

LEGISLATIVE BILL 1197

Approved by the Governor April 16, 2024

Introduced by von Gillern, 4.

A BILL FOR AN ACT relating to economic development; to amend section 13-3101, Reissue Revised Statutes of Nebraska, and sections 13-3102, 13-3103, 13-3104, 13-3108, and 82-335, Revised Statutes Supplement, 2023; to define and redefine terms and change provisions relating to the use of state assistance, applications, and certain limitations on state assistance under the Sports Arena Facility Financing Assistance Act; to change provisions relating to a competitive grant program established by the Nebraska Arts Council; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 13-3101, Reissue Revised Statutes of Nebraska, is amended to read:

13-3101 Sections 13-3101 to 13-3109 and section 5 of this act shall be known and may be cited as the Sports Arena Facility Financing Assistance Act.

Sec. 2. Section 13-3102, Revised Statutes Supplement, 2023, is amended to read:

13-3102 For purposes of the Sports Arena Facility Financing Assistance Act:

(1) Applicant means:

(a) A political subdivision; or

(b) A political subdivision and nonprofit corporation ~~organization~~ that jointly submit an application under the act;

(2) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(3) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(4) Concert venue means any enclosed, temperature-controlled building that is primarily used for live performances with an indoor capacity of at least two thousand two hundred fifty but no more than three thousand five hundred persons;

(5) Court means a rectangular hard surface primarily used indoors for competitive sports, including, but not limited to, basketball, volleyball, or tennis;

(6) Date that the project commenced means the date when a project starts as specified by a contract, resolution, or formal public announcement;

(7) Economic redevelopment area means an area in the State of Nebraska in which:

(a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and

(b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area;

(8) Eligible sports arena facility means:

(a) Any publicly owned, enclosed, and temperature-controlled building primarily used for sports that has a permanent seating capacity of at least three thousand but no more than seven thousand seats and in which initial occupancy occurs on or after July 1, 2010, including stadiums, arenas, dressing and locker facilities, concession areas, parking facilities, nearby parking facilities for the use of the eligible sports arena facility, and onsite administrative offices connected with operating the facilities;

(b) Any racetrack enclosure licensed by the State Racing and Gaming Commission in which initial occupancy occurs on or after July 1, 2010, including concession areas, parking facilities, and onsite administrative offices connected with operating the racetrack;

(c) Any publicly owned sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex; ~~and~~

(d) Any privately owned concert venue, including stages, dressing rooms, concession areas, parking facilities, lobby areas, and onsite administrative offices used in operating the concert venue; and

(e) Any privately owned sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex;

(9) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable from the proceeds of an ad valorem

tax;

(10) Governmental use means operational control and use by the political subdivision for a statutorily permitted purpose of the political subdivision;

(11) ~~(10)~~ Increase in state sales tax revenue means the amount of state sales tax revenue collected by a nearby retailer during the fiscal year for which state assistance is calculated minus the amount of state sales tax revenue collected by the nearby retailer in the fiscal year that ended immediately preceding the project completion date of the eligible sports arena facility, except that the amount of state sales tax revenue of a nearby retailer shall not be less than zero;

(12) ~~(11)~~ Multipurpose field means a rectangular field of grass or synthetic turf which is primarily used for competitive field sports, including, but not limited to, soccer, football, flag football, lacrosse, or rugby;

(13) ~~(12)~~ Nearby parking facility means any parking lot, parking garage, or other parking structure that is not directly connected to an eligible sports arena facility but which is located, in whole or in part, within seven hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of such facility but not from any other parking facility or other structure;

(14) ~~(13)~~ Nearby retailer means a retailer as defined in section 77-2701.32 that is located within the program area. The term includes a subsequent owner of a nearby retailer operating at the same location;

(15) ~~(14)~~ New state sales tax revenue means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) One hundred percent of the state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning twenty-four months prior to the project completion date of the eligible sports arena facility and ending forty-eight months after the project completion date of the eligible sports arena facility or, for applications for state assistance approved prior to October 1, 2016, forty-eight months after October 1, 2016, and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; and

(ii) The increase in state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax prior to twenty-four months prior to the project completion date of the eligible sports arena facility and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; ~~or~~

