

LEGISLATIVE BILL 540

Approved by the Governor May 3, 1973

Introduced by Miscellaneous Subjects Committee,  
Carpenter, 48; Waldron, 42; Skarda, 7;  
Mahoney, 5; Luedtke, 28

AN ACT to amend sections 19-3311, 19-3315, and 19-3316, Reissue Revised Statutes of Nebraska, 1943, and sections 19-3314 and 19-3317, Revised Statutes Supplement, 1972, relating to the Off-Street Parking District Act; to provide for a public hearing; to provide for special assessments as prescribed; to provide for acquiring additional facilities; 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, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3311. In addition to the powers set out in sections 16-801 to 16-811, any city of the 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 ~~19-3304 to 19-3326~~ 16-801 to 16-811. 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 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, ~~any property~~, as provided by law 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 ~~within ninety days from the first date of publication~~ 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.

Sec. 2. That section 19-3314, Revised Statutes Supplement, 1972, be amended to read as follows:

19-3314. In the ordinance creating the district, the mayor and city council ~~may~~ shall provide that in addition to the levy of taxes and pledge of revenue all or a portion of the cost of acquisition, including construction, maintenance, repair, and reconstruction of any off-street parking facility may be paid for by special assessment against the real estate located in such district in proportion to the special benefit of each parcel of real estate. The amounts of such special assessments shall be determined by the mayor and city council sitting as a board of equalization. Notice of a hearing on any special assessments to be levied under section 19-3315 shall be given to the landowners in such district by publication of the description of the land, the amount proposed to be assessed, and the general purpose for which such assessment is to be made one time each week for three weeks in a daily or weekly newspaper of general circulation published in the city. The notice shall provide the date, time, and place of hearing to determine any objection or protest by landowners in the district as to the amount of assessment made against their land. An appeal by writ of error or direct appeal to the district court of the county in which such city is located may be taken from the decision of the city council in the same manner and under like terms and conditions as appeals may be taken from the amount of special assessments levied in street improvement districts of such city as now provided by law.

Sec. 3. That section 19-3315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3315. The amount of assessment against each parcel of land in such off-street parking district shall be established by ordinance of the city council and notice of such special assessments as above provided shall be given to the landowners in such district by publication of the description of the land, the amount assessed and the amount of benefit, one time each week for three weeks in a daily or weekly newspaper of general circulation published in the city. The notice shall provide the date, time and place of hearing for the determination of any objection or protest by landowners in the district as to the amount of assessment made against their land. 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 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 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. 4. That section 19-3316, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3316. The assessment of the special tax for the cost of such off-street parking facility shall be levied at one time and shall become delinquent as follows:

One-tenth-of-the-total-cost-shall-become delinquent-in-fifty-days-after-such-levy; one-tenth-in one-year, one-tenth-in-two-years, one-tenth-in-three years, one-tenth-in-four-years, one-tenth-in-five-years, one-tenth-in-six-years, one-tenth-in-seven-years, one-tenth-in-eight-years, and one-tenth-in-nine-years; Provided, that the mayor and city council may at the time of formation of the district determine that an alternative method of assessment shall be adopted providing for the levying of the assessments over a period of twenty years, payable one-twentieth-in-fifty days from the date of levy and one-twentieth-each-year thereafter through the nineteenth-year. As to assessments for this alternative method, one-twentieth of the total amount assessed against each lot or parcel of land shall become delinquent in fifty days after the date of levy of the same, one-twentieth-in-one-year, one-twentieth-in-two-years, one-twentieth-in-three-years, one-twentieth-in-four-years, one-twentieth-in-five-years, one-twentieth-in-six-years, one-twentieth-in-seven-years, one-twentieth-in-eight-years, one-twentieth-in-nine years, one-twentieth-in-ten-years, one-twentieth-in eleven-years, one-twentieth-in-twelve-years, one-twentieth-in-thirteen-years, one-twentieth-in fourteen-years, one-twentieth-in-fifteen-years, one-twentieth-in-sixteen-years, one-twentieth-in seventeen-years, one-twentieth-in-eighteen-years and one-twentieth-in-nineteen-years. Each of such installments, except the first, shall draw interest at a rate not exceeding seven per cent per annum from the time of the levy until the same shall become delinquent. After the same shall become delinquent, interest at a rate not exceeding nine per cent shall be paid thereon. Special assessments levied pursuant to section 19-3315 shall become due in fifty days after the date of such levy and shall become delinquent in one or more installments over a period of not to exceed twenty years, in such manner as the mayor and city council shall determine at the time of making the levy. The first installment may become delinquent in fifty days after the date of levy if so specified by the mayor and the city council. Each of such installments shall draw interest before due date of not more than seven and one half per cent per annum and after delinquency at a rate not exceeding nine per cent per annum as the mayor and city council shall determine at the time the levy shall be made; Provided, that any installment may be paid within fifty days of the date of such levy without interest being charged thereon. Should there be three or more of such installments delinquent and unpaid on the same property, the mayor and city council may by resolution declare all future installments on such delinquent property to be due on a future fixed date. The

