

## LEGISLATIVE BILL 22

Approved by the Governor April 21, 1973

Introduced by C. Carsten, 2

AN ACT to amend sections 3-503, 3-504, 3-612, 3-613, 3-706, and 3-707, Reissue Revised Statutes of Nebraska, 1943, relating to airport authority powers; to provide certain limitations; and to repeal the original sections.

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

Section 1. That section 3-503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-503. (1) Any city creating an authority shall by resolution or resolutions, convey or transfer to it any existing airport or any other property of the city for use in connection with a project, including real and personal property owned or leased by the city and used or useful in connection therewith. In case of real property so conveyed, the title thereto shall remain in the city, but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority. Any conveyance of an existing airport shall be subject to any leases or agreements duly and validly made by the city affecting such airports or the property so conveyed; Provided, that any such lease or agreement which is inconsistent with the ability of the authority to issue negotiable bonds may be renegotiated by the authority.

(2) Such city may acquire by purchase or condemnation real property in the name of the city for the projects 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 purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by such city. Such city may also close any roads, streets, parkways, avenues, or highways as may be necessary or convenient to facilitate the construction or operation of a project.

(3) Contracts may be entered into between the city and an authority, or between other political subdivisions of the State of Nebraska and such city or

authority, or between each and any of them, providing for the conveyance of property to such city or authority for use in connection with a project, and for the closing of streets, roads, parkways, avenues, or highways. The amounts, terms, and conditions of payment if any shall be made by such city or authority in connection with such conveyances. Such contracts may also contain covenants by such city, or such political subdivision, as to the road, street, parkway, avenue, or highway improvements to be made by such city or such political subdivision. Any city council may authorize such contracts between the city and the authority by resolution, and no other authorization on the part of such city for such contracts shall be necessary. All obligations of such city for the payment of money to an authority incurred in carrying out the provisions of this act shall be included in and provided for by each annual budget of such city thereafter made until fully discharged. In the case of other political subdivisions of the state, such contracts shall be authorized as provided by law.

(4) An authority operating under the provisions of this act may acquire real property for a project in the name of the city in which it was established at the cost and expense of the authority by purchase or condemnation pursuant to the laws relating to the condemnation of land by cities and subdivision (4) of section 3-504. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

(5) In case an authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the city, the authority shall have the power to surrender its use and occupancy thereof to the city. If such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease, or otherwise dispose of said real property. Such authority shall retain the proceeds of sale, rentals, or other money derived from the disposition thereof for its corporate purposes.

Sec. 2. That section 3-504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-504. Any authority established under the provisions of this act shall have power:

- (1) To sue and be sued;



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

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

(4) To acquire, in the name of the city, by purchase or condemnation, real property or rights or easements therein necessary or convenient for its corporate purposes, and, except as may otherwise be provided herein, to use the same so long as its corporate existence shall continue. Such power shall not be exercised by authorities of cities of the primary, first, and second classes and of villages created after the effective date of this act, without further approval, until such time as at least three members of the authority have been elected. If the exercise of such power is necessary while three or more appointed members remain on the authority of cities of the primary, first, and second classes and of villages, the appointing body shall approve all proceedings under this subdivision;

(5) To make by-laws for the management and regulation of its affairs, and subject to agreements with bondholders, to make rules and regulations for the use of projects, and the establishment and collection of rentals, fees, and all other charges for services or commodities sold, furnished, or supplied by such authority. Any person violating such rules shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one hundred dollars, or imprisoned in the county jail not more than thirty days, or be both so fined and imprisoned;

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

(7) To appoint officers, agents, and employees and fix their compensation;

(8) To make contracts, leases, and all other instruments necessary or convenient to the corporate purposes of the authority;

(9) To design, construct, maintain, operate, improve, and reconstruct so long as its corporate existence shall continue such projects as shall be necessary and convenient to the maintenance and development of aviation services to and for the city in

which such authority is established, including landing fields, heliports, hangars, shops, passenger and freight terminals, control towers, and all facilities necessary or convenient in connection with any such project and also to contract for the construction, operation, or maintenance of any parts thereof, or for services to be performed thereon, and to rent parts thereof and grant concessions thereon; all on such terms and conditions as the authority may determine;

