

LEGISLATIVE BILL 252

Approved by the Governor May 11, 1979

Introduced by Urban Affairs Committee, George, 16, Chmn.;
Koch, 12; Duis, 39; Lamb, 43; Lewis, 45

AN ACT to amend section 31-748, Reissue Revised Statutes of Nebraska, 1943, and sections 31-727.03, 31-734, and 31-749, Revised Statutes Supplement, 1978, relating to sanitary and improvement districts; to change certain procedures; to provide a bond amount; to change a notice requirement; and to repeal the original sections.

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

Section 1. That section 31-727.03, Revised Statutes Supplement, 1978, be amended to read as follows:

31-727.03. ~~Each sanitary and improvement district shall, upon request, make available to members of the general public and to real estate salesmen and brokers on or before December 31 of each year the clerk of each sanitary and improvement district shall file with the register of deeds or, if none, the county clerk of the county or counties in which the sanitary and improvement district is located the most recent statement on file as provided by section 31-727.04, and a statement updated each September 30 December 31 containing the following information: (1) the names of the members of the current board of trustees of the district, (2) the names of the current attorney, accountant, and fiscal agent of the district, (3) the warrant and the bond principal indebtedness of the district as of the preceding June 30, and (4) the current mill levy of the district. The real estate broker or salesman or, if none, the owner, shall, when reasonably possible, distribute such statements distribute the most recent statement filed in accordance with this section to any prospective purchaser of any real estate located within a sanitary and improvement district. The statement shall be distributed on or before the date on which the purchaser becomes obligated to purchase such real estate. Prior to the conveyance of fee title ownership to any real estate located within a sanitary and improvement district, the real estate broker or salesman, or, if none, the owner, shall provide the grantee such statements. The exclusive remedy for failure to provide such statements prior to conveyance of fee title ownership shall be an action for damages, and any such failure shall not affect title to the real estate or the validity of the conveyance. The measure of damages shall~~

~~be the difference between the actual value of the property at the time of the conveyance with the disclosures contained in the statements, and the value of the property at the time of the conveyance without the disclosures contained in the statements. Within thirty days after September 2, 1977 as to existing districts, and within thirty days after the creation of districts thereafter created, and on or before September 30 of each year thereafter, the clerk of each district shall record with the register of deeds of each county in which the district is located a statement containing the following information: (1) The names of the current board of trustees of the district, (2) the warrant and bond principal indebtedness of the district as of the preceding June 30, and (3) the current mill levy of the district.~~

Sec. 2. That section 31-734, Revised Statutes Supplement, 1978, be amended to read as follows:

31-734. Each trustee The chairperson and clerk of any such district shall, prior to entering upon his office upon assuming their respective offices, execute and file with the county clerk of the county in which said district, or the greater portion of the area thereof, is located, his a bond, with one or more sureties, to be approved by the county clerk, running to the State of Nebraska in the penal sum of five thousand dollars for the chairperson and the penal sum of twenty thousand dollars for the clerk, conditioned for the faithful performance by said trustee of his their official duties and the faithful accounting by him them for all funds and property of the district that shall come into his their possession or control during his their term of office. The premium, if any, on any such bond shall be paid out of the funds of the district. Suit may be brought on said bonds by any person, firm, or corporation that has sustained loss or damage in consequence of the breach thereof.

Sec. 3. That section 31-748, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-748. After ordering any such improvements, as provided in sections 31-727 to 31-762, the board of trustees may enter into a contract for the construction of same in one or more contracts, but no work shall be done or contract let until notice to contractors has been published in a legal newspaper of general circulation in the county where the district is organized. The notice shall be published the same day each week two consecutive weeks in such paper and shall generally state (1) the

extent of the work, (2) the kinds of material to be bid upon, including in such notice all kinds of material mentioned in the resolution as provided in section 31-744, (3) the amount of the engineer's estimate of the cost of said improvements, (4) the time when bids will be received, and (5) the amount of the certified check or bid bond required to accompany the bids. Each bid shall be accompanied in a separate sealed envelope by certified check or bid bond in an amount to be named in the notice, which amount shall be not less than five per cent of the engineer's total estimate of the cost, and shall be made payable to the treasurer of the district as security that the bidder to whom the contract may be awarded will enter into a contract to build the improvements in accordance with the notice to contractors and give bond in the sum named in said notice for the construction of same as therein required. Checks or bonds accompanying bids not accepted shall be returned to the bidders. The work herein provided for shall be done under written contract with the lowest responsible bidder on the material selected after the bids are opened and in accordance with the requirements of the plans and specifications. The board of trustees may reject any or all bids received and advertise for new bids in accordance herewith.

