

## West's Revised Statutes of Nebraska Annotated Currentness

## Chapter 31. Drainage

Article 7. **Sanitary and Improvement Districts**(b) **Districts** Formed Under Act of 1949

## Neb.Rev.St. § 31-727

31-727. **Sanitary** and **improvement district**; organized by proceedings in **district** court; purposes; powers; articles of association; contents; filing; real estate; conditions; terms, defined

(1)(a) A majority of the owners having an interest in the real property within the limits of a proposed **sanitary** and **improvement district**, situated in one or more counties in this state, may form a **sanitary** and **improvement district** for the purposes of installing electric service lines and conduits, a sewer system, a water system, an emergency management warning system, a system of sidewalks, public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances, contracting for water for fire protection and for resale to residents of the **district**, contracting for police protection and security services, contracting for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, and contracting for gas and for electricity for street lighting for the public streets and highways within such proposed **district**, constructing and contracting for the construction of dikes and levees for flood protection for the **district**, and acquiring, **improving**, and operating public parks, playgrounds, and recreational facilities.

(b) The **sanitary** and **improvement district** may also contract with a county within which all or a portion of such **sanitary** and **improvement district** is located or a city within whose zoning jurisdiction such **sanitary** and **improvement district** is located for any public purpose specifically authorized in this section.

(c) **Sanitary** and **improvement districts** located in any county which has a city of the metropolitan class within its boundaries or in any adjacent county which has adopted a comprehensive plan may contract with other **sanitary** and **improvement districts** to acquire, build, **improve**, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting **districts**.

(d) Nothing in this section shall authorize **districts** to purchase electric service and resell the same.

(e) The **district**, in lieu of establishing its own water system, may contract with any utilities **district**, municipality, or corporation for the installation of a water system and for the provision of water service for fire protection and for the use of the residents of the **district**.

(f) For the purposes listed in this section, such majority of the owners may make and sign articles of association in which shall be stated (i) the name of the **district**, (ii) that the **district** will have perpetual existence, (iii) the limits of the **district**, (iv) the names and places of residence of the owners of the land in the proposed **district**, (v) the description of the several tracts of land situated in the **district** owned by those who may organize the **district**, (vi) the name or names and the description of the real estate owned by such owners as do not join in the organization of the **district** but who will be benefited thereby, and (vii) whether the purpose of the corporation is installing gas and electric service lines and conduits, installing a sewer system, installing a water system, installing a system of public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances, contracting for water for fire protection and for resale to residents of the **district**, contracting for police protection and security services, contracting for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, contracting for street lighting for the public streets and highways within the proposed **district**, constructing or contracting for the construction of dikes and levees for flood protection of the proposed **district**, acquiring, **improving**, and operating public parks, playgrounds, and recreational facilities, or, when permitted by this section, contracting with other **sanitary** and **improvement districts** to acquire, build, **improve**, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting **districts**, contracting for any public

purpose specifically authorized in this section, or combination of any one or more of such purposes, or all of such purposes. Such owners of real estate as are unknown may also be set out in the articles as such.

(g) No **sanitary** and **improvement district** may own or hold land in excess of ten acres, unless such land so owned and held by such **district** is actually used for a public purpose, as provided in this section, within three years of its acquisition. Any **sanitary** and **improvement district** which has acquired land in excess of ten acres in area and has not devoted the same to a public purpose, as set forth in this section, within three years of the date of its acquisition, shall devote the same to a use set forth in this section or shall divest itself of such land. When a **district** divests itself of land pursuant to this section, it shall do so by sale at public auction to the highest bidder after notice of such sale has been given by publication at least three times for three consecutive weeks prior to the date of sale in a legal newspaper of general circulation within the area of the **district**.

(2) The articles of association shall further state that the owners of real estate so forming the **district** for such purposes are willing and obligate themselves to pay the tax or taxes which may be levied against all the property in the **district** and special assessments against the real property benefited which may be assessed against them to pay the expenses that may be necessary to install a sewer or water system or both a sewer and water system, the cost of water for fire protection, the cost of grading, changing grade, paving, repairing, graveling, regrading, widening, or narrowing sidewalks and roads, resurfacing or relaying existing pavement, or otherwise **improving** any public roads, streets, or highways within the **district**, including protecting existing sidewalks, streets, highways, and roads from floods or erosion which has moved within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin, the cost of constructing public waterways, docks, or wharfs, and related appurtenances, the cost of constructing or contracting for the construction of dikes and levees for flood protection for the **district**, the cost of contracting for water for fire protection and for resale to residents of the **district**, the cost of contracting for police protection and security services, the cost of contracting for access to the facilities and use of the services of the library system of one or more neighboring cities or villages, the cost of electricity for street lighting for the public streets and highways within the **district**, the cost of installing gas and electric service lines and conduits, the cost of acquiring, **improving**, and operating public parks, playgrounds, and recreational facilities, and, when permitted by this section, the cost of contracting for building, acquiring, **improving**, and operating public parks, playgrounds, and recreational facilities, and the cost of contracting for any public purpose specifically authorized in this section, as provided by law.