(b) For any eligible sports arena facility that is a sports complex which is not located in a city of the second class or village, one hundred percent of the state sales tax revenue that (i) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning on the date that the project commenced and ending forty-eight months after the project completion date of the eligible sports arena facility and (ii) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; or

(c) For any eligible sports arena facility that is a sports complex located in a city of the second class or village, one hundred percent of the state sales tax revenue that (i) is collected by a nearby retailer and (ii) is sourced under sections 77-2703.01 to 77-2703.04 to the program area;

(16) ~~(15)~~ Political subdivision means (a) any city, village, ~~or~~ county, school district, or community college area or (b) a joint entity formed under the Interlocal Cooperation Act which includes a city, village, or county as a member;

(17) ~~(16)~~ Program area means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) For applications for state assistance submitted prior to October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure; or

(ii) For applications for state assistance submitted on or after October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure, except that if twenty-five percent or more of such area is unbuildable property, then the program area shall be adjusted so that:

(A) It avoids as much of the unbuildable property as is practical; and

(B) It contains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary; ~~or~~

(b) For any eligible sports arena facility that is a sports complex which is not located in a city of the second class or village:

(i) For applications for state assistance submitted prior to the effective date of this act, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior boundary or property line of the facility; or

(ii) For applications for state assistance submitted on or after the effective date of this act, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior boundary or property line of the facility, except that if twenty-five percent or more of such area is unbuildable property, then the program area shall be adjusted so that:

(A) It avoids as much of the unbuildable property as is practical; and

(B) It contains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been

necessary; or

(c) For any eligible sports arena facility that is a sports complex located in a city of the second class or village, the corporate limits of the city of the second class or village in which the facility is located.

Approval of an application for state assistance by the board pursuant to section 13-3106 shall establish the program area as that area depicted in the map accompanying the application for state assistance as submitted pursuant to subdivision (2)(c) of section 13-3104;

~~(18)~~ ~~(17)~~ Project completion date means:

(a) For projects involving the acquisition or construction of an eligible sports arena facility, the date of initial occupancy of the facility following the completion of such acquisition or construction; or

(b) For all other projects, the date of completion of the project for which state assistance is received;

~~(19)~~ ~~(18)~~ Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax;

~~(20)~~ ~~(19)~~ Sports complex means a facility that:

(a) Includes indoor areas, outdoor areas, or both;

(b) Is primarily used for competitive sports; and

(c) Contains at least:

(i) Twelve separate sports venues if such facility is located in a city of the metropolitan class;

(ii) Six separate sports venues if such facility is located in a city of the primary class; ~~or~~

(iii) Four separate sports venues if such facility is located (A) in a city of the first class, ~~city of the second class, or village,~~ (B) within a county but outside the corporate limits of any city or village, (C) in an economic redevelopment area, or (D) in an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97; or

(iv) Two separate sports venues if such facility is located in a city of the second class or village;

~~(21)~~ ~~(20)~~ Sports venue includes, but is not limited to:

(a) A baseball field;

(b) A softball field;

(c) A multipurpose field;

(d) An outdoor stadium primarily used for competitive sports;

(e) An outdoor arena primarily used for competitive sports; or

(f) An enclosed, temperature-controlled building primarily used for competitive sports. If any such building contains more than one multipurpose field, court, swimming pool, or other facility primarily used for competitive sports, then each such multipurpose field, court, swimming pool, or facility shall count as a separate sports venue; and

~~(22)~~ ~~(21)~~ Unbuildable property means any real property that is located in a floodway, an environmentally protected area, a right-of-way, or a brownfield site as defined in 42 U.S.C. 9601 that the political subdivision determines is not suitable for the construction or location of residential, commercial, or other buildings or facilities.

Sec. 3. Section 13-3103, Revised Statutes Supplement, 2023, is amended to read:

13-3103 (1) Any applicant may apply to the board for state assistance if (a) the applicant has acquired, constructed, improved, or equipped an eligible sports arena facility, (b) the applicant has approved a revenue bond issue or a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility, (c) the applicant has adopted a resolution authorizing the applicant to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility, ~~or~~ (d) a building permit has been issued within the applicant's jurisdiction for an eligible sports arena facility that is a privately owned concert venue, or (e) a building permit has been issued or construction has been completed within the applicant's jurisdiction for an eligible sports arena facility that is a privately owned sports complex.

