

LEGISLATIVE BILL 706

Approved by the Governor May 26, 1989

Introduced by Hall, 7; Wesely, 26

AN ACT relating to environmental hazards; to amend sections 58-201, 58-202, 58-207, 58-219, and 58-250, Reissue Revised Statutes of Nebraska, 1943, and section 79-4,207, Revised Statutes Supplement, 1988; to restate intent; to define and redefine terms; to provide for loans from the Nebraska Investment Finance Authority to schools for abatement of environmental hazards; to harmonize provisions; to change provisions relating to a tax levy for environmental hazard abatement projects; to authorize bonds or other evidences of indebtedness for the abatement of environmental hazards; 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 58-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-201. Sections 58-201 to 58-272 and sections 4 to 6 of this act shall be known and may be cited as the Nebraska Investment Finance Authority Act.

Sec. 2. That section 58-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-202. It is hereby found and declared that:

(1)(a) The high cost of agricultural loans and the general unavailability of such loans to farmers and other agricultural enterprises has have resulted in decreased crop, livestock, and business productivity and prevented farmers and other agricultural enterprises from acquiring modern agricultural equipment and processes. These problems have made it difficult for farmers and other agricultural enterprises to maintain or increase their present number of employees and has have decreased the supply of agricultural commodities available to fulfill the needs of the citizens of this state; and

(b) There exists in this state an inadequate supply of, and a pressing need for, farm credit and agricultural loan financing at interest rates which are

consistent with the needs of farmers and other agricultural enterprises;

(2)(a) From time to time the high rates of interest charged by mortgage lenders seriously restrict existing housing transfers and new housing starts and the resultant reduction in residential construction starts causes a condition of substantial unemployment and underemployment in the construction industry;

(b) Such conditions generally result in and contribute to the creation of slums and blighted areas in the urban and rural areas of this state and a deterioration of the quality of living conditions within this state, and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident prevention, and other public services and facilities; and

(c) There exists in the urban and rural areas of this state an inadequate supply of, and a pressing need for, sanitary, safe, and uncrowded housing at prices which persons of low and moderate income can afford to purchase, construct, or rent, and as a result such persons are forced to occupy insanitary, unsafe, and overcrowded housing;

(3)(a) Adequate and reliable energy supplies are a basic necessity of life and sufficient energy supplies are essential to supplying adequate food and shelter;

(b) The cost and availability of energy supplies has been and will continue to be a matter of state and national concern;

(c) The increasing cost and decreasing availability of energy supplies for purposes of residential heating will limit the ability of many of Nebraska's citizens to provide the basic necessities of life and will result in a deterioration in living conditions and a threat to the health and welfare of the citizens of this state;

(d) Energy conservation through building modifications, including, but not limited to, insulation, weatherization, and the installation of alternative energy devices, has been shown to be a prudent means of reducing energy consumption costs and the need for additional costly facilities to produce and supply energy;

(e) Because of the high cost of available capital, the purchase of energy conservation devices is not possible for many Nebraskans. The prohibitively high interest rates for private capital create a

situation in which the necessary capital cannot be obtained solely from private enterprise sources and there is a need for the stimulation of investment of private capital, thereby encouraging the purchase of energy conservation devices and energy conserving building modifications;

(f) The increased cost per capita of supplying adequate life-sustaining energy needs has reduced the amount of funds, both public and private, available for providing other necessities of life, including food, health care, and safe, sanitary housing; and

(g) The continuing purchase of energy supplies results in the transfer of ever increasing amounts of capital to out-of-state energy suppliers; and

(4)(a) There exist within this state unemployment and underemployment especially in areas of basic economic activity, caused by economic decline and need for diversification of the economic base, needlessly increasing public expenditures for unemployment compensation and welfare, decreasing the tax base, reducing tax revenue, and resulting in economic and social liabilities to the entire state;

(b) Such unemployment and underemployment cause areas of the state to deteriorate and become substandard and blighted, and such conditions result in making such areas economic or social liabilities harmful to the ~~social~~ and economic and social well-being of the entire state and the communities in which they exist, needlessly increasing public expenditures, imposing onerous state and municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of the state and the municipalities, depreciating general state and community-wide values, and contributing to the spread of disease and crime, which necessitate excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(c) There exist within this state conditions resulting from the concentration of population of various counties, cities, and villages which require the construction, maintenance, and operation of adequate hospital and nursing facilities for the care of the public health. Since these conditions cannot be remedied by the ordinary operations of private

enterprises and the providing of adequate hospital, nursing, and medical care are public uses, it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the health and public welfare;

