

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 39

Introduced by Lindstrom, 18; McDonnell, 5; Wishart, 27.

Read first time January 07, 2021

Committee:

1 A BILL FOR AN ACT relating to the Sports Arena Facility Financing
2 Assistance Act; to amend section 13-3105, Reissue Revised Statutes
3 of Nebraska, and sections 13-3102, 13-3103, 13-3104, and 13-3106,
4 Revised Statutes Cumulative Supplement, 2020; to authorize
5 assistance for sports complexes as prescribed; to define and
6 redefine terms; to change provisions relating to limitations on
7 state assistance, applications, notice, and considerations for
8 application approval; to harmonize provisions; to repeal the
9 original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-3102, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 13-3102 For purposes of the Sports Arena Facility Financing
4 Assistance Act:

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

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

15 (3) Eligible sports arena facility means:

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

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

27 (c) Any sports complex, including concession areas, parking
28 facilities, and onsite administrative offices connected with operating
29 the sports complex;

30 (4) General obligation bond means any bond or refunding bond issued
31 by a political subdivision and which is payable from the proceeds of an

1 ad valorem tax;

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

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

13 (7) (6) Nearby retailer means a retailer as defined in section
14 77-2701.32 that is located within the program area. The term includes a
15 subsequent owner of a nearby retailer operating at the same location;

16 (8) (7) New state sales tax revenue means:

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

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

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

1 77-2703.04 to the program area; or

2 (b) For any eligible sports arena facility that is a sports complex,
3 one hundred percent of the state sales tax revenue that (i) is collected
4 by a nearby retailer that commenced collecting state sales tax during the
5 period of time beginning on the date that the project commenced and
6 ending forty-eight months after the project completion date of the
7 eligible sports arena facility and (ii) is sourced under sections
8 77-2703.01 to 77-2703.04 to the program area;

9 ~~(a) For nearby retailers that commenced collecting state sales tax~~
10 ~~during the period of time beginning twenty-four months prior to occupancy~~
11 ~~of the eligible sports arena facility and ending forty-eight months after~~
12 ~~the occupancy of the eligible sports arena facility or, for applications~~
13 ~~for state assistance approved prior to October 1, 2016, forty-eight~~
14 ~~months after October 1, 2016, one hundred percent of the state sales tax~~
15 ~~revenue collected by the nearby retailer and sourced under sections~~
16 ~~77-2703.01 to 77-2703.04 to the program area; and~~

17 ~~(b) For nearby retailers that commenced collecting state sales tax~~
18 ~~prior to twenty-four months prior to occupancy of the eligible sports~~
19 ~~arena facility, the increase in state sales tax revenue collected by the~~
20 ~~nearby retailer and sourced under sections 77-2703.01 to 77-2703.04 to~~
21 ~~the program area;~~

22 ~~(9) (8) Political subdivision means any city, village, or county;~~

23 ~~(10) (9) Program area means:~~

24 ~~(a) For applications for state assistance submitted prior to October~~
25 ~~1, 2016, the area that is located within six hundred yards of an eligible~~
26 ~~sports arena facility, measured from any point of the exterior perimeter~~
27 ~~of the facility but not from any parking facility or other structure; or~~

28 ~~(b) For applications for state assistance submitted on or after~~
29 ~~October 1, 2016, the area that is located within six hundred yards of an~~
30 ~~eligible sports arena facility, measured from any point of the exterior~~
31 ~~perimeter of the facility but not from any parking facility or other~~

1 structure, except that if twenty-five percent or more of such area is
2 unbuildable property, then the program area shall be adjusted so that:

3 (i) It avoids as much of the unbuildable property as is practical;
4 and

5 (ii) It contains contiguous property with the same total amount of
6 square footage that the program area would have contained had no
7 adjustment been necessary.

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

12 (11) Project completion date means:

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

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

18 (12) ~~(10)~~ Revenue bond means any bond or refunding bond issued by a
19 political subdivision which is limited or special rather than a general
20 obligation bond of the political subdivision and which is not payable
21 from the proceeds of an ad valorem tax; and

22 (13) Sports complex means a facility that:

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

24 (b) Is primarily used for competitive sports; and

25 (c) Contains at least:

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

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

30 (iii) Four separate sports venues if such facility is located in a
31 city of the first class, city of the second class, or village or is

1 located within a county but outside the corporate limits of any city or
2 village;

3 (14) Sports venue includes, but is not limited to:

4 (a) A baseball field;

5 (b) A softball field;

6 (c) A multipurpose field;

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

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

9 (f) An enclosed, temperature-controlled building primarily used for
10 competitive sports; and

11 (15) ~~(11)~~ Unbuildable property means any real property that is
12 located in a floodway, an environmentally protected area, a right-of-way,
13 or a brownfield site as defined in 42 U.S.C. 9601 that the political
14 subdivision determines is not suitable for the construction or location
15 of residential, commercial, or other buildings or facilities.

