

LEGISLATIVE BILL 1003

Approved by the Governor May 19, 1971

Introduced by Duke Snyder, 14th District; Harold T. Moylan, 6th District

AN ACT relating to counties in which are located a city of the metropolitan class containing over one half the population of the respective counties; to authorize the creation of a public building commission in each such county; to provide for the activation of such commissions and the appointment of the members of the board thereof; to provide the powers of such commissions, including the power to acquire and erect buildings, structures and facilities for use jointly by the county and the city; to authorize a tax on all the property in the county subject to taxation, except intangible property; to authorize the commission to issue bonds; to define terms; to provide a method of exercise of powers of the state; to grant powers to the county and the city and other governmental units located in the county with respect to such commissions and the buildings, structures and facilities acquired or erected by them; to provide for agreements; and to declare an emergency.

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

Section 1. The trend of population growth in the state in recent decades has been to the larger cities and the areas adjacent thereto to the degree that some of such cities contain over one half the population of the respective counties in which such cities are located. Such growth in the case of cities of the metropolitan class has given rise to the need for buildings, structures and facilities to be used jointly by such cities and the respective counties in which they are located, thereby effecting economies of operation and adding to the effectiveness of such cities and counties, aiding in the use by the inhabitants of such cities and counties and alleviating the inconvenience of separate buildings, structures and facilities caused by such growth to such inhabitants. The purpose of this act is to provide a means whereby buildings, structures and facilities can be acquired, constructed, remodeled or renovated and financed for use jointly by such cities of the metropolitan class and the respective counties in

which they are located.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Bonds shall mean bonds issued by the commission pursuant to the provisions of this act;

(2) City shall mean a city of the metropolitan class as defined in section 14-101, Reissue Revised Statutes of Nebraska, 1943, the population of which according to the most recent federal census was more than one half in number of the total population, according to such census, of the county in which such city is located;

(3) Commission shall mean a public building commission created by and activated pursuant to this act;

(4) County shall mean a county in which a city of the metropolitan class is located;

(5) Governing body shall mean the council in the case of the city and the board of county commissioners in the case of the county;

(6) Other governmental units shall mean a city, other than a city as defined in subdivision (2) of this section, village, district, authority, public agency, board or commission, or other public corporation or political subdivision or public instrumentality located in whole or in part in the county; and

(7) Project shall mean any building, structure or facility for public purposes, to be used jointly by the city and the county, including the site thereof, all fixtures, machinery, equipment, furnishings, and apparatus of or pertaining thereto and all other real or personal property necessary or incidental thereto.

Sec. 3. There is hereby created and established in each county a commission, to be known and designated as (name of city) (name of county) public building commission; Provided, that this act shall not become operative in any county unless and until the governing body of the county by resolution shall activate the commission for such county. A copy of such resolution certified by the county clerk shall be filed with and recorded by the Secretary of State, and also filed with the city clerk. Each such commission shall be a body politic and corporate and an instrumentality

of the state.

Each commission shall be governed by a board of commissioners of five members, two of whom shall be appointed by the governing body of the county from among the members of such governing body, two of whom shall be appointed by the mayor of the city with the approval of the governing body of the city from among the members of such governing body, and the fifth of whom shall be appointed by the other four members. In the event the four members appointed by the county and the city cannot agree upon the fifth member, the Governor, upon request of such four members, or upon the request of the city or the county shall appoint the fifth member. The term of office of each member of the board, except for the initial members, shall be for four years, or until their successors shall have been appointed and taken office. Any vacancy on the board shall be filled by the governing body of the county if the person whose membership was vacated was appointed by the governing body of the county, shall be filled by the mayor of the city with the approval of the governing body of the city, if the person whose membership was vacated was appointed by the mayor and shall be filled by the remaining four members if the person whose membership was vacated was appointed by the members of the board. The members of the board shall not be entitled to compensation for their services, but shall be entitled to reimbursement of expenses paid or incurred in the performance of the duties imposed upon them by the provisions of this act. A majority of the total number of members to which the board is entitled shall constitute a quorum and all action taken by the board shall be taken by a majority of such total number. The board may delegate to one or more of the members or to its officers, agents and employees such powers and duties as it may deem proper. Any member of the board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of a member of the board may be brought in the district court of the county upon resolution of the governing body of the city or the county.