(10) To include in such project, subject to zoning restrictions, space and facilities for any or all of the following: Public recreation, business, trade or other exhibitions, sporting or athletic events, public meetings, conventions, and all other kinds of assemblages, and in order to obtain additional revenue, space, and facilities for business and commercial purposes. Whenever the authority deems it to be in the public interest, the authority may lease any such project or any part or parts thereof, or contract for the management and operation thereof or any part or parts thereof. Any such lease or contract may be for such period of years as the authority shall determine;

(11) To charge fees, rental, and other charges for the use of projects under the jurisdiction of such authority subject to and in accordance with such agreement with bondholders as may be made as hereinafter provided. Subject to contracts with bondholders, all fees, rentals, charges, and other revenue derived from any project shall be applied to the payment of operating, administration, and other necessary expenses of the authority properly chargeable to such project and to the payment of the interest on and principal of bonds or for making sinking fund payments therefor. Subject to contracts with bondholders, the authority may treat one or more projects as a single enterprise in respect of revenue, expenses, the issuance of bonds, maintenance, operation, or other purposes;

(12) To certify annually to the governing body of the city the amount of tax to be levied for airport purposes, which the authority requires under its adopted budget statement to be received from taxation, not to exceed one mill on the dollar upon the assessed valuation of all the taxable property in such city, except intangible property, and the governing body shall levy and collect the taxes so certified at the same time and in the same manner as other city 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 authority is deposited; Provided, that an authority in a



city of the first or second class shall have power to certify annually to the governing body of such a city an additional amount of tax to be levied for airport purposes, not to exceed one mill, to be levied, collected, set aside, and deposited, as above specified, and if negotiable bonds of the authority are thereafter issued, this power shall continue until such bonds are paid in full. When such additional amount of tax is first certified, the governing body may then require but not thereafter, approval of the same by a majority vote of the governing body, or by a majority vote of the electors voting on the same at a general or special election. The provisions of this subdivision shall not apply to cities of the metropolitan class;

(13) To construct and maintain under, along, over, or across a project, telephone, telegraph, or electric wires and cables, fuel lines, gas mains, water mains, and other mechanical equipment not inconsistent with the appropriate use of such project, to contract for such construction and to lease the right to construct and use the same, or to use the same on such terms for such periods of time and for such consideration as the authority shall determine;

(14) To accept grants, loans, or contributions from the United States, the State of Nebraska, or any agency or instrumentality of either of them, or the city in which such authority is established, and to expend the proceeds thereof for any corporate purposes;

(15) To incur debt and issue negotiable bonds and to provide for the rights of the holders thereof;

(16) To enter on any lands, waters, and premises for the purposes of making surveys, soundings, and examinations; and

(17) To do all things necessary or convenient to carry out the powers expressly conferred on such authorities by this act.

Sec. 3. That section 3-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-612. (1) Any county creating an authority shall by resolution or resolutions, convey or transfer to it any existing airport or any other property of the county for use in connection with a project, including real and personal property owned or leased by the county and used or useful in connection therewith. In case of real property so conveyed, the title thereto shall remain



in the county, but the authority shall have the use and occupancy thereof for so long as its corporate existence shall continue. In the case of personal property so conveyed, the title shall pass to the authority. Any conveyance of an existing airport shall be subject to any leases or agreements duly and validly made by the county affecting such airport or the property so conveyed; Provided, that any such lease or agreement which is inconsistent with the ability of the authority to issue negotiable bonds may be renegotiated by the authority.

(2) Such county may acquire by purchase or condemnation real property in the name of the county for the projects 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 county purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by such county. Such county may also close any roads, streets, parkways, avenues, or highways as may be necessary or convenient to facilitate the construction or operation of a project.

(3) Contracts may be entered into between the county and an authority, or between other political subdivisions of the State of Nebraska and such county or authority, or between each and any of them, providing for the conveyance of property to such county or authority for use in connection with a project, and for the closing of streets, roads, parkways, avenues, or highways. The amounts, terms, and conditions of payment if any shall be made by such county or authority in connection with such conveyances. Such contracts may also contain covenants by such county, or such political subdivision, as to the road, street, parkway, avenue, or highway improvements to be made by such county or such political subdivision. Any county board may authorize such contracts between the county and the authority by resolution, and no other authorization on the part of such county for such contracts shall be necessary. All obligations of such county for the payment of money to an authority incurred in carrying out the provisions of sections 3-601 to 3-622 shall be included in and provided for by each annual budget of such county thereafter made until fully discharged. In the case of other political subdivisions of the state, such contracts shall be authorized as provided by law.

