

As of October 9, 2009

LB840 Economic Development Act

The Local Option Municipal Economic Development Act (LB 840, 1991) authorizes incorporated cities and villages to collect and appropriate local tax dollars (sales and/or property tax) if approved by the local voters, for economic development purposes. The Act went into effect on September 6, 1991. The Act has been modified by LB719A in 1992, LB732 in 1993, LB 1188 in 1994, LB207/LB490 in 1995, LB989 in 1998, LB87 in 1999, LB LB1116/LB1258 in 2000, and LB827/LB362/LB362 in 2001.

The Act involves the formulation of the local economic development program plan. The plan forms the foundation for the collection and expenditure of local tax revenues for economic development and, if the voters approve the plan, the provisions of the local plan becomes the basis under which the municipality's program operates.

Communities which have voted to create LB840 programs include:

Albion	Alliance	Arapahoe	Arnold	Atkinson
Bayard	Beatrice	Beaver City	Blair	Burwell
Cambridge	Central City	Chadron	Columbus	Cozad
Curtis	Fairbury	Falls City	Fremont	Geneva
Gering	Gothenburg	Grand Island	Hartington	Holdrege
Imperial	Kimball	Lexington	Louisville	Milford
Mitchell	Nebraska City	North Platte	Ord	Oshkosh
Plattsmouth	Schuyler	St. Paul	Scottsbluff	Seward
Sidney	Superior	Tecumseh	Valentine	Wakefield
Crofton	Loup City	Wayne	Doniphan	McCook

Only the above communities are currently in a position to offer the loans, grants and other activities under the LB840 statutes.

Eligible Communities

All Nebraska cities and villages, as well as any group of two or more cities acting under the Interlocal Cooperation Act, are eligible.

Eligible Activities

Activities eligible for local funds collected for the economic development program would include any project or program for the purpose of providing direct or indirect financial assistance to a qualifying business, or for the payment of related costs and expenses.

An economic development program may include, but is not limited to, the following activities:

1. direct loans or grants to qualifying businesses for fixed assets and/or working capital;
2. loan guarantees for qualifying businesses;
3. grants for public works improvements which are essential for the location or expansion of a qualifying business;
4. grants or loans for job training;
5. the purchase of real estate, options for such purchases, and the renewal or extension of such options;
6. payments for salaries and support of city staff or the contracting of an outside entity to implement the economic development program; and
7. bonding used to carry out program activities.

An economic development program may also include grants or loans for the construction or rehabilitation for sale or lease of housing for persons of low to moderate income.

Qualifying Businesses

In cities with a population of more than 10,000, a qualifying business is any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from manufacturing; research and development; the processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to eligible activities; telecommunications activities; and/or tourism-related activities. In cities other than Lincoln and Omaha, a business shall also be eligible if it derives its principal source of income from the construction or rehabilitation of housing.

In cities with a population of 2,500 to 10,000 inhabitants, a qualifying business shall be the same as above plus, a business shall also be a qualifying business if it derives its principal source of income from retail trade. No more than 40 percent in any 12-month period, nor more than 20 percent in any five-year period, of program funds shall be used for retail trade businesses.

In cities with a population of 2,500 inhabitants or less, a business shall be a qualifying business regardless of their principal source of income.

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Steps for Implementation

To implement the Local Option Municipal Economic Development Act a municipality must:

1. prepare a general community and economic development strategy,
2. prepare the proposed plan,
3. schedule and hold a public hearing,
4. adopt the plan by a resolution and file the plan with the city clerk making it available to the public,
5. file the resolution with the election commissioner or county clerk,
6. hold an election,
7. establish the economic development program by ordinance,
8. appoint a citizen advisory review committee,
9. include the amount to be expended in the annual budget,
10. establish an economic development fund, and
11. provide regular meetings, public hearings, and annual audits.

Balloting/Election Steps

The question on the ballot will briefly set out the terms, conditions, and goals of the economic development program, including the length of time the program will be in existence, the years and sources from which the funds are to be collected, the total amount that is to be collected, and whether bonding will be permitted. If the funds are to be derived from a property tax levy, the ballot question must also state the annual cost per ten thousand dollars of assessed valuation.

If a majority voting on the issue vote in favor of the question, the economic development program will be implemented upon the terms of the economic development plan.

Source and Amount of Funds

Local sources of revenue that may be collected through the Local Option Municipal Economic Development Act are local property taxes and local option sales taxes.

After the economic development program is established the amount to be expended on the program for the ensuing year shall be fixed in an annual budget.

Limitations include:

1. no city shall appropriate in any year, an amount in excess of .4 percent of the actual valuation of the city in the year in which the funds are collected;
2. no city shall appropriate an amount in excess of the amount approved by the voters at the election;
3. no city of the metropolitan or primary class shall appropriate more than \$3,000,000 in any one year;
4. no city of the first class shall appropriate more than \$2,000,000 in any one year; (2000 - LB1258.
5. no second class city or village shall appropriate more than \$1,000,000 in any one year.

Limitations exclude:

1. re-appropriations (funds that were appropriated but not expended during previous fiscal years., and
2. funds not derived directly from the sales or property tax such as interest, loan repayments, sale proceeds, etc.