

LEGISLATIVE BILL 253

Approved by the Governor May 09, 2017

Introduced by Crawford, 45; McDonnell, 5; Smith, 14; Blood, 3.

A BILL FOR AN ACT relating to the County Industrial Sewer Construction Act; to amend section 23-3637, Reissue Revised Statutes of Nebraska; to change provisions relating to joint action agreements; to authorize intergovernmental service agreements as prescribed; to authorize a use for a sewer tax levy; and to repeal the original section.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 23-3637, Reissue Revised Statutes of Nebraska, is amended to read:

23-3637 (1) The county and any city may enter into any agreement for joint action with regard to the planning, construction, management, operation, or financing of a sewerage disposal system and plant or plants consistent with the authority of the county as provided in the County Industrial Sewer Construction Act and consistent with the authority of the city and county under the Interlocal Cooperation Act or the Joint Public Agency Act. The county may enter into an agreement with any city for the sale to the city of all or any portion of a sewerage disposal system and plant or plants developed by the county under the County Industrial Sewer Construction Act upon such terms and conditions as to which the city and county may formally agree. Any agreement entered into by the a city and county and any city pursuant to this section shall be consistent with and conditioned upon the rights of any third party with a direct financial interest in the sewerage disposal system and plant or plants.

(2) Notwithstanding any other provision of Nebraska law, the county and any city may enter into a service agreement with any joint entity created pursuant to the Interlocal Cooperation Act which owns or operates or proposes to own or operate any sewerage disposal system and plant, including the use or right to use real or personal property included in any such project.

(3) Any service agreement entered into under subsection (2) of this section may provide:

(a) For the payment of fixed or variable periodic amounts for service or the right to obtain service, including the use or right to use real or personal property;

(b) That such service agreement may extend for a term of years as determined by the governing body of the county or city and be binding upon such county or city over such term of years;

(c) That fixed or variable periodic amounts payable may be determined based upon any of the following factors, or such other factors as may be deemed reasonable by the parties, and such amounts may be divided and specifically payable with respect to such factors:

(i) Operating, maintenance, and management expenses, including renewals and replacements for facilities and equipment, amounts payable with respect to debt service on bonds or other obligations, including margins of debt service coverage and amounts for debt service reserves if deemed appropriate, which amounts may be separately identified and shall have the status of amounts paid for the principal or interest on bonds issued by such party for purposes of budget and expenditure limitations; and

(ii) Amounts necessary to build or maintain operating reserves, capital reserves, and debt service reserves;

(d) That any such service agreement may require payment to be made in the agreed-upon fixed or variable periodic amounts regardless of whether such sewerage disposal system and plant or plants are completed or operational and notwithstanding any suspension, interruption, interference, reduction, or curtailment of the services of such project or system; and

(e) Such other provisions as the parties to the service agreement deem appropriate in connection with constructing and operating a sewerage disposal system and plant or plants, including the acquisition of real and personal property, the construction of facilities, and the operation, maintenance, and management of services, property, and related facilities.

(4) In order for a county to provide for any or all of the payments due under such service agreement entered into under subsection (2) of this section, such payments may be made from the levy authority as authorized under section 23-3616. When such tax is used for the purposes under such service agreement, it shall have the same status as a tax levied for the purpose of paying bonds, but shall be subject to the levy limitation under Article VIII, section 5, of the Constitution of Nebraska.

Sec. 2. Original section 23-3637, Reissue Revised Statutes of Nebraska, is repealed.