

LEGISLATIVE BILL 409

Approved by the Governor February 13, 1990

Introduced by Barrett, 39; Hefner, 19

AN ACT relating to economic development; to adopt the Nebraska Small Business Incubator Act.
Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska Small Business Incubator Act.

Sec. 2. For purposes of the Nebraska Small Business Incubator Act:

(1) Business incubation center shall mean a facility in which units of space may be leased by a tenant and in which a tenant has access to business development services as described in section 12 of this act;

(2) Community board shall mean a board created pursuant to section 4 of this act;

(3) Public agency shall mean a state agency or commission or a political subdivision which retains ownership or control of one or more public buildings; and

(4) Tenant shall mean a sole proprietorship, business partnership, or corporation operating a business for profit and leasing or otherwise occupying space in a business incubation center.

Sec. 3. Upon receipt of a petition from a community board pursuant to section 5 of this act, a public agency may designate, in whole or in part, vacant or partially vacant public buildings as business incubation centers for the purpose of encouraging and assisting the establishment and expansion of small businesses within this state. A community board may lease the building from the public agency.

Sec. 4. (1) A political subdivision, educational institution, or other organization that desires to have a vacant or partially vacant public building designated, in whole or in part, as a business incubation center shall appoint, in conjunction with political subdivisions or private organizations that agree to contribute monetarily or in kind to the center, a community board to perform the duties required by the Nebraska Small Business Incubator Act. The appointing body may designate an existing board of an economic development entity, upon consent of that entity, as the

community board.

(2) Except as provided in subsection (3) of this section, the community board shall consist of not more than fifteen persons. The members of the community board shall consist of representatives from key segments of the community, including, but not limited to, political, financial, business, labor, and educational representatives. The community board shall elect from its members a chairperson.

(3) An existing board of an economic development entity designated as a community board pursuant to subsection (1) of this section need not meet the number requirements of subsection (2) of this section but shall meet the composition requirements of subsection (2) of this section.

(4) Community board members shall serve at the pleasure of the appointing bodies or until the community board is dissolved by the appointing body. Dissolution shall not occur before the expiration of any lease agreement between the community board and a public agency.

(5) Except as provided in subsection (7) of this section, the business which the community board may perform shall be conducted at a public meeting held in compliance with sections 84-1408 to 84-1414.

(6) Except as provided in subsection (7) of this section, a community board shall be subject to sections 84-712 to 84-712.09.

(7) The community board shall not disclose, orally or in writing, matters of a proprietary nature as described in subsection (7) of section 8 of this act without the consent of the applicant or tenant submitting the information.

Sec. 5. (1) The community board shall:

(a) Identify the building or part of the building under consideration for designation as a business incubation center;

(b) Advertise the concept of a business incubation center in the surrounding area;

(c) Solicit the views of the community concerning the designation of the building or part of the building under consideration as a business incubation center;

(d) Identify possible tenants; and

(e) Obtain commitments from persons, organizations, businesses, or other sources amounting to at least fifty percent of those costs not covered by rental fees that the board estimates will be needed for the establishment and operation of the business

incubation center for three years.

(2) If after performing the duties required by subsection (1) of this section the community board determines that a designation of the building under consideration as a business incubation center is desirable and possible, the community board shall petition the public agency which has ownership or control of such building for the designation.

Sec. 6. (1) After filing a petition pursuant to section 5 of this act, the community board, in cooperation with the public agency, shall conduct and complete within one hundred eighty calendar days a center feasibility study. The study shall include, but not be limited to, all of the following factors:

(a) Necessary lease, purchase, renovation, or construction costs;

(b) Estimated rental costs for tenants;

(c) Estimated utility costs;

(d) Estimated wage or salary rates of potential employees of the center which may include a building manager, receptionist, typist, and security guard;

(e) Proposed operating budget for the center;

(f) Prospects of attracting suitable businesses to the center; and

(g) The ability of the community to provide necessary support for the center, including, but not limited to, technical assistance and training, assistance in attracting employees, assistance in relocating a business, assistance in business startup, and library facilities.

