

LEGISLATIVE BILL 310

Approved by the Governor June 10, 1993

Introduced by Warner, 25

AN ACT relating to political subdivisions; to amend sections 13-504, 13-505, 13-506, 18-2451, 70-623, 70-623.03, 84-304.01, and 84-304.02, Reissue Revised Statutes of Nebraska, 1943, and sections 13-501, 13-508, 70-623.02, 77-3438, and 79-3819, Revised Statutes Supplement, 1992; to exempt public power and irrigation districts and agencies from the Nebraska Budget Act; to change audit requirements and provide audit procedures; to require and provide a procedure for preparation of a budget; to authorize certain political subdivisions to collect and increase property taxes for reimbursements as prescribed; to change powers and duties of the Auditor of Public Accounts; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 13-501, Revised Statutes Supplement, 1992, be amended to read as follows:

13-501. Sections 2-958, 3-504, 12-914, 13-501 to 13-513, 16-702, 16-706, 16-718, 17-702, 17-703, 17-708, 17-711, 17-715, 17-718, 18-1006, 19-1302, 23-132, 23-904, 23-920, 23-3519, 23-3552, 31-513, 35-509, 39-1621, 39-1634, 46-543, 46-544, 51-316, 71-1611, 79-435, 79-1007.02, and 79-2210 and section 2 of this act shall be known and may be cited as the Nebraska Budget Act.

Sec. 2. The Nebraska Budget Act shall not apply to any public power district or public power and irrigation district organized pursuant to Chapter 70, article 6, to any rural power district organized pursuant to Chapter 70, article 8, or to any agency created pursuant to sections 18-2426 to 18-2434.

Sec. 3. That section 13-504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-504. (1) Each governing body shall prepare in writing and file with its secretary or clerk, in the year of its organization and each year thereafter, not later than the first day of August of each year on forms prescribed and furnished by the auditor following consultation with representatives of such governing bodies or as otherwise authorized by state law, a proposed budget statement containing the following information, except as provided by state law:

(a) For the immediate two prior fiscal years, the revenue from all sources, other than revenue received from taxation, allocated to each of the several funds and separately stated as to each such source, and

for each fund: The unencumbered cash balance of such fund at the beginning and end of the year; the amount received by taxation allocated to each fund; and the amount of actual expenditure for each fund;

(b) For the current fiscal year, actual and estimated revenue from all sources, allocated to each of the several funds and separately stated as to each such source, and for each fund: The actual unencumbered cash balance available for such fund at the beginning of the year; the amount received from taxation allocated to each fund; and the amount of actual and estimated expenditure, whichever is applicable. Such statement shall contain the cash reserve for each such fund for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed fifty percent of the total budget adopted for such fund exclusive of capital outlay items;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, other than revenue to be received from taxation, separately stated as to each such source, to be allocated to each of the several funds, and for each fund: ~~The the~~ actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; ~~the~~ ; amounts proposed to be expended during the year; ~~and plus~~ the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items; and

(d) A uniform summary of the proposed budget statement which shall include a separate total for each fund and a grand total of all funds maintained by the governing body.

(2) Any governing body required by a final order of a court, the State Board of Equalization, or the Tax Commissioner from which no appeal is taken to reimburse property taxes to a taxpayer may certify to the county clerk of the county in which any part of the political subdivision is situated, not later than August 25, an itemized estimate of the amount necessary to be expended to reimburse the property taxes. Such amounts shall be levied by the county board of equalization. The taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and, when collected, shall be paid to the treasurer of the political subdivision and used to cover the reimbursement of the property taxes.

Any governing body which submits an itemized estimate shall establish a property tax reimbursement fund. Taxes collected pursuant to this section shall be credited to such fund to cover the reimbursement of the property taxes.

The authority conferred by this section shall apply only to reimbursements made during fiscal years 1993-94 through 1999-2000.

(3) (2) The actual or estimated unencumbered cash balance of each fund required to be included in the budget statement by this section shall include deposits and investments of the political subdivision as well as any funds held by the county treasurer for the political subdivision and shall be accurately stated on the proposed budget

statement.

(4) ~~(3)~~ The political subdivision shall correct any material errors in the budget statement detected by the Auditor of Public Accounts or by other sources.

