

LEGISLATIVE BILL 1321

Approved by the Governor April 9, 1996

Introduced by Hartnett, 45

AN ACT relating to sanitary and improvement districts; to amend sections 31-755, 77-1858, 77-1901, and 77-1902, Reissue Revised Statutes of Nebraska; to change provisions relating to warrants and liens on real estate for special assessments; to eliminate provisions relating to certain sanitary and improvement districts; to repeal the original sections; and to outright repeal sections 31-701 to 31-704, 31-705.01, 31-706, 31-708 to 31-710, 31-711.01 to 31-715, and 31-717 to 31-726, Reissue Revised Statutes of Nebraska, section 31-726.01, Revised Statutes Supplement, 1994, and sections 31-705, 31-707, and 31-711, Revised Statutes Supplement, 1995.

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

Section 1. Section 31-755, Reissue Revised Statutes of Nebraska, is amended to read:

31-755. For the purpose of paying the cost of the improvements herein provided for, the board of trustees or the administrator, after such improvements have been completed and accepted, shall have the power to issue negotiable bonds of any such district, to be called sanitary and improvement district bonds, payable in not to exceed thirty years. Each issue of general obligation bonds shall mature or be subject to mandatory redemption so that the first principal repayment is made not more than five years after the date of issuance and so that at least twenty percent of the district's bonds then outstanding shall be repaid within ten years after the date of issuance. Such bonds shall bear interest payable annually or semiannually. Such bonds may either be sold by the district or delivered to the contractor in payment for the work but in either case for not less than their par value. For the purpose of making partial payments as the work progresses, warrants may be issued by the board of trustees or the administrator upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not to exceed ninety-five percent of the cost thereof. Warrants issued prior to July 10, 1976, for capital outlays of the district shall become due and payable twelve months after April 21, 1982, and warrants issued on or after July 10, 1976, for capital outlays of the district shall become due and payable not later than five years from the date of issuance, except that such warrants need not be retired on such date or within such five-year period and shall not be in default if the district court of the county determines, upon application to it by the district, that the district does not have the funds to retire such warrants and either (1) the district is unable to sell its bonds in amount sufficient to retire such warrants or (2) an unreasonably high tax levy, as compared to the levy on other similar property in the county, would be required in order to cover the debt service requirements on bonds issued to retire such warrants. Such application may be filed either before or within ninety days after the due date of the warrants, and no warrant for which an extension application has been made to the district court and a hearing date set by the court shall be in default while such application is pending before the court. Notice of the filing of such application and the time and place of the hearing thereon shall be published in a newspaper of general circulation in the county the same day each week three consecutive weeks. Within five days after the first publication of such notice, the district shall cause to be mailed, by United States certified mail, a copy of such notice to each holder of warrants covered by the application whose name and post office address are known to the district. Prior to the hearing, proof of such mailing shall be made by affidavit of a trustee of the district or the administrator or the district's attorney that such mailing was made and further that the district, its trustees or administrator, and its attorney, after diligent investigation and inquiry, were unable to ascertain and do not know the name and post office address of any holder of such warrants other than those to whom notice has been mailed in writing or who have waived notice in writing or entered an appearance in the proceeding. Upon making such determination, the district court may make such orders concerning retirement of the warrants as it determines proper under the circumstances of the district including ordering an increase in the tax levy of the district to provide funds for warrant redemption, except that no court-ordered tax levy for redemption of warrants shall cause the total tax