(2) Within thirty calendar days after completion of the feasibility study, the public agency, based upon the study, the criteria set forth in subsection (1) of this section, and any plans for future use of the building by the public agency, shall notify the community board of its decision. If the public agency does not designate the building as a business incubation center, the public agency shall set forth the reasons for its decision in its notification letter to the community board.

Sec. 7. (1) Except as provided in subsection (2) of this section, a designation of a building as a business incubation center shall remain in effect for such time as agreed to by the public agency and the community board.

(2) A public agency which has a building or a portion of a building designated as a business incubation center and which desires to terminate such

designation prior to the date agreed to in subsection (1) of this section may terminate such designation by notifying the community board at least two years before the time the building will be needed. Upon receipt of notification, the community board shall publicize the closing date of the center to the tenants and to the community.

Sec. 8. When a building is designated as a business incubation center by a public agency, its community board shall accept applications from any person desiring to start or expand a small business and to locate that business within the business incubation center. The community board shall develop an application form requiring at least the following information:

(1) The type of business that the applicant wishes to start or expand;

(2) An estimate of the number of employees the applicant will need in order to start or expand the business and a two-year projection of future employment;

(3) The skill and educational level of the employees that the applicant plans to hire;

(4) The ability of the applicant to start or operate a successful business;

(5) A general statement as to why the applicant wishes to be accepted into the business incubation center;

(6) A signed statement by the applicant that he or she understands and accepts the obligations placed upon him or her under section 11 of this act if accepted into the business incubation center; and

(7) A designation by the applicant of information that the applicant considers to be of a proprietary nature and that he or she does not want to be made public.

Sec. 9. (1) A community board shall evaluate applicants who want to start or expand a small business and to locate within the business incubation center based upon, but not limited to, all of the following factors:

(a) The likelihood that the business will be profitable;

(b) Whether the product that would be manufactured or the service that would be rendered would be new to the state or the community;

(c) The potential marketability of the product or service;

(d) The likelihood that the business will generate a significant number of new jobs and not

eliminate existing jobs;

(e) The likelihood that new jobs generated will be filled by persons who presently are unemployed or whose skills are underemployed; and

(f) The likelihood that the business will not be started if the applicant is not accepted into the business incubation center.

(2) A community board shall forward to each applicant whose application it rejects notice of its rejection together with the reasons for the rejection.

(3) A community board shall forward to each applicant it favorably evaluates notification of its decision and of whether or not space exists to accept the applicant.

Sec. 10. A community board shall report in writing at least annually to the Legislature on the activities of the community board and the center. The report shall include, at minimum, the name of each applicant whose application the community board rejects, together with the reasons for the rejection, and the name of each applicant whose application the community board favorably evaluates.

Sec. 11. A tenant shall:

(1) Pay rent to the community board in an amount to be determined by the community board. The community board may agree to have the rent for a predetermined number of months payable at a later date by which time the business is expected to have received committed starting capital;

(2) Pay utilities as determined by the community board; and

(3) Relocate to a permanent location not later than two years after entering a business incubation center, except that a business may request in writing extensions of this requirement for periods of not more than twelve months. The community board may grant extensions of up to twelve months at a time based upon a review of the factors in subsection (1) of section 9 of this act. A tenant shall be given an opportunity to submit written information concerning those factors to the community board before the community board makes its decision approving or denying an extension.

Sec. 12. (1) In return for meeting the requirements of section 11 of this act, a tenant shall receive the following benefits:

(a) Physical space within the center;

(b) The services of a building manager; and

(c) Services or facilities available within the center that are agreed upon by the community board

and the tenants. These services and facilities may include, but are not limited to, cleaning, building security, typing, and reception services, conference, laboratory, and library facilities, duplicating machines, and computers.

(2) In addition to the benefits described in subsection (1) of this section, the center may make available certain professional services on a fee-for-use basis. These services, which the building manager or community board shall arrange, may include, but are not limited to, information on government regulations, basic management skills, advertising and promotion, marketing, sales, control of inventory levels, recruitment of employees, labor relations, and financial counseling in areas such as venture capital, risk management, taxes, insurance, and qualifying for government small business loans.