(3) The articles shall propose the names of five or more trustees who are (a) owners of real estate located in the proposed **district** or (b) designees of the owners if the real estate is owned by a limited partnership, a general partnership, a limited liability company, a public, private, or municipal corporation, an estate, or a trust. These five trustees shall serve as a board of trustees until their successors are elected and qualified if such **district** is organized. No corporation formed or hereafter formed shall perform any new functions, other than those for which the corporation was formed, without amending its articles of association to include the new function or functions.

(4) After the articles are signed, the same shall be filed in the office of the clerk of the **district** court of the county in which such **sanitary** and **improvement district** is located or, if such **sanitary** and **improvement district** is composed of tracts or parcels of land in two or more different counties, in the office of the clerk of the **district** court for the county in which the greater portion of such proposed **sanitary** and **improvement district** is located, together with a petition praying that the same may be declared a **sanitary** and **improvement district** under sections 31-727 to 31-762.

(5) Notwithstanding the repeal of sections 31-701 to 31-726.01 by Laws 1996, LB 1321:

(a) Any **sanitary** and **improvement district** organized pursuant to such sections and in existence on July 19, 1996, shall, after August 31, 2003, be treated for all purposes as if formed and organized pursuant to sections 31-727 to 31-762;

(b) Any act or proceeding performed or conducted by a **sanitary** and **improvement district** organized pursuant to such repealed sections shall be deemed lawful and within the authority of such **sanitary** and **improvement district** to perform or conduct after August 31, 2003; and

- (c) Any trustees of a **sanitary** and **improvement district** organized pursuant to such repealed sections and lawfully elected pursuant to such repealed sections or in conformity with the provisions of sections 31-727 to 31-762 shall be deemed for all purposes, on and after August 31, 2003, to be lawful trustees of such **sanitary** and **improvement district** for the term provided by such sections. Upon the expiration of the term of office of a trustee or at such time as there is a vacancy in the office of any such trustee prior to the expiration of his or her term, his or her successors or replacement shall be elected pursuant to sections 31-727 to 31-762.
- (6) For the purposes of sections 31-727 to 31-762 and 31-771 to 31-780, unless the context otherwise requires:
- (a) Public waterways means artificially created boat channels dedicated to public use and providing access to navigable rivers or streams;
- (b) Operation and maintenance expenses means and includes, but is not limited to, salaries, cost of materials and supplies for operation and maintenance of the **district's** facilities, cost of ordinary repairs, replacements, and alterations, cost of surety bonds and insurance, cost of audits and other fees, and taxes;
- (c) Capital outlay means expenditures for construction or reconstruction of major permanent facilities having an expected long life, including, but not limited to, street paving and curbs, storm and **sanitary** sewers, and other utilities;
- (d) Warrant means an investment security under article 8, Uniform Commercial Code, in the form of a short-term, interest-bearing order payable on a specified date issued by the board of trustees or administrator of a **sanitary** and **improvement district** to be paid from funds expected to be received in the future, and includes, but is not limited to, property tax collections, special assessment collections, and proceeds of sale of general obligation bonds;
- (e) General obligation bond means an investment security under article 8, Uniform Commercial Code, in the form of a long-term, written promise to pay a specified sum of money, referred to as the face value or principal amount, at a specified maturity date or dates in the future, plus periodic interest at a specified rate; and
- (f) Administrator means the person appointed by the Auditor of Public Accounts pursuant to [section 31-771](#) to manage the affairs of a **sanitary** and **improvement district** and to exercise the powers of the board of trustees during the period of the appointment to the extent prescribed in sections 31-727 to 31-780.

### Credits

Laws 1949, ch. 78, § 1, p. 194; Laws 1955, ch. 117, § 1, p. 310; Laws 1961, ch. 142, § 1, p. 409; Laws 1967, ch. 189, § 1, p. 518; Laws 1969, ch. 250, § 1, p. 909; Laws 1969, ch. 251, § 1, p. 918; Laws 1973, LB 245, § 1; Laws 1974, LB 757, § 7; Laws 1976, LB 313, § 1; Laws 1977, LB 228, § 1; Laws 1982, LB 868, § 1; Laws 1985, LB 207, § 1; [Laws 1994, LB 501, § 1](#); [Laws 1996, LB 43, § 5](#); [Laws 2003, LB 721, § 1](#); [Laws 2008, LB 768, § 1](#), eff. July 18, 2008.

