

LEGISLATIVE BILL 564

Approved by the Governor April 21, 1975

Introduced by Urban Affairs Committee, Fowler, 27, Chmn.; George, 16; Stoney, 4; Swigart, 8; Koch, 12; Hasebroock, 18; Burrows, 30

AN ACT to amend section 19-3326, Reissue Revised Statutes of Nebraska, 1943, and sections 19-3311, 19-3315, and 19-3327, Revised Statutes Supplement, 1974, relating to off-street parking; to provide that certain cities may create off-street parking districts; to provide duties; to provide for bonds; to provide uses for taxes collected for a city; to provide opportunity for notice and hearing; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 19-3311, Revised Statutes Supplement, 1974, be amended to read as follows:

19-3311. In Notwithstanding the provisions of any home rule charter and in addition to the powers set out in sections 15-269 to 15-276 and 16-801 to 16-811, any city of the primary, first or second class in Nebraska is hereby authorized to own, purchase, construct, equip, lease, either as lessee or lessor, or operate within such city, off-street parking facilities for the use of the general public and to refund bonds of the city issued pursuant to sections 19-3301 to 19-3326, or in a city of the first class to refund outstanding bonds issued to purchase, construct, equip or operate such off-street parking facilities pursuant to sections 16-801 to 16-811. The Except as otherwise provided in any home rule charter, the grant of power herein does not include power to engage, directly or indirectly, in the sale of gasoline, oil, or other merchandise or in the furnishing of any service other than of parking motor vehicles as provided in sections 19-3301 to 19-3326. Any such city shall have the authority to acquire by grant, contract, purchase or through condemnation, as provided by law or by any home rule charter for such acquisition, all real or personal property, including a site or sites on which to construct such off-street parking facility, necessary or convenient in carrying out of this grant of power; Provided, that property now used or hereafter acquired for public off-street motor vehicle parking by a private operator shall not be subject to condemnation. Before any such city may commence a program to construct,

purchase, or acquire by other means a proposed off-street parking facility or facilities, notice shall be given, by publication once each week for not less than thirty days, inviting application for private ownership and operation of off-street parking facilities, which notice shall fix a date for a public hearing on any application received. If no application or applications have been received or, if received, the same have been disapproved by the governing body of such city after a public hearing concerning such applications, then such city may proceed in the exercise of the powers herein granted. The procedure to condemn property shall be exercised in the manner set forth in sections 76-701 to 76-724, except as to properties specifically excluded by section 76-703, and as to which sections 19-701 to 19-707 are applicable. The duties set forth for the mayor and city council in sections 19-3312 to 19-3325 shall be the duties and responsibilities of the city council in any city which by law or by home rule charter has exclusively vested all legislative powers of the city in such council.

Sec. 2. That section 19-3315, Revised Statutes Supplement, 1974, be amended to read as follows:

19-3315. The mayor and city council may by resolution levy and assess taxes and assessments as follows:

(1) A property tax within any district of not to exceed ten mills on the dollar of assessed valuation of taxable property within such district to pay all or any part of the cost to improve, repair, maintain, reconstruct, operate, or acquire any off-street parking facility and to pay principal and interest on any bonds issued for an off-street parking facility for such district. Such tax shall be levied and collected at the same time and under the same provisions as the regular general city tax, but such levy shall not be subject to or apply against any statutory mill levy or city tax limit applicable to such city or property. The taxes collected from any district shall be used only for the benefit of such district;

(2) A special assessment against the real estate located in such district to the extent of the special benefit thereto, for the purpose of paying all or any part of the total costs and expenses of acquisition, including construction, of an off-street parking facility in such district, which shall be levied as provided in section 19-3314. In the event that subsequent to the levy of assessments the use of any parcel of land shall change so that, had the new use existed at the time of making such levy, the assessment on such parcel would

have been higher than the assessment actually made, an additional assessment may be made on such parcel by the mayor and city council taking into consideration the new and changed use of the property; Provided, that the total amount of assessments levied under this subdivision shall not exceed the total costs and expenses of acquiring a facility defined in section 19-3313; and provided further, that the levy of an additional assessment shall not reduce or affect in any manner the assessments previously levied. Additional assessments shall be levied as provided in section 19-3314, except that published notice may be omitted if notice is personally served on the owner at least twenty days prior to the date of hearing. All assessments levied under this subdivision shall constitute a sinking fund for the payment of principal and interest on bonds issued for such facility as provided by section 19-3317 until such bonds and interest are fully paid; and

