected in the
22 same manner that special assessments for improvements in street
23 improvement districts of the city are collected.

24 (3) If any part of a riverfront development district overlaps with a
25 business improvement district in which a special assessment is already
26 being levied pursuant to section 19-4030, or a neighborhood improvement
27 district in which a special assessment is already being levied pursuant
28 to section 18 of this act, the city creating the riverfront development
29 district shall not impose the riverfront development district's special
30 assessment within the overlapping area.

31 Sec. 27. The Revisor of Statutes shall assign sections 1 to 24 of

1 this act to a new article in Chapter 19.

2 Sec. 28. Original sections 19-4030 and 19-5313, Revised Statutes

3 Supplement, 2017, are repealed.