### Relevant Notes of Decisions (22)

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Notes of Decisions listed below contain your search terms.


### In general

Statute stating requirements to form **sanitary** and **improvement district** (SID) is “designed to benefit and **improve** real property and ameliorate the **sanitary** conditions” in the proposed **district**. Neb.Rev.St. § 31-727. [In re Sanitary and Imp. Dist. No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health 369](#)


Petitioners seeking formation of **sanitary** and **improvement district** (SID) satisfactorily identified the owners within the **district** through a combination of evidence, including legal descriptions and maps of the **district**, title searches, and testimony

at trial. Neb.Rev.St. § 31-727. In re **Sanitary** and Imp. **Dist.** No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health  369


Initial trustees of a **sanitary** and **improvement district** (SID) must own real estate within the proposed **district**. Neb.Rev.St. §§ 31-727(3), 31-730. In re **Sanitary** and Imp. **Dist.** No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health  369


Objectors to inclusion of their land in **sanitary** and **improvement district** had burden of proving that their lands would not be benefited thereby. R.R.S.1943, §§ 31-727 to 31-730. In re **Sanitary** and Imp. **Dist.** No. 107 of Douglas County, 1964, 177 Neb. 15, 128 N.W.2d 121. Health  369

### Construction and application


A **sanitary** and **improvement district** is a public corporate entity within the boundaries of which a village may not be incorporated. State ex rel. Lanman v. Board of County Com'rs of Dawson County, 2009, 763 N.W.2d 392, 277 Neb. 492. Municipal Corporations  7

### Nature and status as corporations


A **sanitary** and **improvement district** is a political subdivision of the state, primary function of which is to install and maintain public **improvements**, such as streets, sewers, utility lines, and other **improvements** associated with residential or commercial subdivisions. Neb.Rev.St. § 31-727 et seq. Hollstein v. First Nat. Bank of Aurora, 1989, 231 Neb. 711, 437 N.W.2d 512, answer to certified question conformed to 873 F.2d 209. Municipal Corporations  1.1


**Sanitary** and **improvement district**, existing pursuant to **sanitary** and **improvement district's** act, is legislative creation, a political subdivision of state. Neb.Rev.St. § 31-727 et seq. Rexroad, Inc. v. **Sanitary** and Imp. **Dist.** No. 66 of Sarpy County, 1986, 222 Neb. 618, 386 N.W.2d 433. Municipal Corporations  1.1


### Municipal authority

City's authority to affect rights of **sanitary** and **improvement district** in any manner cannot exceed that granted by statute. Neb.Rev.St. §§ 31-727 to 31-762. **Sanitary** and Imp. **Dist.** No. 95 of Douglas County v. City of Omaha, 1985, 219 Neb. 564, 365 N.W.2d 398. Municipal Corporations  39

### Majority of owners

The phrase "majority of the owners" in statute requiring signatures by a majority of the owners having an interest in the real property within the limits of a proposed **sanitary** and **improvement district** (SID) refers to owners representing a majority of the area of real estate within the **district**. Neb.Rev.St. § 31-727(1). In re **Sanitary** and Imp. **Dist.** No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health  369

Petitioners seeking to form a **sanitary** and **improvement district** (SID) must establish by a preponderance of the evidence that a majority of owners within the proposed SID have joined in the effort to form the SID. Neb.Rev.St. § 31-727(1)(a, f). In re **Sanitary** and Imp. **Dist.** No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health  369

Five owners of an undivided two-fifths interest in a nonresidential lot within **sanitary** and **improvement district** (SID) satisfied statutory requirement that five or more designated trustees be owners of real estate located in the proposed **district**; no particular amount of land or percentage of interest in such land was required, owning developed land was not required, and nothing indicated that the qualifying interest was a sham or was obtained fraudulently. Neb.Rev.St. §§ 31-727(3), 31-730. In re **Sanitary** and Imp. **Dist.** No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health  369

### Articles of association

Owner of majority of lots and real estate within proposed **sanitary** and **improvement district** (SID) was not one owner for purposes of statute requiring signatures by a majority of the owners having an interest in the real property within the limits of a proposed SID; construing the statute to require signatures by majority of owners by name would permit owners representing only a small fraction of the affected area to defeat the will of the owners of the majority of the area, and equity would be best served by requiring majority of owners by area to sign articles of association. Neb.Rev.St. § 31-727(1). *In re Sanitary and Imp. Dist. No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health ☞ 369*

