

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 68

FINAL READING

Introduced by Hansen, M., 26.

Read first time January 10, 2019

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to cities; to amend sections 19-4029.02 and
2 19-4029.03, Revised Statutes Cumulative Supplement, 2018, and
3 sections 19-4021, 19-4027, 19-4029.01, 19-4029.04, and 19-4029.05,
4 Revised Statutes Supplement, 2019; to change provisions of the
5 Business Improvement District Act as prescribed; to harmonize
6 provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 19-4021, Revised Statutes Supplement, 2019, is
2 amended to read:

3 19-4021 The mayor, with the approval of the city council, shall
4 appoint a business improvement board consisting of property owners,
5 residents, business operators, or users of space within the business area
6 to be improved. The boundaries of the business area shall be declared by
7 resolution of the city council at or prior to the time of the appointment
8 of the business improvement board. The business improvement board shall
9 make recommendations to the city council for the establishment of a plan
10 or plans for improvements in the business area. If it is found that the
11 improvements to be included in one business area offer benefits that
12 cannot be equitably assessed together under the Business Improvement
13 District Act, more than one business improvement district as part of the
14 same plan for improvements for that business area may be proposed. The
15 business improvement board may make recommendations to the city as to the
16 use of any occupation tax funds collected, and may administer such funds
17 if so directed by the mayor and city council. The business improvement
18 board shall also review and make recommendations to the city regarding
19 changing expansion of the boundaries or the functions or ordinance
20 provisions of the business improvement district under sections 19-4029.02
21 to 19-4029.05.

22 Sec. 2. Section 19-4027, Revised Statutes Supplement, 2019, is
23 amended to read:

24 19-4027 Whenever a hearing is held under section 19-4026 or 19-4029,
25 the city council shall:

26 (1) Hear all protests and receive evidence for or against the
27 proposed action;

28 (2) Rule upon all written protests received prior to the close of
29 the hearing, which ruling shall be final; and

30 (3) Continue the hearing from time to time as the city council may
31 deem necessary.

1 If a special assessment is to be used, proceedings shall terminate
2 if written protest is made prior to the close of the hearing by the
3 record owners of over fifty percent of the assessable units in the
4 proposed business improvement district. If an occupation tax is to be
5 used, proceedings shall terminate if protest is made by users of over
6 fifty percent of the space in the proposed business improvement district.

7 Sec. 3. Section 19-4029.01, Revised Statutes Supplement, 2019, is
8 amended to read:

9 19-4029.01 (1) At least ten days prior to the date of any hearing
10 under sections 19-4026, 19-4029, 19-4029.02, and 19-4029.03, notice of
11 such hearing shall be given by:

12 (a) One publication of the notice of hearing in a legal newspaper in
13 or of general circulation in the city;

14 (b) Mailing a copy of the notice of hearing to each owner of taxable
15 property in the proposed, modified, or expanded business improvement
16 district as shown on the latest tax rolls of the county treasurer for
17 such county;

18 (c) Providing a copy of the notice of hearing to any neighborhood
19 association registered pursuant to subsection (2) of this section in the
20 manner requested by such neighborhood association; and

21 (d) If an occupation tax is to be imposed, mailing a copy of the
22 notice of hearing to each user of space in the proposed, modified, or
23 expanded business improvement district.

24 (2) The notice required by subdivision (1)(c) of this section shall
25 be provided to any neighborhood association which is registered pursuant
26 to this subsection and whose area of representation is located, in whole
27 or in part, within a one-mile radius of the existing or proposed,
28 modified, or expanded boundaries of the business improvement district.
29 Each neighborhood association desiring to receive such notice shall
30 register with the city the area of representation of such association and
31 provide the name of and contact information for the individual designated

1 to receive notice on behalf of such association and the requested manner
2 of service, whether by email or first-class or certified mail. The
3 registration shall be in accordance with any rules and regulations
4 adopted and promulgated by the city.

5 (3) Any notice of hearing for any hearing required by sections
6 19-4026 and section 19-4029 shall contain the following information:

7 (a) A description of the boundaries of the proposed business
8 improvement district;

9 (b) The time and place of a hearing to be held by the city council
10 to consider establishment of the business improvement district;

11 (c) The proposed public facilities and improvements to be made or
12 maintained within any business improvement district; and

13 (d) The proposed or estimated costs for improvements and facilities
14 within the proposed business improvement district and the method by which
15 the revenue shall be raised. If a special assessment is proposed, the
16 notice shall also state the proposed method of assessment.

17 (4) Any notice of hearing for any hearing required by sections
18 19-4029.02 and 19-4029.03 shall contain the following information:

19 (a) A description of the boundaries of the area to be added to or
20 removed from the existing business improvement district and a description
21 of the new boundaries of the modified business improvement district;

22 (b) The time and place of a hearing to be held by the city council
23 to consider establishment of the modified business improvement district;

24 (c) The new public facilities and improvements, if any, to be made
25 or maintained within any business improvement district; and

26 (d) The proposed or estimated costs for new and existing
27 improvements and facilities within the proposed, modified, or expanded
28 business improvement district and the method by which the revenue shall
29 be raised. If a special assessment is proposed, the notice shall also
30 state the proposed method of assessment.