(4) An authority operating under the provisions of sections 3-601 to 3-622 may acquire real property for a project in the name of the county in which it was established at the cost and expense of the authority by

purchase or condemnation pursuant to the laws relating to the condemnation of land by counties and subdivision (4) of section 3-613. The authority shall have the use and occupancy of such real property so long as its corporate existence shall continue.

(5) In case an authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project then, if such real property was acquired at the cost and expense of the county, the authority shall have the power to surrender its use and occupancy thereof to the county. If such real property was acquired at the cost and expense of the authority, then the authority shall have power to sell, lease, or otherwise dispose of such real property. Such authority shall retain the proceeds of sale, rentals, or other money derived from the disposition thereof for its corporate purposes.

Sec. 4. That section 3-613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-613. Any authority established under the provisions of sections 3-601 to 3-622 shall have power:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold, and dispose of personal property for its corporate purposes;
- (4) To acquire, in the name of the county, by purchase or condemnation, real property or rights or easements therein necessary or convenient for its corporate purposes, and, except as may otherwise be provided herein, to use the same so long as its corporate existence shall continue. † Such power shall not be exercised by authorities created after the effective date of this act, without further approval, until such time as three or more members of the authority have been elected. If the exercise of such power is necessary while three or more appointed members remain on the authority, the appointing body shall approve all proceedings under this subdivision;
- (5) To make by-laws for the management and regulation of its affairs, and subject to agreements with bondholders, to make rules and regulations for the use of projects, and the establishment and collection of rentals, fees, and all other charges for services or



commodities sold, furnished, or supplied by such authority. Any person violating such rules shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one hundred dollars, or be imprisoned in the county jail not more than thirty days, or be both so fined and imprisoned;

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

(7) To appoint officers, agents, and employees and fix their compensation;

(8) To make contracts, leases, and all other instruments necessary or convenient to the corporate purposes of the authority;

(9) To design, construct, maintain, operate, improve, and reconstruct so long as its corporate existence shall continue such projects as shall be necessary and convenient to the maintenance and development of aviation services to and for the county in which such authority is established, including landing fields, heliports, hangars, shops, passenger and freight terminals, control towers, and all facilities necessary or convenient in connection with any such project and also to contract for the construction, operation, or maintenance of any parts thereof, or for services to be performed thereon, and to rent parts thereof and grant concessions thereon; all on such terms and conditions as the authority may determine;

(10) To include in such project, subject to zoning restrictions, space and facilities for any or all of the following: Public recreation, business, trade or other exhibitions, sporting or athletic events, public meetings, conventions, and all other kinds of assemblages, and in order to obtain additional revenue, space, and facilities for business and commercial purposes. Whenever the authority deems it to be in the public interest, the authority may lease any such project or any part or parts thereof, or contract for the management and operation thereof or any part or parts thereof. Any such lease or contract may be for such period of years as the authority shall determine;

(11) To charge fees, rentals, and other charges for the use of projects under the jurisdiction of such authority subject to and in accordance with such



agreement with bondholders as may be made as hereinafter provided. Subject to contracts with bondholders, all fees, rentals, charges, and other revenue derived from any project shall be applied to the payment of operating, administration, and other necessary expenses of the authority properly chargeable to such project and to the payment of the interest on and principal of bonds or for making sinking fund payments therefor. Subject to contracts with bondholders, the authority may treat one or more projects as a single enterprise in respect of revenue, expenses, the issuance of bonds, maintenance, operation, or other purposes;

(12) To certify annually to the county board the amount of tax to be levied for airport purposes, not to exceed one mill on the dollar upon the assessed valuation of all the taxable property in such county, except intangible property, and the governing body shall levy and collect the taxes 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 authority is deposited;

(13) To construct and maintain under, along, over, or across a project, telephone, telegraph, or electric wires and cables, fuel lines, gas mains, water mains, and other mechanical equipment not inconsistent with the appropriate use of such project, to contract for such construction and to lease the right to construct and use the same, or to use the same on such terms for such period of time and for such consideration as the authority shall determine;

(14) To accept grants, loans, or contributions from the United States, the State of Nebraska, or any agency or instrumentality of either of them, or the county in which such authority is established, and to expend the proceeds thereof for any corporate purposes;

(15) To incur debt and issue negotiable bonds and to provide for the rights of the holders thereof;

(16) To enter on any lands, waters, and premises for the purposes of making surveys, soundings, and examinations; and

(17) To do all things necessary or convenient to carry out the powers expressly conferred on such authorities by sections 3-601 to 3-622.