(3) A special assessment against the real estate located in such district, to the extent of special benefit thereto, for the purpose of paying all or any part of the costs of maintenance, repair, and reconstruction of such off-street parking facility in the district. The mayor and city council may levy such assessments under either of the following methods: (a) The mayor and city council may, not more frequently than annually, determine the costs of maintenance, repair, and reconstruction of such facility and such costs shall be assessed to the real estate located in such district as provided by section 19-3314. At the hearing on such assessments, objections may be made to the total costs and the proposed allocation of such costs among the parcels of real estate in such district, or (b) after notice is given to the owners as provided in section 19-3314, the mayor and city council may establish, and may change from time to time, the percentage of such costs of maintenance, repair, and reconstruction which each parcel of real estate in any district shall pay. Thereafter, the mayor and city council shall annually determine the total amount of such costs for each period since costs were last assessed, and shall, after a hearing, assess such costs to the real estate in the district in accordance with the percentages previously established or as established at such hearing. Notice of such hearing shall be given as provided in section 19-3314 and shall state the total cost and percentage to be assessed to each parcel of real estate. Unless written objections are filed with the city clerk at least five days before the hearing, all objections to the amount of total costs and the assessment percentages shall be deemed to have been waived and assessments shall be levied as stated in such notice, unless the mayor and

city council shall reduce any assessment. At such hearing, the assessment percentage for the assessment of costs in the future may be changed.

Sec. 3. That section 19-3326, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3326. (1) After the issuance of bonds hereunder by a city of ~~the first or second class~~, a certificate shall be issued by the city clerk certifying the same to the county treasurer of the county in which such city is located and the annual taxes within the district shall be handled in the same manner and collected in the same manner as intersection bonds for street paving in the cities of the first class or second class in Nebraska and to be paid to the city for use as provided by sections 19-3301 to 19-3326.

~~(2) After the issuance of bonds hereunder by a city of the primary class, a certificate shall be issued by the city clerk. Taxes shall be handled and collected as otherwise provided by law or by home rule charter for such city and those taxes paid to the city shall be used as provided in sections 19-3301 to 19-3327.~~

Sec. 4. That section 19-3327, Revised Statutes Supplement, 1974, be amended to read as follows:

19-3327. ~~The mayor and city council~~ Any city of the primary, first, or second class, after the creation of an off-street parking district pursuant to sections 19-3301 to 19-3326, shall have the power to own, purchase, construct, equip, lease, or operate within such city any off-street parking facility in addition to any off-street parking facility contemplated at the time of the creation of the district if the mayor and city council are of the opinion that the district will be benefited thereby. Whenever the city council shall deem it advisable to own, purchase, construct, equip, lease, or operate such additional facility, the council shall by resolution set forth the engineer's estimate of the sum of money to be expended in the acquisition of property and the construction of the off-street parking facility and a description of the facility to be constructed, and if such resolution proposes to acquire by grant, contract, purchase, or through condemnation any off-street parking facility, the resolution shall state the price and conditions and how such facility shall be acquired, and if assessments are to be levied, the resolution shall state the proposed boundaries of the area in the district in which the special assessments shall be levied. Notice of the time and place of a

hearing before the city council on such resolution shall be given by publication one time each week for two weeks in a daily or weekly newspaper of general circulation published in the city, which publication shall contain the entire resolution. The last publication shall not be less than five days nor more than two weeks prior to the date set for such hearing. Not later than the hour set for the hearing, any owner or any person interested in any real estate within the proposed area may file with the city clerk written objections to the resolution, the extent of the proposed area, or both, and every person so interested shall have a right to protest on any grounds and to object to his real estate being included in the area, and at such hearing all objections and protests shall be heard and passed upon by the mayor and city council; provided, that if the owners of record title representing more than sixty per cent of the assessed valuation of all of the taxable real estate included in such proposed area, and who were such owners at the time the notice of hearing on objections to the creation of the facility was first published, shall file a petition with the city clerk within three days of the date set for the hearing, such resolution shall not be passed; and provided further, if the off-street parking district includes more than sixty per cent of the area of a downtown improvement and parking district created pursuant to sections 19-3401 to 19-3420 and the downtown improvement board of such district shall object in writing prior to the date of the hearing, then such resolution shall not be passed.

Sec. 5. That original section 19-3326, Reissue Revised Statutes of Nebraska, 1943, and sections 19-3311, 19-3315, and 19-3327, Revised Statutes Supplement, 1974, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.