31 Sec. 4. Section 19-4029.02, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 19-4029.02 Upon receiving a ~~the~~ recommendation to change ~~expand~~ the
3 boundaries or the functions or ordinance provisions of an existing
4 business improvement district from the business improvement board, the
5 city council may change ~~expand~~ the boundaries or the functions or
6 ordinance provisions of one or more business improvement districts by
7 adopting an ordinance to that effect ~~expand the boundaries of a district~~
8 ~~or districts~~. Prior to adopting the ordinance, a hearing shall be held to
9 consider the ordinance.

10 Sec. 5. Section 19-4029.03, Revised Statutes Cumulative Supplement,
11 2018, is amended to read:

12 19-4029.03 If a ~~In the event that~~ the city council has not acted to
13 call a hearing to change the ~~expand district~~ boundaries or the functions
14 or ordinance provisions of an existing business improvement district as
15 provided in section 19-4029.02, it shall do so when presented with a
16 petition signed (1) by the users of thirty percent of space in a business
17 area proposed to be added to or removed from an existing business
18 improvement district where an occupation tax is imposed, (2) ~~or~~ by the
19 record owners of thirty percent of the assessable front footage in a
20 portion of a business area proposed to be added to or removed from an
21 existing business improvement district, or (3) if the recommendation is
22 to change the functions or ordinance provisions of an existing business
23 improvement district, by the record owners of thirty percent of the
24 existing business improvement district.

25 Sec. 6. Section 19-4029.04, Revised Statutes Supplement, 2019, is
26 amended to read:

27 19-4029.04 Whenever a hearing is held to change the ~~expand business~~
28 ~~improvement district~~ boundaries or the functions or ordinance provisions
29 of an existing business improvement district under section 19-4029.02 or
30 19-4029.03, the city council shall:

31 (1) Hear all protests and receive evidence for or against the

1 proposed action;

2 (2) Rule upon all written protests received prior to the close of
3 the hearing, which ruling shall be final; and

4 (3) Continue the hearing from time to time as the city council may
5 deem necessary.

6 If a special assessment is to be used, proceedings shall terminate
7 if written protest is made prior to the close of the hearing by the
8 record owners of over fifty percent of the assessable units in the
9 modified business improvement district as proposed. If an occupation tax
10 is to be used, proceedings shall terminate if protest is made by users of
11 over fifty percent of space in the modified business improvement district
12 as proposed.

13 Sec. 7. Section 19-4029.05, Revised Statutes Supplement, 2019, is
14 amended to read:

15 19-4029.05 (1) The city council, following a hearing under section
16 19-4029.02 or 19-4029.03, may change ~~expand~~ the boundaries or the
17 functions or ordinance provisions of any business improvement district or
18 districts. If the city council decides to change ~~expand~~ the boundaries or
19 the functions or ordinance provisions of any business improvement
20 district or districts, it shall adopt an ordinance to that effect. This
21 ordinance shall contain the following information:

22 (a) ~~(1)~~ The name of the business improvement district whose
23 boundaries, functions, or ordinance provisions will be changed ~~expanded~~;

24 (b) ~~(2)~~ A statement that notice of hearing was given, including the
25 date or dates on which it was given, in accordance with section
26 19-4029.01;

27 (c) ~~(3)~~ The time and place the hearing was held concerning the new
28 boundaries or changed functions or ordinance provisions of the business
29 improvement district;

30 (d) ~~(4)~~ The purposes of the changed boundary, functions, or
31 ordinance provisions ~~expansion~~ and any new public improvements and

1 facilities to be included in the business improvement district;

2 (e) ~~(5)~~ The description of the changed ~~new~~ boundaries, functions, or
3 ordinance provisions of the business improvement district;

4 (f) ~~(6)~~ A statement that the businesses and users of space in the
5 modified business improvement district established by the ordinance shall
6 be subject to the general business occupation tax or that the real
7 property in the modified business improvement district will be subject to
8 the special assessment authorized by the Business Improvement District
9 Act;

10 (g) ~~(7)~~ The proposed method of assessment to be imposed within the
11 business improvement district or the initial rate of the occupation tax
12 to be imposed; and

13 (h) ~~(8)~~ Any penalties to be imposed for failure to pay the tax or
14 special assessment.

15 (2) The ordinance shall recite that the method of raising revenue
16 shall be fair and equitable. In the use of a general occupation tax, the
17 tax shall be based primarily on the square footage of the owner's and
18 user's place of business. In the use of a special assessment, the
19 assessment shall be based upon the special benefit to the property within
20 the business improvement district.

21 Sec. 8. Original sections 19-4029.02 and 19-4029.03, Revised
22 Statutes Cumulative Supplement, 2018, and sections 19-4021, 19-4027,
23 19-4029.01, 19-4029.04, and 19-4029.05, Revised Statutes Supplement,
24 2019, are repealed.