Sec. 5. That section 3-706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-706. (1) Any political subdivision participating in the creation of a joint authority may, by resolution or resolutions, convey or transfer to it in accordance with the provisions of the agreement, any existing airport or any other property of such political subdivision for use in connection with a project, including real and personal property owned or leased by such political subdivision and used or useful in connection therewith. The title to any such property shall pass to the joint authority. Any conveyance of an existing airport shall be subject to any leases or agreements duly and validly made by the political subdivision affecting such airports or the property so conveyed, but any such lease or agreement which is inconsistent with the ability of the joint authority to issue negotiable bonds may be renegotiated by the authority.

(2) Any county, city, or village participating in the creation of a joint authority may acquire by purchase or condemnation real property in its name for the project 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, by purchase or condemnation in the manner provided in sections 76-704 to 76-724. Such county, city, or village may also close any roads, streets, parkways, avenues, or highways as may be necessary or convenient to facilitate the construction or operation of a project.

(3) Contracts may be entered into between any political subdivision and a joint authority, or between other public bodies of the State of Nebraska and such political subdivision or joint authority, or between each and any of them, providing for the conveyance of property to such political subdivision or joint authority for use in connection with a project, and for the closing of streets, roads, parkways, avenues, or highways. The amounts, terms, and conditions of payment, if any, shall be prescribed by such political subdivision or joint authority in connection with such conveyances. Such contracts may also contain covenants by such political subdivision or such public body as to the road, street, parkway, avenue, or highway improvements to be made by such political subdivision or such public body. The governing body of any political subdivision may authorize such contracts between such political subdivision and the joint authority by resolution, and no other authorization



on the part of such political subdivision for such contracts shall be necessary. All obligations of any county, city, or village for the payment of money to a joint authority incurred in carrying out the provisions of sections 3-701 to 3-716 shall be included in and provided for by each annual budget of any county, city, or village thereafter made until fully discharged. In the case of other public bodies of the state, such contracts shall be authorized as provided by law.

(4) A joint authority operating under the provisions of sections 3-701 to 3-716 may acquire real property for a project in its own name at the cost and expense of the joint authority by purchase or condemnation pursuant to the provisions of sections 76-704 to 76-724 and subdivision (4) of section 3-707. The joint authority shall have the use and occupancy of such real property for so long as its corporate existence shall continue.

(5) If a joint authority shall have the use and occupancy of any real property which it shall determine is no longer required for a project the joint authority shall have power to sell, lease, or otherwise dispose thereof. Such joint authority shall retain the proceeds of sale, rentals, or other money derived from the disposition thereof for its corporate purposes.

Sec. 6. That section 3-707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-707. Any joint authority established under the provisions of sections 3-701 to 3-716 shall have power:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold, and dispose of personal property for its corporate purposes;
- (4) To acquire, by purchase or condemnation, real property or rights or easements therein necessary or convenient for its corporate purposes, and, except as may otherwise be provided in sections 3-701 to 3-716, to use the same so long as its corporate existence shall continue. ; Such power shall not be exercised by authorities created after the effective date of this act, without further approval, until such time as three or more members of the authority have been elected. If the exercise of such power is necessary while three or more

appointed members remain on the authority, the appointing body shall approve all proceedings under this subdivision;

(5) To make by-laws for the management and regulation of its affairs and, subject to agreements with bondholders, to make rules and regulations for the use of projects and the establishment and collection of rentals, fees, and all other charges for services or commodities sold, furnished, or supplied by such joint authority;

(6) To appoint officers, agents, and employees and fix their compensation;

(7) To make contracts, leases, and all other instruments necessary or convenient to the corporate purposes of the joint authority;