(2) Except as provided in subsections (3) and (4) of this section, the state assistance shall only be used by the applicant to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip the publicly owned eligible sports arena facility and to acquire, construct, improve, or equip publicly owned nearby parking facilities.

(3) For an eligible sports arena facility that is a privately owned concert venue, the state assistance shall only be used by the applicant (a) to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip a nearby parking facility or (b) to promote arts and cultural events which are open to or made available to the general public.

(4) For an eligible sports arena facility that is a privately owned sports complex, the state assistance shall only be used by the applicant (a) to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip one or more public infrastructure projects, as defined in section 77-27,142, related to a privately owned sports complex, (b) to lease all or a portion of such privately owned sports complex for the governmental use of the political subdivision, (c) to promote sporting events which are open to or made available to the general

public, or (d) to pay back amounts expended or borrowed through one or more debt issues to be expended by the nonprofit corporation coapplicant to acquire, construct, improve, or equip a privately owned sports complex, subject to voter approval as provided in section 5 of this act.

(5)(a) No (4) For applications for state assistance approved on or after October 1, 2016, (a) no more than fifty percent of the final cost of the project shall be funded by state assistance received pursuant to section 13-3108 and (b) no more than ten years of funding for promotion of the arts and cultural events shall be paid by state assistance received pursuant to section 13-3108.

(b) No more than ten years of funding for promotion of sporting events shall be paid by state assistance received pursuant to section 13-3108.

(c) No more than five years of funding for a sports complex located in a city of the second class or village shall be paid by state assistance received pursuant to section 13-3108.

Sec. 4. Section 13-3104, Revised Statutes Supplement, 2023, is amended to read:

13-3104 (1) All applications for state assistance under the Sports Arena Facility Financing Assistance Act shall be in writing and shall include a certified copy of the approving action of the governing body of the applicant describing the proposed project for which state assistance is requested and the anticipated financing.

(2) Except as provided in subsection (3) of this section, the application shall contain:

(a) A description of the proposed financing of the project, including the estimated principal and interest requirements for the bonds proposed to be issued in connection with the project or the amounts necessary to repay the original investment by the applicant in the project;

(b) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project and including a copy of any operating agreement or lease with substantial users of the eligible sports arena facility;

(c) For applications submitted on or after October 1, 2016, a map identifying the program area, including any unbuildable property within the program area or taken into account in adjusting the program area as described in subdivision (17) ~~(16)(a)(ii)~~ of section 13-3102; ~~and~~

(d) For applications for a privately owned sports complex subject to voter approval as provided in section 5 of this act, a description of the proposed ballot language and anticipated election date for such voter approval if the application is approved; and

(e) ~~(d)~~ Any other project information deemed appropriate by the board.

(3) If the state assistance will be used to provide funding for promotion of the arts and cultural events or for promotion of sporting events, the application shall contain:

(a) A detailed description of the programs contemplated and how such programs will be in furtherance of the applicant's public use or public purpose if such funds are to be expended through one or more private organizations; and

(b) Any other program information deemed appropriate by the board.

(4) Upon receiving an application for state assistance, the board shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(5) Any state assistance received pursuant to the act shall be used only for public purposes, except as provided in section 5 of this act for a privately owned sports complex subject to voter approval.

Sec. 5. (1) State assistance may be used to pay or reimburse amounts expended for a privately owned sports complex, or borrowed through one or more debt issues to be expended by the applicant to acquire, construct, improve, or equip a privately owned sports complex, upon satisfaction of the following conditions:

(a) A city or village shall propose such privately owned sports complex as a sports complex economic development project in a resolution which includes all of the provisions described in this section for establishing such project, except for the date of the proposed election described in this section;

(b) The application must be a joint application submitted by a city or village and a nonprofit corporation for a project to be owned by one or both of the coapplicants as a sports complex economic development project to be located within the corporate limits of such city or village. The application shall propose such project as an economic development project subject to the terms of this section;

(c) Approval of such application pursuant to section 13-3106 shall be conditional upon voter approval of the ballot question described in this section. If the ballot question is approved by the voters of such city or village, the approval of the board becomes permanent. If the ballot question is not approved by such voters, the approval shall become void; and