Sec. 4. That section 31-749, Revised Statutes Supplement, 1978, be amended to read as follows:

31-749. After the completion of any such work or purchase or otherwise acquiring a sewer or water system, or both, or public parks, playgrounds or recreational facilities, or contracting, as permitted by section 31-727, with other sanitary and improvement districts to acquire public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, or gas or electric service lines or conduits or upon completion of the work on a system of sidewalks, public roads, streets, or highways, public waterways, docks or wharfs, and related appurtenances, or levees for flood protection for the district, the engineer shall file with the clerk of the district a certificate of acceptance, which acceptance shall be approved by the board of trustees by resolution. The board of trustees shall then require the engineer to make a complete statement of all the costs of any such improvements, a plat of the property in the district, and a schedule of the amount proposed to be assessed against each separate piece of property in such district, which statement, plat, and schedule shall be filed with the clerk of the district within sixty days after the date of acceptance of the work, purchase, or otherwise acquiring a sewer or water system, or both, or acceptance of the work on a system of sidewalks, public roads, streets, or

highways, or public waterways, docks or wharfs, and related appurtenances, or dikes and levees for flood protection for the district, or, as permitted by section 31-727, public parks, playgrounds, and recreational facilities whether acquired separately or jointly with other districts. The board of trustees shall then order the clerk to give notice that said statement, plat, and schedules are on file in his office and that all objections thereto, or to prior proceedings on account of errors, irregularities, or inequalities, not made in writing and filed with the clerk of the district within twenty days after the first publication of said notice, shall be deemed to have been waived. Such notice shall be given by publication the same day each week two consecutive weeks in a newspaper of general circulation published in the county where the district was organized and by handbills posted along the line of the work. Said notice shall state the time and place where any objections, filed as herein provided for, shall be considered by the board of trustees. The cost of such improvements in the district which are within the area of the zoning jurisdiction of any municipality shall be assessed to the full extent of special benefits against the property in the zoning jurisdiction of such municipality, ~~in the same manner and~~ to the same extent as the costs of such improvements are assessed in such municipality. The complete statement of costs and the schedule of amounts proposed to be assessed for such improvements which are within the zoning jurisdiction of such municipality against each separate piece of property in districts located within the zoning jurisdiction of such municipality shall be given to such municipality within seven days after the first publication of notice of statement, plat and schedules; provided, that where such improvements are within the area of the zoning jurisdiction of more than one municipality, then such proposed assessments schedule and statement need be given only to the most populous municipality. Such municipality shall have the right to be heard, and it shall have the right of appeal from a final determination by the board of trustees against objections which such city has filed. Notice of the amount proposed to be assessed for such improvements against each separate piece of property shall be given to each owner of record thereof within five days after the first publication of notice of statement, plat and schedules and, within five days after the first publication of such notice, a copy thereof, along with statements of costs and schedules of proposed assessments, shall be given to each person or company who, pursuant to written contract with the district, has acted as underwriter or fiscal agent for the district in connection with the sale or placement of warrants or bonds issued by the district. Each owner

shall have the right to be heard, and shall have the right of appeal from the final determination made by the board of trustees. Any person or any such municipality feeling aggrieved may appeal to the district court by petition within twenty days after such a final determination. The court shall hear and determine such appeal in a summary manner as in a case in equity and without a jury and shall increase or reduce the assessments as the same may be required to provide that the assessments shall be to the full extent of special benefits, and to make the apportionment of benefits equitable.

Sec. 5. That original section 31-748, Reissue Revised Statutes of Nebraska, 1943, and sections 31-727.03, 31-734, and 31-749, Revised Statutes Supplement, 1973, are repealed.