

LEGISLATIVE BILL 212

Approved by the Governor April 24, 2019

Introduced by Government, Military and Veterans Affairs Committee: Brewer, 43, Chairperson; Blood, 3; Hansen, M., 26; La Grone, 49; Lowe, 37; Kolowski, 31.

A BILL FOR AN ACT relating to government; to amend sections 23-906 and 77-1601.02, Reissue Revised Statutes of Nebraska, and sections 13-519, 13-520, and 84-1411, Revised Statutes Cumulative Supplement, 2018; to change provisions relating to budget limitations and procedures, hearing notices for county budgets under the County Budget Act of 1937, hearing notices for property tax requests, and requirements for holding meetings by videoconference and telephone conference under the Open Meetings Act; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 13-519, Revised Statutes Cumulative Supplement, 2018, is amended to read:

13-519 (1)(a) Subject to subdivisions (1)(b) and (c) of this section, for all fiscal years beginning on or after July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus allowable growth plus the basic allowable growth percentage of the base limitation established under section 77-3446. For the second fiscal year in which a county will receive a full year of receipts from the tax imposed in sections 77-27,223 to 77-27,227, the prior year's total of restricted funds shall be the prior year's total of restricted funds plus the total receipts from the tax imposed in sections 77-27,223 to 77-27,227 in the prior year. If a governmental unit transfers the financial responsibility of providing a service financed in whole or in part with restricted funds to another governmental unit or the state, the amount of restricted funds associated with providing the service shall be subtracted from the last prior year's total of budgeted restricted funds for the previous provider and may be added to the last prior year's total of restricted funds for the new provider. For governmental units that have consolidated, the calculations made under this section for consolidating units shall be made based on the combined total of restricted funds, population, or full-time equivalent students of each governmental unit.

(b) For all fiscal years beginning on or after July 1, 2008, educational service units may exceed the limitations of subdivision (1)(a) of this section to the extent that one hundred ten percent of the needs for the educational service unit calculated pursuant to section 79-1241.03 exceeds the budgeted restricted funds allowed pursuant to subdivision (1)(a) of this section.

(c) For fiscal year 2017-18, the last prior year's total of restricted funds for counties shall be the last prior year's total of restricted funds less the last prior year's restricted funds budgeted by counties under sections 39-2501 to 39-2520, plus the last prior year's amount of restricted funds budgeted by counties under sections 39-2501 to 39-2520 to be used for capital improvements.

(2) A governmental unit may exceed the limit provided in subdivision (1) (a) of this section for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

(3) A governmental unit may exceed the applicable allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the governing body or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the governmental unit. The recommendation of the governing body or the petition of the legal voters shall include the amount and percentage by which the governing body would increase its budgeted restricted funds for the ensuing year over and above the current year's budgeted restricted funds. The county clerk or election commissioner shall call for a special election on the issue within thirty days after the receipt of such governing body recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the governing body. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

(4) In lieu of the election procedures in subsection (3) of this section, any governmental unit may, for a period of one year, exceed the allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting at a meeting of the residents of the governmental unit, called after notice is published in a newspaper of general circulation in the governmental unit at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the governmental unit shall constitute a quorum for purposes of taking action to exceed the allowable growth percentage. If a majority of the registered voters present at the meeting vote in favor of exceeding the allowable growth percentage, a copy of the record of that action shall be forwarded to the Auditor of Public Accounts

along with the budget documents. The issue to exceed the allowable growth percentage may be approved at the same meeting as a vote to exceed the limits or final levy allocation provided in section 77-3444.

Sec. 2. Section 13-520, Revised Statutes Cumulative Supplement, 2018, is amended to read:

13-520 The limitations in section 13-519 shall not apply to (1) restricted funds budgeted for capital improvements, (2) restricted funds expended from a qualified sinking fund for acquisition or replacement of tangible personal property with a useful life of five years or more, (3) restricted funds pledged to retire bonds as defined in subdivision (1) of section 10-134 and approved according to law, (4) ~~restricted funds bonded indebtedness,~~ used by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport, (5) ~~or used to pay other financial instruments that are approved and agreed to before July 1, 1999, in the same manner as bonds by a governing body created under section 35-501,~~ (4) restricted funds budgeted in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or by an independent joint entity or joint public agency, (6) ~~(5)~~ restricted funds budgeted to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (7) ~~(6)~~ restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a governmental unit, or (8) ~~(7)~~ the dollar amount by which restricted funds budgeted by a natural resources district to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04.

Sec. 3. Section 23-906, Reissue Revised Statutes of Nebraska, is amended to read:

23-906 In each county the finance committee of the county board shall constitute the budget-making authority unless the board, in its discretion, designates or appoints one of its own members or the county comptroller, the county manager, or other qualified person as the budget-making authority. If he or she will accept the appointment, another county official may be appointed as the budget-making authority. For the performance of this additional responsibility, the county official accepting the appointment may receive such additional salary as fixed by the county board.

On or before August 1, the budget-making authority shall prepare a county budget document, in the form required by sections 23-904 and 23-905, for the fiscal year and transmit the document to the county board.