(8) To design, construct, maintain, operate, improve, and reconstruct, so long as its corporate existence shall continue, such projects as shall be necessary and convenient to the maintenance and development of aviation services to and for the political subdivisions by which such joint authority was established, including landing fields, heliports, hangars, shops, passenger and freight terminals, control towers and all facilities necessary or convenient in connection with any such project and also to contract for the construction, operation, or maintenance of any parts thereof or for services to be performed thereon, and to rent parts thereof and grant concessions thereon all on such terms and conditions as the joint authority may determine;

(9) To include in such project, subject to zoning restrictions, space and facilities for any or all of the following: Public recreation, business, trade or other exhibitions, sporting or athletic events, public meetings, and conventions, and all other kinds of assemblages, and, in order to obtain additional revenue, space and facilities for business and commercial purposes. Whenever the joint authority deems it to be in the public interest, it may lease any such project or any part or parts thereof or contract for the management and operation thereof or any part or parts thereof. Any such lease or contract may be for such period of years as the joint authority shall determine;

(10) To charge fees, rentals, and other charges for the use of projects under its jurisdiction subject to and in accordance with such agreements with bondholders as may be made as provided in sections 3-701 to 3-716. Subject to contracts with bondholders, all fees, rentals,



charges, and other revenue derived from any project shall be applied to the payment of operating, administration, and other necessary expenses of the joint authority properly chargeable to such project and to the payment of the interest on and principal of bonds or for making sinking fund payments therefor. Subject to contracts with bondholders, the joint authority may treat one or more projects as a single enterprise in respect of revenue, expenses, the issuance of bonds, maintenance, operation, or other purposes;

(11) To certify annually to each tax levying body the amount of tax to be levied for airport purposes, which tax shall not exceed one mill on the dollar upon the assessed valuation of all of the taxable property therein, except intangible property, it being intended to hereby insure that all of the taxable property, except intangible property, within each county, city, and village which has become interested in a joint airport authority, directly or indirectly, as set forth in section 3-702, whether at the time of the authority's initial organization or thereafter, becomes subject to taxation for the purposes of such authority. Whenever a city or village so interested in a joint authority is situated within a county which is likewise interested in the same joint authority, the joint authority shall, in order to avoid the possibility of double taxation, certify the tax only to the tax levying body of the county and shall not certify any tax to the tax levying body of such city or village. Such tax levying bodies shall levy and collect the taxes so certified at the same time and in the same manner as other taxes of such county, city, or village, as the case may be, are levied and collected and the proceeds of such taxes as collected shall be set aside and deposited in the special account or accounts in which other revenue of the joint authority is deposited;

(12) To covenant in any resolution or other instrument pursuant to which it issues any of its bonds or other obligations that the joint authority will, for so long as any such bonds or obligations and the interest thereon remain outstanding and unpaid, annually certify to each tax levying body referred to in subdivision (11) of this section the maximum tax which the joint authority is, at the time of issuing such bonds or other obligations, authorized to so certify, and that it will, in the event of any change in the method of assessment, so certify such tax as will raise the same amount in dollars as such maximum tax would have raised at the time such bonds or other obligations were issued;

(13) To pledge for the security of the principal of any bonds or other obligations issued by the joint authority, and the interest thereon, any revenue derived by the joint authority from taxation;

(14) To construct and maintain under, along, over, or across a project, telephone, telegraph or electric wires and cables, fuel lines, gas mains, water mains, and other mechanical equipment not inconsistent with the appropriate use of such project, to contract for such construction and to lease the right to construct and use the same, or to use the same on such terms, for such periods of time, and for such consideration as the joint authority shall determine;

(15) To accept grants, loans, or contributions from the United States, the State of Nebraska, or any agency or instrumentality of either of them, and to expend the proceeds thereof for any corporate purposes;

(16) To incur debt and issue negotiable bonds and to provide for the rights of the holders thereof;

(17) To enter on any lands, waters, and premises for the purposes of making surveys, soundings, and examinations; and

(18) To do all things necessary or convenient to carry out the powers expressly conferred by sections 3-701 to 3-716.

Sec. 7. That original sections 3-503, 3-504, 3-612, 3-613, 3-706, and 3-707, Reissue Revised Statutes of Nebraska, 1943, are repealed.