

LEGISLATIVE BILL 68

Approved by the Governor February 12, 2020

Introduced by Hansen, M., 26; Wayne, 13.

A BILL FOR AN ACT relating to cities; to amend sections 19-4029.02 and 19-4029.03, Revised Statutes Cumulative Supplement, 2018, and sections 19-4021, 19-4027, 19-4029.01, 19-4029.04, and 19-4029.05, Revised Statutes Supplement, 2019; to change provisions of the Business Improvement District Act as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 19-4021, Revised Statutes Supplement, 2019, is amended to read:

19-4021 The mayor, with the approval of the city council, shall appoint a business improvement board consisting of property owners, residents, business operators, or users of space within the business area to be improved. The boundaries of the business area shall be declared by resolution of the city council at or prior to the time of the appointment of the business improvement board. The business improvement board shall make recommendations to the city council for the establishment of a plan or plans for improvements in the business area. If it is found that the improvements to be included in one business area offer benefits that cannot be equitably assessed together under the Business Improvement District Act, more than one business improvement district as part of the same plan for improvements for that business area may be proposed. The business improvement board may make recommendations to the city as to the use of any occupation tax funds collected, and may administer such funds if so directed by the mayor and city council. The business improvement board shall also review and make recommendations to the city regarding changing expansion of the boundaries or the functions or ordinance provisions of the business improvement district under sections 19-4029.02 to 19-4029.05.

Sec. 2. Section 19-4027, Revised Statutes Supplement, 2019, is amended to read:

19-4027 Whenever a hearing is held under section 19-4026 or 19-4029, the city council shall:

- (1) Hear all protests and receive evidence for or against the proposed action;
- (2) Rule upon all written protests received prior to the close of the hearing, which ruling shall be final; and
- (3) Continue the hearing from time to time as the city council may deem necessary.

If a special assessment is to be used, proceedings shall terminate if written protest is made prior to the close of the hearing by the record owners of over fifty percent of the assessable units in the proposed business improvement district. If an occupation tax is to be used, proceedings shall terminate if protest is made by users of over fifty percent of the space in the proposed business improvement district.

Sec. 3. Section 19-4029.01, Revised Statutes Supplement, 2019, is amended to read:

19-4029.01 (1) At least ten days prior to the date of any hearing under sections 19-4026, 19-4029, 19-4029.02, and 19-4029.03, notice of such hearing shall be given by:

- (a) One publication of the notice of hearing in a legal newspaper in or of general circulation in the city;
- (b) Mailing a copy of the notice of hearing to each owner of taxable property in the proposed, modified, or expanded business improvement district as shown on the latest tax rolls of the county treasurer for such county;
- (c) Providing a copy of the notice of hearing to any neighborhood association registered pursuant to subsection (2) of this section in the manner requested by such neighborhood association; and
- (d) If an occupation tax is to be imposed, mailing a copy of the notice of hearing to each user of space in the proposed, modified, or expanded business improvement district.

(2) The notice required by subdivision (1)(c) of this section shall be provided to any neighborhood association which is registered pursuant to this subsection and whose area of representation is located, in whole or in part, within a one-mile radius of the existing or proposed, modified, or expanded boundaries of the business improvement district. Each neighborhood association desiring to receive such notice shall register with the city the area of representation of such association and provide the name of and contact information for the individual designated to receive notice on behalf of such association and the requested manner of service, whether by email or first-class or certified mail. The registration shall be in accordance with any rules and regulations adopted and promulgated by the city.

(3) Any notice of hearing for any hearing required by sections 19-4026 and section 19-4029 shall contain the following information:

(a) A description of the boundaries of the proposed business improvement district;

(b) The time and place of a hearing to be held by the city council to consider establishment of the business improvement district;

(c) The proposed public facilities and improvements to be made or maintained within any business improvement district; and

(d) The proposed or estimated costs for improvements and facilities within the proposed business improvement district and the method by which the revenue shall be raised. If a special assessment is proposed, the notice shall also state the proposed method of assessment.

(4) Any notice of hearing for any hearing required by sections 19-4029.02 and 19-4029.03 shall contain the following information:

(a) A description of the boundaries of the area to be added to or removed from the existing business improvement district and a description of the new boundaries of the modified business improvement district;

(b) The time and place of a hearing to be held by the city council to consider establishment of the modified business improvement district;

(c) The new public facilities and improvements, if any, to be made or maintained within any business improvement district; and

(d) The proposed or estimated costs for new and existing improvements and facilities within the proposed, modified, or expanded business improvement district and the method by which the revenue shall be raised. If a special assessment is proposed, the notice shall also state the proposed method of assessment.