16 Sec. 2. Section 13-3103, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

18 13-3103 (1) Any political subdivision or its governing body that has
19 (a) acquired, constructed, improved, or equipped, (b) approved a revenue
20 bond issue or a general obligation bond issue to acquire, construct,
21 improve, or equip, or (c) adopted a resolution authorizing the political
22 subdivision to pursue a general obligation bond issue to acquire,
23 construct, improve, or equip an eligible sports arena facility may apply
24 to the board for state assistance. The state assistance shall only be
25 used to pay back amounts expended or borrowed through one or more issues
26 of bonds to be expended by the political subdivision to acquire,
27 construct, improve, or ~~and~~ equip the eligible sports arena facility.

28 (2) For applications for state assistance approved on or after
29 October 1, 2016, no more than fifty percent of the final cost of the
30 project eligible sports arena facility shall be funded by state
31 assistance received pursuant to section 13-3108.

1 Sec. 3. Section 13-3104, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 13-3104 (1) All applications for state assistance under the Sports
4 Arena Facility Financing Assistance Act shall be in writing and shall
5 include a certified copy of the approving action of the governing body of
6 the applicant describing the proposed project for which state assistance
7 is requested ~~eligible sports arena facility~~ and the anticipated
8 financing.

9 (2) The application shall contain:

10 (a) A description of the proposed financing of the project ~~eligible~~
11 ~~sports arena facility~~, including the estimated principal and interest
12 requirements for the bonds proposed to be issued in connection with the
13 project facility or the amounts necessary to repay the original
14 investment by the applicant in the project facility;

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

19 (c) For applications submitted on or after October 1, 2016, a map
20 identifying the program area, including any unbuildable property within
21 the program area or taken into account in adjusting the program area as
22 described in subdivision ~~(10)(b)~~ ~~(9)(b)~~ of section 13-3102; and

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

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

27 (4) Any state assistance received pursuant to the act shall be used
28 only for public purposes.

29 Sec. 4. Section 13-3105, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 13-3105 (1) After reviewing an application submitted under section

1 13-3104, the board shall hold a public hearing on the application.

2 (2) The board shall give notice of the time, place, and purpose of
3 the public hearing by publication three times in a newspaper of general
4 circulation in the area where the applicant is located. Such publication
5 shall be not less than ten days prior to the hearing. The notice shall
6 describe generally the project ~~eligible sports arena facility~~ for which
7 state assistance has been requested. The applicant shall pay the cost of
8 the notice.

9 (3) At the public hearing, representatives of the applicant and any
10 other interested persons may appear and present evidence and argument in
11 support of or in opposition to the application or neutral testimony. The
12 board may seek expert testimony and may require testimony of persons whom
13 the board desires to comment on the application. The board may accept
14 additional evidence after conclusion of the public hearing.

15 Sec. 5. Section 13-3106, Revised Statutes Cumulative Supplement,
16 2020, is amended to read:

17 13-3106 (1) After consideration of the application and the evidence,
18 if the board finds that the project ~~facility~~ described in the application
19 is eligible and that state assistance is in the best interest of the
20 state, the application shall be approved, except that an approval of an
21 application submitted because of the requirement in subdivision (1)(c) of
22 section 13-3103 is a temporary approval. If the general obligation bond
23 issue is subsequently approved by the voters of the political
24 subdivision, the approval by the board becomes permanent. If the general
25 obligation bond issue is not approved by such voters, the temporary
26 approval shall become void.

27 (2) In determining whether state assistance is in the best interest
28 of the state, the board shall consider the fiscal and economic capacity
29 of the applicant to finance the local share of the project ~~facility~~.

30 (3) A majority of the board members constitutes a quorum for the
31 purpose of conducting business. All actions of the board shall be by a

1 majority vote of all the board members, one of whom must be the Governor.

2 Sec. 6. Original section 13-3105, Reissue Revised Statutes of
3 Nebraska, and sections 13-3102, 13-3103, 13-3104, and 13-3106, Revised
4 Statutes Cumulative Supplement, 2020, are repealed.

5 Sec. 7. Since an emergency exists, this act takes effect when
6 passed and approved according to law.