The term of office of the two persons initially appointed to the board by the governing body of the county shall be for one and four years respectively, and such governing body shall designate which person shall serve for one year and which person shall serve for four years. The term of membership of the two persons initially appointed to the board by the mayor with the approval of the governing body of the city shall be for two and three years, and such governing body shall

designate which person shall serve for two years and which person shall serve for three years. The term of membership of the person initially appointed by the other members of the board shall be for four years. Terms of membership on the board shall expire on the same day of the year, and the governing body of the county in making the first appointments to the board shall designate such expiration date.

The commission and its corporate existence shall continue only for a period of twenty years from the activation thereof and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities and bonds have otherwise been discharged. Upon the commission's ceasing to exist all rights or properties of the commission shall pass to and be vested in the city and county.

Sec. 4. Any commission established under the provisions of this act shall have power to:

(1) Sue and be sued;

(2) Have a seal and alter the same at pleasure;

(3) Acquire, hold and dispose of personal property for its corporate purposes;

(4) Acquire in the name of the city and county, by gift, grant, bequest, purchase or condemnation real property or rights and easements thereon necessary or convenient for its corporate purposes and to use the same so long as its corporate existence shall continue;

(5) Make by-laws for the management and regulation of its affairs and to make rules and regulations for the use of its projects;

(6) With the consent of the city or the county, as the case may be, use the services of agents, employees and facilities of the city or county for which the commission may reimburse the city or the county their proper proportion of the compensation or cost thereof, and also to use the services of the city attorney as legal advisor to the commission;

(7) Appoint officers, agents and employees and fix their compensation; Provided, that the treasurer of the county shall be ex officio the treasurer of the commission;

(8) Design, acquire, construct, maintain, operate, improve, remodel, remove and reconstruct so long as its corporate existence shall continue, such projects for the use both by the city and county as are approved by the city and the county, and all facilities necessary or convenient in connection with any such projects;

(9) Enter into agreements with the city or county, or both, as to the operation, maintenance, repair and use of its projects;

(10) With the approval of both the city and the county, enter into agreements with the United States of America or the State of Nebraska or any body, board, agency, corporation or other governmental entity of either of them or with other governmental units for use by them of any projects to the extent that such use is not required by the city or the county;

(11) Make all other contracts, leases and instruments necessary or convenient to the carrying out of the corporate purposes or powers of the commission;

(12) Annually levy and assess and certify to the governing body of the county the amount of tax to be levied for the purposes of the commission not to exceed one half mill on the dollar upon the assessed valuation of all the taxable property in the county, except intangible property, and the governing body of the county shall collect the tax so certified at the same time and in the same manner as other county taxes are levied and collected, and the proceeds of such taxes when due and as collected shall be set aside and deposited in the special account or accounts in which other revenue of the commission is deposited;

(13) Accept grants, loans, or contributions from the United States of America, the State of Nebraska, or any agency or instrumentality of either of them, the city or the county or other governmental unit or any private person, firm or corporation and to expend the proceeds thereof for any corporate purposes;

(14) Incur debt and issue bonds and notes and to provide for the rights of the holders thereof and to pledge and apply to the payment of such bonds and notes the taxes and other receipts, income, revenue, profits and money of the commission;

(15) Enter on any lands, waters and premises for the purpose of making surveys, findings and

examinations; and

(16) Do all things necessary or convenient to carry out the powers specially conferred on the commission by this act.