(d) Upon the conditional approval of such application, the city or village shall submit the question of approving the proposed sports complex economic development project to the registered voters at an election as follows:

(i) The governing body of the city or village shall order the submission of the question by filing a certified copy of the resolution proposing the sports complex economic development project with the election commissioner or county clerk not later than the eighth Friday prior to a special election or a municipal primary or general election which is not held at the statewide primary or general election, not later than March 1 prior to a statewide

primary election, or not later than September 1 prior to a statewide general election;

(ii) The question on the ballot shall briefly set out the terms of the proposed sports complex economic development project, including that such project will be funded with state assistance received pursuant to the Sports Arena Facility Financing Assistance Act. In addition to all other information, the ballot question shall include the following language: "Shall the city (or village) of (name of city or village) establish a sports complex economic development project as described here by appropriating annually from state assistance received by the city (or village) pursuant to the Sports Arena Facility Financing Assistance Act?"; and

(iii) If a majority of those voting on the issue vote in favor of the question, the governing body of the city or village shall implement the proposed sports complex economic development project upon the terms set out in the resolution calling for the election. If a majority of those voting on the issue vote against the question, the governing body shall not implement the sports complex economic development project.

(2) Funds received by the city or village for an approved sports complex economic development project shall be deposited to a separate fund established for such project to be used exclusively as described in this subsection and shall not be commingled with any other funds of the city or village. Such funds (a) shall first be used to pay or reimburse any preliminary or ongoing administrative costs of the city or village related to such project, (b) may be remitted to the nonprofit corporation coapplicant upon submission of proper evidence of expenditures related to such project, (c) may be pledged for and applied to payment of bonds issued by such city or village as provided in sections 13-1101 to 13-1110, or (d) may otherwise be expended for the cost of such project if owned by the city or village. Any amount received and held for such project which is not committed or expended within five years for the project may be transferred to the general fund of such city or village by action of the governing body of such city or village after a public hearing. Such public hearing shall be held after not less than thirty days' written notice to the nonprofit corporation coapplicant delivered to its last known registered address.

(3) The sports complex economic development project authorized by this section shall be separate and apart from any other economic development program of such city or village, including any economic development program established under the Local Option Municipal Economic Development Act. The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law and shall be independent of and in addition to any other provisions of the law of Nebraska, including the Local Option Municipal Economic Development Act and the Community Development Law. This section and all grants of power, authority, rights, or discretion to a political subdivision under the Sports Arena Facility Financing Assistance Act shall be liberally construed, and all incidental powers necessary to carry the act into effect are hereby expressly granted to and conferred upon a political subdivision.

Sec. 6. Section 13-3108, Revised Statutes Supplement, 2023, is amended to read:

13-3108 (1) The Sports Arena Facility Support Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2)(a) Upon receiving the certification described in subsection (3) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(b) Upon receiving the quarterly certification described in subsection (4) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(3)(a) It is the intent of the Legislature to appropriate from the fund money to be distributed as provided in subsections (4) and (5) of this section to any political subdivision for which an application for state assistance under the Sports Arena Facility Financing Assistance Act has been approved an amount not to exceed:

(i) For any eligible sports arena facility that is not a sports complex located in a city of the second class or village, seventy percent of the (A) ~~(i)~~ state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, (B) ~~(ii)~~ state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and (C) ~~(iii)~~ new state sales tax revenue collected by nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to the program area; or -

(ii) For any eligible sports arena facility that is a sports complex located in a city of the second class or village, twenty-five percent of the (A) state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, (B) state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and (C) new state sales tax revenue collected by nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to the program area.

(b) The amount to be appropriated for distribution as state assistance to a political subdivision under this subsection for any one year after the tenth year shall not exceed the highest such amount appropriated under subdivision

(3)(a) of this section during any one year of the first ten years of such appropriation. If seventy percent of the state sales tax revenue as described in subdivision (3)(a) of this section exceeds the amount to be appropriated under this subdivision, such excess funds shall be transferred to the General Fund. This subdivision does not apply to any eligible sports arena facility that is a sports complex located in a city of the second class or village.

(4) The amount certified under subsection (3) of section 13-3107 shall be distributed as state assistance on or before April 15, 2014.

(5) Beginning in 2014, quarterly distributions and associated transfers of state assistance shall be made. Such quarterly distributions and transfers shall be based on the certifications provided under subsection (4) of section 13-3107 and shall occur within fifteen days after receipt of such certification.