A summary of the budget, in the form required by section 23-905, showing for each fund (1) the requirements, (2) the outstanding warrants, (3) the operating reserve to be maintained, (4) the cash on hand at the close of the preceding fiscal year, (5) the revenue from sources other than taxation, (6) the amount to be raised by taxation, and (7) the amount raised by taxation in the preceding fiscal year, together with a notice of a public hearing to be had with respect to the budget before the county board, shall be published once at least four calendar days prior to five days before the date of hearing in some legal newspaper published and of general circulation in the county or, if no such legal newspaper is published, in some legal newspaper of general circulation in the county. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing.

Sec. 4. Section 77-1601.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-1601.02 (1) The property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the county board of equalization in section 77-1601 unless the governing body of the county, municipality, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college passes by a majority vote a resolution or ordinance setting the tax request at a different amount. Such resolution or ordinance shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the political subdivision at least four calendar ~~five~~ days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. The hearing notice shall contain the following information: The dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; and the proposed dollar amount of the tax request for the current year and the property tax rate that will be necessary to fund that tax request. Any resolution setting a tax request under this section shall be certified and forwarded to the county clerk on or before October 13 of the year for which the tax request is to apply.

(2) Any levy which is not in compliance with this section and section 77-1601 shall be construed as an unauthorized levy under section 77-1606.

Sec. 5. Section 84-1411, Revised Statutes Cumulative Supplement, 2018, is amended to read:

84-1411 (1) Each public body shall give reasonable advance publicized

notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public. Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (a) twenty-four hours before the scheduled commencement of the meeting or (b) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) A meeting of a state agency, state board, state commission, state council, or state committee, of an advisory committee of any such state entity, of an organization created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a public power district having a chartered territory of more than one county in this state, of the governing body of a public power and irrigation district having a chartered territory of more than one county in this state, of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, or of a community college board of governors may be held by means of videoconferencing or, in the case of the Judicial Resources Commission in those cases specified in section 24-1204, by telephone conference, if:

(a) Reasonable advance publicized notice is given;

(b) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including seating, recordation by audio or visual recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if videoconferencing or telephone conferencing was not used;

(c) At least one copy of all documents being considered is available to the public at each site of the videoconference or telephone conference;

(d) At least one member of the state entity, advisory committee, board, council, or governing body is present at each site of the videoconference or telephone conference, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site; and

~~(e) No more than one-half of the state entity's, advisory committee's, board's, council's, or governing body's meetings in a calendar year are held by videoconference or telephone conference; or -~~

(ii) In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, such organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conferencing.

Videoconferencing, telephone conferencing, or conferencing by other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(3) A meeting of a board of an educational service unit, of the Educational Service Unit Coordinating Council, of the governing body of an entity formed under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act, of the governing body of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act, of a community college board of governors, of the governing body of a public power district, of the governing body of a public power and irrigation district, or of the Nebraska Brand Committee may be held by telephone conference call if:

(a) The territory represented by the educational service unit, member educational service units, community college board of governors, public power district, public power and irrigation district, Nebraska Brand Committee, or member public agencies of the entity or pool covers more than one county;

(b) Reasonable advance publicized notice is given which identifies each telephone conference location at which there will be present: (i) A member of the an educational service unit board member, a council member, a member of a community college board of governors, a member of the governing body of a public power district, a member of the governing body of a public power and irrigation district, a member of the Nebraska Brand Committee, or a member of the entity's or pool's governing body; or (ii) A nonvoting designee designated under subdivision (3)(f) of this section will be present;

(c) All telephone conference meeting sites identified in the notice are located within public buildings used by members of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or entity or pool or at a place which will accommodate the anticipated audience;

(d) Reasonable arrangements are made to accommodate the public's right to

attend, hear, and speak at the meeting, including seating, recordation by audio recording devices, and a reasonable opportunity for input such as public comment or questions to at least the same extent as would be provided if a telephone conference call was not used;

(e) At least one copy of all documents being considered is available to the public at each site of the telephone conference call;

(f) At least one member of the educational service unit board, council, community college board of governors, governing body of the public power district, governing body of the public power and irrigation district, Nebraska Brand Committee, or governing body of the entity or pool is present at each site of the telephone conference call identified in the public notice, except that a member of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis, an organization created under the Municipal Cooperative Financing Act, or a governing body of a risk management pool or an advisory committee of such organization or pool may designate a nonvoting designee, who shall not be included as part of the quorum, to be present at any site;

(g) The telephone conference call lasts no more than five two hours; and

(h) No more than one-half of the board's, council's, governing body's, committee's, entity's, or pool's meetings in a calendar year are held by telephone conference call, except that: a

(i) The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by telephone conference call if the governing body's quarterly meetings are not held by telephone conference call or videoconferencing; and -

(ii) An organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act may hold more than one-half of its meetings by telephone conference call if the organization holds at least one meeting each calendar year that is not by videoconferencing or telephone conference call.

Nothing in this subsection shall prevent the participation of consultants, members of the press, and other nonmembers of the governing body at sites not identified in the public notice. Telephone conference calls, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by means of electronic or telecommunication equipment. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness other than a member of the public body to appear before the public body by means of video or telecommunications equipment.

Sec. 6. Original sections 23-906 and 77-1601.02, Reissue Revised Statutes of Nebraska, and sections 13-519, 13-520, and 84-1411, Revised Statutes Cumulative Supplement, 2018, are repealed.