Sec. 5. All taxes or other receipts, income, revenue, profits and money of a commission from whatever source derived shall be paid to the treasurer of the county in which such commission is established as ex officio treasurer of the commission, who shall not commingle such money with any other money under his control. Such money shall be deposited in a separate bank account or accounts and shall be withdrawn only by check or draft signed by the treasurer on requisition of the chairman of the board of the commission or of such other person or persons as the commission may authorize to make such requisition, approved by the board. The chief auditing officer of the county and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of such commission including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. Notwithstanding the provisions of this section, the board may contract with the holders of any of its bonds as to the collection, custody, securing, investment, and payment of any money of the commission or money held in trust or otherwise for the payment of bonds or in any way to secure bonds and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. All banks and trust companies are hereby authorized to give security for such deposits of money of the commission as shall be required by law to secure the deposit of funds of counties.

Sec. 6. With the prior approval of both the city and the county for which the commission was created, the commission shall have the power and is hereby authorized from time to time to issue its bonds for any corporate purpose in such amounts as may be required to carry out and fully perform the purposes for which such commission is established. The commission shall have power from time to time and when refunding is deemed expedient to issue bonds in amounts sufficient to refund any bonds, including any premiums payable upon the redemption of the bonds to be refunded and interest to their redemption date upon the bonds to be refunded, by the issuance of new bonds, whether the bonds to be refunded have or have not matured. It may issue bonds

partly to refund bonds then outstanding and partly for any other corporate purpose. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustment as may be agreed or may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. All bonds shall be general obligations of the commission issuing the same and shall be payable out of the tax and other receipts, revenue, income receipts, profits, or other money of the commission.

A commission shall have power from time to time to issue bond anticipation notes referred to as notes in this section and from time to time to issue renewal notes, such notes in any case to mature not later than thirty months from the date of incurring the indebtedness represented thereby in an amount not exceeding in the aggregate at any time outstanding the amount of bonds then or theretofore authorized. Such notes shall be general obligations of the commission. Payment of such notes shall be made from any money or revenue which the commission may have available for such purpose or from the proceeds of the sale of bonds of the commission or such notes may be exchanged for a like amount of such bonds.

All such bonds and notes shall be authorized by a resolution or resolutions of the board and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such exchange privileges, be executed in such manner, be payable in such medium of payment at such place or places within or without the State of Nebraska and be subject to such terms of redemption and at such redemption premiums, as such resolution or resolutions may provide and the provisions of section 10-126, Reissue Revised Statutes of Nebraska, 1943, shall not be applicable to such bonds or notes. The bonds and notes may be sold at public or private sale for such price or prices as the commission shall determine. No proceedings for the issuance of bonds or notes of a commission shall be required other than those required by the provisions of this act and the provisions of all other laws and city charters, if any, relative to the terms and conditions for the issuance, payment, redemption, registration, sale or delivery of bonds of public bodies, corporations or political subdivisions of this state shall not be applicable to bonds and notes issued by commissions pursuant to this act.

The full faith and credit of the commission shall be pledged to the payment and security of the bonds and notes issued by it, whether or not such pledge shall be set forth in the bonds or notes. So long as any of its bonds or notes are outstanding, the commission shall have the power and be obligated to levy taxes within the limitation as provided in section 4 of this act to the extent required, together with any other money available to the commission therefor to pay the principal of and interest and premium, if any, on such bonds and notes as the same become due and payable.

All bonds and notes issued pursuant to the provisions of this act shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code subject only to any provisions contained in such bonds and notes for the registration of the principal thereof.

A commission shall have power to purchase bonds or notes of the commission out of any money available therefor. Any bonds so purchased shall be canceled by the commission.

Sec. 7. The bonds and notes of a commission are hereby made securities in which all public officers, boards, agencies and bodies of the state, its counties, political subdivisions, public corporations, and municipalities and the officers, boards, agencies or bodies of any of them, all insurance companies and associations and other persons carrying on an insurance business, all banks, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or who may hereafter be authorized to invest in notes, bonds or other obligations of this state, may properly and legally invest funds, including capital in their control or belonging to them. Notwithstanding any other provision of law the bonds are also hereby made securities which may be deposited with and shall be received by all public officers, boards, agencies, and bodies of this state, its counties, political subdivisions, public corporations and municipalities and the officers, boards, agencies or bodies of any of them for any purpose for which the deposit of notes, bonds or obligations of the state is now or may be hereafter authorized.