(6) The total amount of state assistance approved for an eligible sports arena facility shall not exceed one hundred million dollars.

(7)(a) Except as provided in subdivisions (b) and (c) of this subsection, state State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue or when state assistance reaches the amount determined under subsection (6) of this section, whichever comes first.

(b) If the state assistance will be used to provide funding for promotion of the arts and cultural events or for promotion of sporting events, such state assistance to the political subdivision shall no longer be available after ten years of funding or when state assistance reaches the amount determined under subsection (6) of this section, whichever comes first.

(c) If the state assistance will be used to provide funding for a sports complex located in a city of the second class or village, such state assistance to the political subdivision shall no longer be available after five years of funding or when state assistance reaches the amount determined under subsection (6) of this section, whichever comes first.

(8) State assistance shall not be used for an operating subsidy for any publicly owned eligible sports arena facility or nearby parking facility.

(9) The thirty percent of state sales tax revenue remaining after the appropriation and transfer in subdivision (3)(a)(i) ~~subsection (3)~~ of this section shall be appropriated by the Legislature and transferred quarterly as follows:

(a) If the revenue relates to an eligible sports arena facility that is a sports complex and that is approved for state assistance under section 13-3106 on or after May 26, 2021, eighty-three percent of such revenue shall be transferred to the Support the Arts Cash Fund and seventeen percent of such revenue shall be transferred to the Convention Center Support Fund; and

(b) If the revenue relates to any other eligible sports arena facility, such revenue shall be transferred to the Civic and Community Center Financing Fund.

(10) The seventy-five percent of state sales tax revenue remaining after the appropriation and transfer in subdivision (3)(a)(ii) of this section shall be distributed in accordance with section 77-27,132.

~~(11)~~ (10) Except as provided in subsection ~~(12)~~ ~~(11)~~ of this section for a city of the primary class, any municipality that has applied for and received a grant of assistance under the Civic and Community Center Financing Act shall not receive state assistance under the Sports Arena Facility Financing Assistance Act for the same project for which the grant was awarded under the Civic and Community Center Financing Act.

~~(12)~~ ~~(11)~~ A city of the primary class shall not be eligible to receive a grant of assistance from the Civic and Community Center Financing Act if the city has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act.

Sec. 7. Section 82-335, Revised Statutes Supplement, 2023, is amended to read:

82-335 (1) The Nebraska Arts Council shall establish a competitive grant program to award grants to cities of the first class, cities of the second class, and villages as provided in this section. The grants shall be awarded from funds transferred to the Support the Arts Cash Fund pursuant to subdivision (9)(a) of section 13-3108.

(2) A city of the first class, city of the second class, or village is eligible for a grant under this section if:

(a) The city or village has a creative district within its boundaries that has a ten-year plan for integration of the arts intended to catalyze economic and workforce development initiatives in such city or village; and

(b) The city or village is not receiving state assistance under the Sports Arena Facility Financing Assistance Act.

(3) Priority in grant funding shall go to any city of the first class, city of the second class, or village described in subsection (2) of this section whose project includes the partnership of a city or village convention and visitors bureau or county convention and visitors bureau.

(4) Grants under this section may fund capital assets, video projection mapping, ~~and~~ intangible video or audio artistic expression presentations, planning expenses, architectural expenses, engineering expenses, live performances, and promotional or marketing efforts of the creative district. Grants shall not fund ongoing operational and personnel expenses of a political subdivision or nonprofit corporation, ~~live performances, promotional or marketing efforts of the creative district,~~ legal expenses, or lobbying

~~expenses, planning expenses, architectural expenses, or engineering expenses.~~

(5) Any assets acquired using grant funds shall be owned by the city of the first class, city of the second class, or village receiving such grant.

(6) Any grant awarded under this section shall be in an amount determined by the Nebraska Arts Council, which shall not be less than one hundred thousand dollars.

(7) For purposes of this section, creative district means a creative district established pursuant to subdivision (5) of section 82-312.

Sec. 8. Original section 13-3101, Reissue Revised Statutes of Nebraska, and sections 13-3102, 13-3103, 13-3104, 13-3108, and 82-335, Revised Statutes Supplement, 2023, are repealed.