(d) Creation of basic economic jobs in the private sector and the promotion of health and welfare by the means provided under the Nebraska Investment Finance Authority Act and the resulting reduction of needless public expenditures, expansion of the tax base, provision of hospitals and health care and related facilities, and increase of tax revenue are needed within this state; and

(e) Stimulation of economic development throughout the state and the provision of health care at affordable prices are matters of state policy, public interest, and statewide concern and within the powers and authority inherent in and reserved to the state, in order that the state and its municipalities shall not continue to be endangered by areas which consume an excessive proportion of their revenue, in order that the economic base of the state may be broadened and stabilized thereby providing jobs and necessary tax base, and in order that adequate health care services be provided to all residents of this state; and

(5)(a) There is a need within this state for financing to assist local school boards and districts and private, for-profit, or not-for-profit schools in connection with removal of materials determined to be hazardous to the health and well-being of the residents of the state and that the federal funding provided for such projects is extremely limited and the need and requirement to remove such materials from school buildings is great;

(b) The financing of the removal of such environmental hazards is essential to protecting and improving the facilities in the state which provide educational benefits and services;

(c) The federal government has directed schools to remove such hazardous materials; and

(d) The problems enumerated in this subdivision cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and assist in the financing of the removal of environmental hazards in educational facilities in this state in order to provide for a clean environment to protect the health and welfare of the citizens and

residents of this state.

Sec. 3. That section 58-207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-207. As used in For purposes of the Nebraska Investment Finance Authority Act, unless the context otherwise requires, the definitions found in sections 58-207 to 58-225 and sections 4 to 6 of this act shall be used.

Sec. 4. Abatement shall include, but not be limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce or eliminate environmental hazards, any removal of environmentally hazardous material or property, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or grounds under the school's control, except that abatement shall not include the encapsulation of any material containing more than one percent friable asbestos.

Sec. 5. Environmental hazard shall mean any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

Sec. 6. School shall mean (1) any local school board or school district and (2) any private, for-profit, or not-for-profit institution, the primary purpose of which is to provide educational instruction if such institution is available for attendance by members of the general public.

Sec. 7. That section 58-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-219. Project shall mean one or more of the following:

- (1)(a) Rental housing;
- (b) Residential housing; and
- (c) Residential energy conservation devices;
- (2) Agriculture or agricultural enterprise;
- (3) Any land, building, or other improvement, any real or personal property, or any equipment, and any undivided or other interest in any of the foregoing, whether or not in existence, suitable or used for or in connection with any of the following revenue-producing enterprises or two or more such enterprises engaged or to be engaged in:

(a) In all areas of the state, manufacturing or industrial enterprises, including assembling, fabricating, mixing, processing, warehousing, distributing, or transporting any products of agriculture, forestry, mining, industry, or manufacturing; pollution control facilities; and facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as drainage, water, storm, and sanitary sewers, grading, streets, and other facilities and structures incidental to the use of such sites for manufacturing or industrial enterprises;

(b) In all areas of the state, commercial or service enterprises if (i) such facilities constitute new construction or rehabilitation, including hotels or motels, sports and recreation facilities available for use by members of the general public either as participants or spectators, and convention or trade show facilities, and (ii) such facilities do not or will not derive a significant portion of their gross receipts from retail sales or utilize a significant portion of their total area for retail sales;

(c) In blighted areas of the state, commercial, service, and business enterprises if such facilities constitute new construction, acquisition, or rehabilitation, including, but not limited to, those enterprises specified in subdivision (3)(b) of this section, office buildings, and retail businesses; and

(d) In all areas of the state, any land, building, or other improvement and all real or personal property, including furniture and equipment, and any undivided or other interest in any such property, whether or not in existence, suitable or used for or in connection with any hospital, nursing home, and any facilities related and subordinate thereto; and

(4) Any land, building, or other improvement, any real or personal property, or any equipment, and any undivided or other interest in any of the foregoing, whether or not in existence, used by any business as an office building, but only if (a) the principal long-term occupant or occupants thereof initially employ at least fifty people, (b) the office building will be used by the principal long-term occupant or occupants as a national, regional, or divisional office, (c) the principal long-term occupant or occupants are engaged in a multistate operation, and (d) the authority makes the findings specified in subdivision (1) of section 58-251; and

(5) Any cost necessary for abatement of an

environmental hazard or hazards in school buildings upon a determination by the school that an actual or potential environmental hazard exists within the school buildings or grounds under its control.