Sec. 8. The bonds and notes of a commission, the interest thereon and the income therefrom, shall at all times be exempt from taxation by this state, or any political subdivision of this state.

Sec. 9. The commission, its income, revenue and other receipts and all properties or rights and interest therein shall be exempt from all taxation in this state.

Sec. 10. The bonds, notes, obligations or liabilities of a commission shall not be a debt of the State of Nebraska or of the city or county for which the commission is established and neither the state, city, nor the county shall be liable thereon or therefor, nor shall such bonds, notes, obligations or liabilities be payable out of any money other than the money of the commission issuing or incurring the same.

Sec. 11. With respect to the commission created for the city and county and its projects, the city and the county may each:

(1) Operate and maintain any project of the commission;

(2) Appropriate funds for any cost incurred by the commission in acquiring, constructing, reconstructing, improving, extending, equipping, remodeling, renovating, furnishing, operating or maintaining any project;

(3) Convey or transfer to the commission any property of the city or the county for use in connection with a project including real and personal property owned or leased by the city or the county and used or useful in connection therewith. In case of real property so conveyed, the title thereto shall remain in the city or the county as the case may be but the commission shall have the use and occupancy thereof so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the commission;

(4) To acquire by purchase or condemnation real property in the name of the city or the county as the case may be for the projects of the commission or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to a project or partly for such purposes and partly for other city or county purposes, by purchase or condemnation in the manner provided by

law for acquisition. The city or the county may also close any roads, streets, parkways, avenues, or highways as may be necessary or convenient to facilitate the construction of any project of the commission;

(5) To enter into an agreement with the commission for the use by the city and the county of the project, which agreement shall set forth the respective obligations of the parties thereto as to the operation, maintenance, repair and replacement of the project; the amount of space in any joint facility to be utilized by the city and county; the method or formula of determining the respective duties and obligations of the city and the county for cost of operation, maintenance, repair, and replacement of the project and the method or formula for determining the payments to be made by the city to the commission as being applicable to the principal of and interest and premium on the bonds of the commission issued to finance the project. The city shall have the power to levy a tax on all the taxable property in the city, except intangible property, sufficient to make the payments to the commission applicable to the principal of and interest and premium on the bonds of the commission issued for the project, which tax shall be in addition to all other taxes now or hereafter authorized by statute or charter; Provided, that if the city shall be subject to a limitation by statute or charter on the amount of taxes which may be imposed by the city for its operating expenses, the maximum which may be levied in excess of such limitation pursuant to the authorization of this subdivision, shall not exceed one half mill on the dollar of assessed valuation of all taxable property except intangible property; and

(6) To enter into agreements with each other and with the commission necessary, desirable or useful in carrying out the purposes of this act upon such terms and conditions as determined by the governing body.

If at any time space not for the use and services of any project acquired or constructed or to be acquired or constructed by the commission shall be in excess of the needs of the city or the county for which the commission was created the commission with the approval of the city or the county may enter into agreements with the United States of America, the state, or any other governmental unit providing for the use by the United States of America, the State of Nebraska, or such other governmental unit of the project and such other governmental units shall possess the same powers with respect to the commission and its projects as are

possessed by the city and county under the provisions of this section. Any agreement entered into by the state shall be subject to all the terms, provisions, and conditions of Chapter 72, article 14, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, with the same effect as though the commission were named as a municipality thereunder.

Sec. 12. This act is supplemental to existing statutes and shall not be construed as repealing or amending existing statutes but shall be construed harmoniously and implemented compatibly with them.

Sec. 13. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.