Sec. 4. Section 19-4029.02, Revised Statutes Cumulative Supplement, 2018, is amended to read:

19-4029.02 Upon receiving ~~a~~ the recommendation to change ~~expand~~ the boundaries or the functions or ordinance provisions of an existing business improvement district from the business improvement board, the city council may change ~~expand~~ the boundaries or the functions or ordinance provisions of one or more business improvement districts by adopting an ordinance to that effect ~~expand the boundaries of a district or districts~~. Prior to adopting the ordinance, a hearing shall be held to consider the ordinance.

Sec. 5. Section 19-4029.03, Revised Statutes Cumulative Supplement, 2018, is amended to read:

19-4029.03 ~~If a~~ ~~In the event that the city council has not acted to call a hearing to~~ change ~~the~~ ~~expand~~ ~~district~~ boundaries or the functions or ordinance provisions of an existing business improvement district as provided in section 19-4029.02, it shall do so when presented with a petition signed (1) by the users of thirty percent of space in a business area proposed to be added to or removed from an existing business improvement district where an occupation tax is imposed, (2) ~~or~~ by the record owners of thirty percent of the assessable front footage in a portion of a business area proposed to be added to or removed from an existing business improvement district, or (3) if the recommendation is to change the functions or ordinance provisions of an existing business improvement district, by the record owners of thirty percent of the existing business improvement district.

Sec. 6. Section 19-4029.04, Revised Statutes Supplement, 2019, is amended to read:

19-4029.04 Whenever a hearing is held to change ~~the~~ ~~expand~~ ~~business improvement district~~ boundaries or the functions or ordinance provisions of an existing business improvement district under section 19-4029.02 or 19-4029.03, the city council shall:

(1) Hear all protests and receive evidence for or against the proposed action;

(2) Rule upon all written protests received prior to the close of the hearing, which ruling shall be final; and

(3) Continue the hearing from time to time as the city council may deem necessary.

If a special assessment is to be used, proceedings shall terminate if written protest is made prior to the close of the hearing by the record owners of over fifty percent of the assessable units in the modified business improvement district as proposed. If an occupation tax is to be used, proceedings shall terminate if protest is made by users of over fifty percent of space in the modified business improvement district as proposed.

Sec. 7. Section 19-4029.05, Revised Statutes Supplement, 2019, is amended to read:

19-4029.05 (1) The city council, following a hearing under section 19-4029.02 or 19-4029.03, may change ~~expand~~ the boundaries or the functions or ordinance provisions of any business improvement district or districts. If the city council decides to change ~~expand~~ the boundaries or the functions or ordinance provisions of any business improvement district or districts, it shall adopt an ordinance to that effect. This ordinance shall contain the following information:

(a) (1) The name of the business improvement district whose boundaries, functions, or ordinance provisions will be changed ~~expanded~~;

(b) (2) A statement that notice of hearing was given, including the date or dates on which it was given, in accordance with section 19-4029.01;

(c) (3) The time and place the hearing was held concerning the new boundaries or changed functions or ordinance provisions of the business improvement district;

(d) (4) The purposes of the changed boundary, functions, or ordinance provisions ~~expansion~~ and any new public improvements and facilities to be

included in the business improvement district;

(e) ~~(5)~~ The description of the changed new boundaries, functions, or ordinance provisions of the business improvement district;

(f) ~~(6)~~ A statement that the businesses and users of space in the modified business improvement district established by the ordinance shall be subject to the general business occupation tax or that the real property in the modified business improvement district will be subject to the special assessment authorized by the Business Improvement District Act;

(g) ~~(7)~~ The proposed method of assessment to be imposed within the business improvement district or the initial rate of the occupation tax to be imposed; and

(h) ~~(8)~~ Any penalties to be imposed for failure to pay the tax or special assessment.

(2) The ordinance shall recite that the method of raising revenue shall be fair and equitable. In the use of a general occupation tax, the tax shall be based primarily on the square footage of the owner's and user's place of business. In the use of a special assessment, the assessment shall be based upon the special benefit to the property within the business improvement district.

Sec. 8. Original sections 19-4029.02 and 19-4029.03, Revised Statutes Cumulative Supplement, 2018, and sections 19-4021, 19-4027, 19-4029.01, 19-4029.04, and 19-4029.05, Revised Statutes Supplement, 2019, are repealed.