resolution shall set forth the description of the property and the name of its record title owner and shall provide that all future installments shall become delinquent upon such fixed date. A copy of such resolution shall be published one time each week for not less than twenty days in a legal newspaper of general circulation published in the city and after the fixed date such future installments shall be deemed to be delinquent and the city may proceed to enforce and collect the total amount due and all future installments. ~~The special tax shall be a lien upon the property on which levied payable as provided in section 16-646.~~ Except as otherwise provided, all special assessments levied under section 19-3315 shall be liens on the property and shall be certified for collection and be collected in the same manner as special assessments made for improvements in street improvement districts in the city are collected.

Sec. 5. That section 19-3317, Revised Statutes Supplement, 1972, be amended to read as follows:

19-3317. For the purpose of paying the cost of such off-street parking facility, or any portion thereof or to refund all or a portion of any outstanding bonds of the city authorized to be refunded by sections 19-3301 to 19-3326, the mayor and city council shall have power and may, by ordinance, cause to be issued general obligation bonds of the city, to be called Off-Street Parking Bonds of the City of ....., Nebraska payable in not exceeding twenty years from date and bearing interest, payable either annually or semiannually, not exceeding a rate of seven per cent per annum with interest coupons attached. In such cases they shall also provide that special taxes levied within the district pursuant to section ~~19-3307~~ 19-3315 shall constitute a sinking fund for the payment of such bonds and the mayor and city council may, in the ordinance, pledge all or any part of the revenue from fees and charges on the use of the parking facility or fees and charges from on-street parking meters within the district not already pledged as security for such bonds. There shall be levied upon all the taxable property in such city a tax which, together with such sinking fund derived from special assessments and other revenue pledged for the payment of the bonds and interest thereon, shall be sufficient to meet payments of interest and principal as the same become due. All such bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, and at such place or places within or without the State of Nebraska as such

ordinance may provide. No proceedings for the issuance of bonds of any city shall be required other than those required by the provisions of sections 19-3301 to 19-3326. Such bonds may be issued either before or after the completion of the acquisition or construction of the off-street parking facility, as the mayor and city council may determine best. For the purpose of paying costs of an off-street parking facility prior to issuance of bonds, warrants may be issued by the mayor and city council upon such terms as the mayor and city council may determine, which warrants shall be redeemed and paid upon the sale of bonds authorized in this section.

Sec. 6. The mayor and city council, after the creation of an off-street parking district pursuant to sections 19-1301 to 19-1326, 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. 7. That original sections 19-3311, 19-3315, and 19-3316, Reissue Revised Statutes of Nebraska, 1943, and sections 19-3314 and 19-3317, Revised Statutes Supplement, 1972, are repealed.

Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.