Nothing in subdivision (3) of this section shall be construed to include any rental or residential housing, residential energy conservation device, or agriculture or agricultural enterprise.

Sec. 8. That section 58-250, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

58-250. Prior to carrying out any of the powers granted under the Nebraska Investment Finance Authority Act relating to development projects as defined in ~~subdivision (3)~~ subdivisions (3) and (5) of section 58-219, the authority shall adopt and promulgate rules and regulations governing its activities authorized under such act, including rules and regulations relating to any or all of the following:

(1) The type and amount of collateral or security to be provided to insure repayment of loans made by the authority;

(2) The type of collateral, payment bonds, performance bonds, or other security to be provided for any mortgage or loan made for projects;

(3) The nature and amount of fees to be charged by the authority to provide for expenses and reserves of the authority;

(4) Standards and requirements for determination of the maturities, terms, conditions, and interest rates for loans or mortgages made, purchased, sold, assigned, or committed; and

(5) Any other matters related to the duties or exercise of the authority's powers or duties under the Nebraska Investment Finance Authority Act.

Sec. 9. That section 79-4,207, Revised Statutes Supplement, 1988, be amended to read as follows:

79-4,207. (1) Each local school board, after making a determination that an actual or potential environmental hazard exists within the school buildings or grounds under its control, may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than the first Monday in August 25, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazards in its school buildings or grounds. Each local school board shall conduct a public hearing on the itemized estimate prior to presenting

such estimate to the county clerk. Notice of the place and time of such hearing shall, at least five days prior to the date set for hearing, be published in a newspaper of general circulation within the school district or be sent by direct mailing to each resident within the school district.

(2) The school board shall designate the particular environmental hazard abatement project for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed ten years, for which the tax will be levied for such project, and the amount of the levy for each year thereof. The school board may designate more than one project and levy a tax pursuant to this section for each such project, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each levy will not exceed the limitations specified in this section. Each levy for a project which is authorized by this section may be imposed for such duration as shall be specified by the school board notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project imposed pursuant to this section and notwithstanding the subsequent issuance by the school district of bonded indebtedness payable from its general fund levy.

(3) For purposes of this section, environmental hazard shall mean any contamination of the air, water, or land surface, or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

~~(3)~~ (4) It shall be the duty of the county clerk to levy such taxes, not to exceed ~~three and one-half~~ five and one-fifth cents per one hundred dollars of taxable valuation, on the taxable property of the school district necessary to cover the abatement costs itemized by the school board. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the proper school district and used to cover the abatement costs.

~~(4)~~ (5) Each school district which submits an itemized estimate shall establish an environmental hazard abatement fund. Taxes collected pursuant to this section shall be credited to such fund to cover the abatement costs. Such estimates may be presented to the county clerk and taxes levied accordingly. ~~in no event,~~

however, may a school board present any such estimates after August 1, 1993. The Commissioner of Education shall, by January 1, 1993, 1995, 1997, and 1999, deliver a report to the Legislature estimating the amount of hazardous materials which remain in the public schools of the state.

(5) (6) The itemized estimate submitted by a school board may include the actual cost of abatement of an environmental hazard when such abatement occurred prior to the delivery of such estimate to the county clerk and was completed after June 28, 1982.

(6) (7) For purposes of this section, the term abatement shall include, but not be limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate environmental hazards, any removal or encapsulation of environmentally hazardous material or property, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or grounds under the school board's control, except that the term abatement shall not include the encapsulation of any material containing more than one percent friable asbestos.

(8) For the purpose of paying amounts necessary for the abatement of environmental hazards, the school board of each affected school district may borrow money and issue bonds and other evidences of indebtedness of the school district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the school district of amounts received in respect of the tax levy provided for by this section and any other funds of the school district available therefor. Bonds and other evidences of indebtedness issued by a school district pursuant to this subsection shall not constitute a general obligation of the school district or be payable from any portion of its general fund levy.

Sec. 10. That original sections 58-201, 58-202, 58-207, 58-219, and 58-250, Reissue Revised Statutes of Nebraska, 1943, and section 79-4,207, Revised Statutes Supplement, 1988, are repealed.

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.