levy of the district to be unreasonably high as compared with the tax levy of other similar property in the county. Such warrants shall draw interest, at such rate as fixed by the board of trustees or the administrator and endorsed on the warrants, from the date of presentation for payment and shall be redeemed and paid from the proceeds of special assessments or from the sale of the bonds issued and sold as provided in this section or from any other funds available for that purpose. Bonds to redeem such warrants shall be issued as soon as economically feasible, and to the extent warrants are not redeemed from bond proceeds or other funds available for such purpose, the district shall make a tax levy to provide a sinking fund for warrant redemption, except that such obligation shall not require a total tax levy by the district which shall be unreasonably high as compared with the tax levy on other similar property in the county. The board of trustees or the administrator shall after August 26, 1983, pay to the contractor interest at the rate specified in section 39-1349, as such rate may from time to time be adjusted by the Legislature, on the amounts due on partial and final payments, beginning thirty days after the certification of the amounts due by the engineer in charge and approval by the board of trustees or the administrator and running until the date that the warrant is tendered to the contractor. Warrants issued for operation and maintenance expenses of the district shall be issued not later than sixty days following the date upon which the district is in receipt of a bill for the amount of operation or maintenance expenses owed and such warrants shall become due and payable not later than three years from the date of issuance. If a warrant for operation or maintenance expenses is not issued within such sixty-day period, the amount owed by the district shall bear interest from the sixty-first day until the date upon which the warrant is issued at a rate equivalent to one and one-half times the rate specified in subsection (2) of section 45-104.02. The district shall agree to pay annual or semiannual interest on all capital outlay warrants issued by the district and shall issue warrants to pay such interest or shall issue its warrants in return for cash to pay such interest. Interest on capital outlay warrants shall be represented by coupons payable to bearer attached to each warrant, but coupons shall not be issued for interest accruing after the due date of such warrant. All coupons shall show on their face the number of the warrant to which they appertain and that the coupon shall not be valid for payment of any interest after the warrant has been called for redemption or redeemed. Warrant interest coupons not paid when due for lack of funds shall be registered, bear interest, and be paid the same as is provided in section 10-209 for bond coupons. Warrants issued to pay interest on capital outlay warrants shall become due and payable in the same time as capital outlay warrants. The district may, if determined appropriate by the board of trustees or the administrator, pay fees to fiscal agents in connection with the placement and registration of ownership of warrants issued by the district. The board of trustees or the administrator shall levy special assessments on all lots, parcels, or pieces of real estate benefited by the improvement to the extent of the benefits to such property. The special assessments when collected shall be set aside and constitute a sinking fund for the payment of the interest and principal of such bonds. In addition to the special assessments provided for in this section, there shall be levied annually a tax upon the taxable value of all the taxable property in such district which, together with such sinking fund derived from special assessments, shall be sufficient to meet payments of interest and principal on all bonds as such become due. Such tax shall be known as the sanitary and improvement district tax and shall be payable annually in money.

Sec. 2. Section 77-1858, Reissue Revised Statutes of Nebraska, is amended to read:

77-1858. Wherever power is now given by the revenue laws of this state to the county treasurer of any county in this state to sell real estate, on which the taxes ~~shall not~~ have not been paid as provided by law, it shall include the power to sell ~~said~~ the real estate for (1) all the taxes and special assessments, except special assessments levied by a sanitary and improvement district organized under sections 31-727 to 31-762, levied or hereafter levied by any county, municipality, drainage district, or other political subdivision of the state, and all (2) all special assessments levied or hereafter levied by any sanitary and improvement district if such sale is requested by such sanitary and improvement district which levied the special assessment. All provisions of ~~said~~ the revenue law now in force with reference to the collection of taxes shall apply with equal force to all taxes and special assessments levied by ~~said~~ such county, municipality, drainage district, or other political subdivision of the state.

Sec. 3. Section 77-1901, Reissue Revised Statutes of Nebraska, is amended to read:

77-1901. Counties shall have a lien upon real estate within their boundaries for all taxes due thereon to the state, any governmental subdivision of the state, any municipal corporation, and any drainage or irrigation district. After any parcel of real estate has been offered for sale and not sold for want of bidders, the county board shall make and enter an order directing the county attorney to foreclose the lien for all taxes then delinquent, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which real estate has not been previously offered for sale by the county treasurer, in the same manner and with like effect as in the foreclosure of real estate mortgages, except as otherwise specifically provided by sections 77-1903 to 77-1917.

Sec. 4. Section 77-1902, Reissue Revised Statutes of Nebraska, is amended to read:

77-1902. When land has been sold for delinquent taxes and a tax sale certificate or tax deed has been issued, the holder of such tax sale certificate or tax deed may, instead of demanding a deed or, if a deed has been issued, by surrendering the same in court, proceed in the district court of the county in which the land is situated to foreclose the lien for taxes represented by the tax sale certificate or tax deed and all subsequent tax liens thereon, excluding any lien on real estate for special assessments levied by any sanitary and improvement district which real estate has not been previously offered for sale by the county treasurer, in the same manner and with like effect as in the foreclosure of a real estate mortgage, except as otherwise specifically provided by sections 77-1903 to 77-1917. Such action shall only be brought within six months after the expiration of three years from the date of sale of any real estate for taxes or special assessments.

Sec. 5. Original sections 31-755, 77-1858, 77-1901, and 77-1902, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 6. The following sections are outright repealed: Sections 31-701 to 31-704, 31-705.01, 31-706, 31-708 to 31-710, 31-711.01 to 31-715, and 31-717 to 31-726, Reissue Revised Statutes of Nebraska, section 31-726.01, Revised Statutes Supplement, 1994, and sections 31-705, 31-707, and 31-711, Revised Statutes Supplement, 1995.