Owners representing a majority of the area within a proposed **sanitary** and **improvement district** (SID) must sign the articles of association. Neb.Rev.St. § 31-727(1). *In re Sanitary and Imp. Dist. No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health ☞ 369*

Signers to articles of association for proposed **sanitary** and **improvement district** (SID) were not required to include the date of signing. Neb.Rev.St. § 31-727. *In re Sanitary and Imp. Dist. No. 1 of Gosper County, 2006, 708 N.W.2d 809, 270 Neb. 856. Health ☞ 369*

### Maintenance and repair

Evidence supported trial court's determination that **sanitary** and **improvement district**, not county, was responsible for maintenance, grading, snow removal and culvert work on roads which were constructed within the **district** by the board of trustees for the **district**, despite the **district's** contention that the roads were part of the primary road system in the county. Neb.Rev.St. §§ 31-727 to 31-762, 31-739, 39-1402, 39-2001(1), 39-2003. *Sanitary and Imp. Dist. No. 1 of Adams County v. Adams County, 1981, 209 Neb. 108, 306 N.W.2d 584. Highways ☞ 105(1)*

### Issue of bonds

**District** court decree confirming legality and validity of **sanitary** and **improvement district** bond issue does not determine validity or invalidity of every contract made by a **district** in connection with the project which the bond issue was designed to finance. Neb.Rev.St. §§ 31-727 et seq., 31-749 to 31-759. *Sanitary and Improvement Dist. No. 32 of Sarpy County v. Continental Western Corp., 1983, 215 Neb. 843, 343 N.W.2d 314. Municipal Corporations ☞ 917(2)*

### Investment securities

“**Sanitary improvement** warrants” are investment securities under Article 8 of the Uniform Commercial Code in form of short-term interest-bearing orders payable on specified date; they are issued by board of trustees or administrator of **sanitary** and **improvement district** to be paid from funds expected to be received in the future, including, but not limited to, property tax collections, special assessment collections, and proceeds of sale of general obligation bonds. Neb.Rev.St. § 31-727(5)(d). *State ex rel. Pederson v. Howell, 1991, 239 Neb. 51, 474 N.W.2d 22. Securities Regulation ☞ 250*


**Sanitary** and **improvement district** warrants are investment securities under article 8 of Uniform Commercial Code. Neb.Rev.St. § 31-727(5). *Sanitary and Imp. Dist. No. 272 of Douglas County v. Marquardt, 1989, 233 Neb. 39, 443 N.W.2d 877. Securities Regulation ☞ 249.1*

The 1982 amendment providing that a warrant means an investment security under the Uniform Commercial Code changed preexisting nature of warrants issued by **sanitary** and **improvement districts** and did not merely declare what they had always been and, hence, under amended version of the act, 1974 warrants were not investment securities. Neb.Rev.St. §§ 31-727(5)(d), 31-755. *Sanitary and Improvement Dist. No. 32 of Sarpy County v. Continental Western Corp., 1983, 215 Neb. 843, 343 N.W.2d 314. Municipal Corporations ☞ 899*


### Standing and parties


Only taxpayer of **sanitary** and **improvement district** organized pursuant to **sanitary** and **improvement district** act has standing to contest validity of contractual obligations for expenditure of such **district's** funds. Neb.Rev.St. § 31-727 et seq.



Rexroad, Inc. v. **Sanitary** and Imp. **Dist.** No. 66 of Sarpy County, 1986, 222 Neb. 618, 386 N.W.2d 433. Municipal Corporations  994

### Appeal

**Sanitary** and **improvement district's** original articles of association which were duly filed with clerk of trial court and shown in transcript and which were shown by journal of trial court to have been considered by it as being in evidence could be considered by reviewing court as if made part of bill of exceptions, in absence of specific objection because article had not been admitted in evidence. R.R.S.1943, § 31-727. In re **Sanitary** and Imp. **Dist.** No. 107 of Douglas County, 1964, 177 Neb. 15, 128 N.W.2d 121. Appeal And Error  637

Court reviewing issues of fact de novo could correct description of **sanitary** and **improvement district** so that **district** would include premises which were contained in articles of association of **district**. R.R.S.1943, §§ 25-852, 25-853, 31-727, 31-730. In re **Sanitary** and Imp. **Dist.** No. 107 of Douglas County, 1964, 177 Neb. 15, 128 N.W.2d 121. Health  369

Neb. Rev. St. § 31-727, NE ST § 31-727

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