

LEGISLATIVE BILL 238

Approved by the Governor May 7, 1971

Introduced by David H. Stahmer, 8th District

AN ACT relating to cities of the metropolitan class; to provide that cities of the metropolitan class may own, purchase, construct, equip, lease, or operate off-street parking facilities as prescribed; to provide for issuing of revenue bonds as prescribed; to provide for rules and regulations; to provide for ordinances in connection with off-street parking; to provide for elections and notice thereof; to restrict condemnation as prescribed; to provide the effect of this act; and to declare an emergency.

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

Section 1. State recognition is hereby given to the hazard created in the streets of cities of the metropolitan class by the great increase in the number of motor vehicles, buses, and trucks. In order to remove or reduce the hazards of life and property and the inconvenience of congested traffic on the streets in such cities in this state, it is hereby deemed necessary and of general benefit to the entire State of Nebraska to provide means for such cities to own off-street vehicle parking facilities exclusively for the parking of motor vehicles.

Sec. 2. Any city of the metropolitan class is hereby authorized to own, purchase, construct, equip, lease, or operate within such city off-street motor vehicle parking facilities on property located beneath any elevated segment of the National System of Interstate and Defense Highways or portion thereof, or public property title to which is in the city on the effective date of this act, or property owned by the city and used in conjunction with and incidental to city-operated facilities for the use of the general public. The grant of power in this section does not include the power to engage, directly or indirectly, in the sale of gasoline, oil or other merchandise or in the furnishing of any service other than that of parking motor vehicles as provided herein. Any such city shall have the authority to acquire by grant, contract, or purchase, as provided by law for such acquisition, all real or personal property, including a site or sites on which to construct such facilities, necessary or convenient in the carrying out of this grant of power.

Sec. 3. In order to pay the cost required by any purchase, construction, or lease, of property and equipping of such facilities, or the enlargement of presently-owned facilities, the city may issue revenue bonds to provide the funds for such improvements. Such revenue bonds shall not be payable from any general tax upon the issuing municipality, but shall be a lien only upon the revenue and earnings of the parking facilities. Such revenue bonds may be issued at an interest cost to maturity not to exceed eight per cent and shall mature in not to exceed forty years and shall be sold at public sale without premium or discount. Any such revenue bonds which may be issued shall not be included in computing the maximum amount of bonds which the issuing city of the metropolitan class may be authorized to issue under its charter or any statute of this state. Such revenue bonds may be issued and sold or delivered to the contractor at par and accrued interest for the amount of work performed. The city may pledge the revenue from any facility as security for the bonds issued for that facility, but may not pledge revenue from one facility as security for bonds issued for another facility.

Sec. 4. Before the issuance of any revenue bonds the city of the metropolitan class shall have an independent and qualified firm of engineers prepare plans and specifications for such improvements. In the preparation of the plans and specifications, the independent engineer shall collaborate and counsel with any city engineering or traffic department so as to coordinate the program with the program for the control of traffic within such city.

Sec. 5. The governing body of any such city of the metropolitan class shall make all necessary rules and regulations governing the use, operation, and control of the facilities authorized by this act. In the exercise of the grant of power set forth in this act, the city of the metropolitan class may make contracts with other departments of the city, or others, if such contracts are necessary and needed for the payment of the revenue bonds authorized in this act and for the successful operation of the parking facilities. The governing board shall also establish and maintain equitable rates or charges for such services sufficient in amount to pay for the cost of operation, repair, and upkeep of the facilities to be purchased, acquired, or leased, and the principal of and interest on any revenue bonds issued pursuant to the provisions of sections 1 to 10 of this act. The governing body may also make any other agreements with the purchasers of the bonds for

the security of the issuing city and the purchasers of such bonds not in contravention of the provisions of sections 1 to 10 of this act.

Sec. 6. The council of a city of the metropolitan class may adopt by ordinance the proposition to make such purchase or to erect such facility or facilities as set forth in section 2 of this act and before the purchase can be made or facility created, the council shall publish in a legal newspaper having a general circulation in the city the location of the proposed off-street motor vehicle parking facility or facilities, the proposed cost, and the total amount of the bonds to be issued. If, within sixty days after the adoption of the ordinance, the electors of such city, equal in number to five per cent of the electors of such city voting at the last preceding general municipal election, file a written objection or objections to the proposed issuance of revenue bonds, the governing body shall submit the question to the electors of such city at a general municipal election or at an election duly called for that purpose, which question must be approved by a majority of the electors voting on such question. If the question is submitted at a special election, the vote for the purchase or acquisition of such real estate or the purchase or erection of such facility or facilities shall equal at least a majority of the votes cast at the last preceding general election. Notice of the time and place of the election shall be given by publication in some legal newspaper printed and in general circulation in such city three successive weeks prior thereto.

Sec. 7. On the creation of such motor vehicle parking facility for the use of the general public, the city may if it desires lease such facility to one or more operators to provide for the efficient operation of the facility. Such lease shall be let on a competitive basis and no lease shall run for a period in excess of four years. In granting any lease, the city shall retain such control of the facility as may be necessary to insure that the facility will be properly operated in the public interest and that the prices charged are reasonable. The provisions of sections 1 to 10 of this act shall not be construed to authorize the city or the lessee of the facility to engage in the sale of any commodity, product, or service, or to engage in any business other than the purposes set forth in section 2 of this act.

Sec. 8. Property now used or hereafter acquired for off-street motor vehicle parking by a

private operator shall not be subject to condemnation.

Sec. 9. The provisions of sections 1 to 10 of this act and of any ordinance authorizing the issuance of bonds under the provisions of sections 1 to 10 of this act shall constitute a contract with the holders of such bonds, and any holder of a bond or bonds or any of the coupons of any bond or bonds of such municipality, issued under the provisions of sections 1 to 10 of this act, may either in law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of all duties required by the provisions of sections 1 to 10 of this act or by the ordinance authorizing the bonds, including the making and collection of sufficient charges and fees for service and the use thereof, and the application of income and revenue thereof.

Sec. 10. Sections 1 to 10 of this act are supplementary to existing statutes relating to cities of the metropolitan class and confer upon such cities powers not heretofore granted.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.