Sec. 4. That section 13-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-505. The estimated expenditures plus the required cash reserve for the ensuing fiscal year less all estimated and actual unencumbered balances at the beginning of the year and less the estimated income from all sources other than taxation and the estimated amount for reimbursements of property tax pursuant to subsection (2) of section 13-504 shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement and the itemized estimate for reimbursement of property taxes filed pursuant to section 13-504. The amount to be raised from taxation, as determined above, plus the estimated revenue from sources other than taxation and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year.

Sec. 5. That section 13-506, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-506. Each governing body, after the filing of the proposed budget statement with its secretary or clerk, shall each year conduct a public hearing on such proposed budget statement and the itemized estimate for reimbursement of property taxes pursuant to subsection (2) of section 13-504. Notice of place and time of such hearing, together with a summary of the proposed budget statement and the itemized estimate for reimbursement of property taxes pursuant to subsection (2) of section 13-504, shall be published at least five days prior to the date set for hearing, in a newspaper of general circulation within the governing body's jurisdiction or by direct mailing of the notice to each resident within the community. When ~~PROVIDED, that when~~ the total operating budget, including the amount necessary for reimbursement of property taxes, not including reserves, does not exceed ten thousand dollars per year, the proposed budget summary may be posted at the governing body's principal headquarters. After such hearing, the proposed budget statement, including the amount necessary for reimbursement of property taxes, shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from taxation shall be certified to the levying board after the proposed budget statement, including the amount necessary for reimbursement of property taxes, is adopted, or is amended and adopted as amended, and if the levying board ~~shall represent~~ represents more than one county, a member or a representative of the governing board shall appear and present its budget at the hearing of each county in which is located a major area of the county affected by its budget. If the adopted budget statement, including the amount necessary for reimbursement of property taxes, reflects a change from that shown in the published proposed budget statement, a summary of such changes

shall be published within twenty days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

Sec. 6. That section 13-508, Revised Statutes Supplement, 1992, be amended to read as follows:

13-508. After publication and hearing thereon and within the time prescribed by law, each governing body shall file with and certify to the levying board on or before September 1 for 1992 and on or before August 25 for all other years and file with the auditor a copy of the adopted statement of the amount for reimbursement of property taxes pursuant to subsection (2) of section 13-504 and the adopted budget statement which complies with sections 77-3438 to 77-3440 or 79-3814 to 79-3821, together with the amount of the tax to be levied. Proof of publication shall be attached to the ~~statement~~ statements. The governing body shall certify the amount of tax to be levied by the levying board, which levy shall not exceed the maximum levy prescribed by state law. The governing body, in certifying the amount to be so levied, may make allowance for delinquent taxes not exceeding five percent of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, a governing body shall not certify, nor a levying board levy, an amount of tax greater than the amount determined under section 13-505. Each governing body empowered to levy or certify a levy shall use the final adjusted values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

Sec. 7. That section 18-2451, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-2451. The books and records of an agency created pursuant to sections 18-2426 to 18-2434 shall be public records and shall be kept at the principal place of business of such agency. The agency books and records shall be open to public inspection at reasonable times and upon reasonable notice. The agency shall annually cause to be filed with the Auditor of Public Accounts an audit of the books, records, and financial affairs of the agency. Such audit shall be made by a certified public accountant or firm of such accountants selected by the agency and shall be in a form prescribed by the Auditor of Public Accounts conducted in the manner prescribed in section 84-304.01. When the audit has been ~~examined and approved by the Auditor of Public Accounts completed,~~ written copies thereof ~~of the audit~~ shall be placed and kept on file at the principal place of business of the agency; and shall be filed with the Auditor of Public Accounts and the Nebraska Power Review

Board within one hundred twenty days after December 31 of each year. If any agency created pursuant to sections 18-2426 to 18-2434 fails to file a copy of an audit within the time prescribed in this section, the books, records, and financial affairs of such agency shall, within one hundred eighty days after the close of the fiscal year of the agency, be audited by a certified public accountant or firm of accountants selected by the Auditor of Public Accounts. The cost of the audit shall be paid by the agency.

Sec. 8. That section 70-623, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-623. The fiscal year of the district shall coincide with the calendar year. The board of directors, at the close of each year's business, shall cause an audit of the books, records, and financial affairs of the district to be made by a certified public accountant or firm of such accountants, who shall be selected by the district. The audit shall be conducted in the manner prescribed in section 84-304.01, subject to the approval of the Auditor of Public Accounts. The audit shall be in a form prescribed by the auditor. When the audit has been examined and approved by the auditor completed, written copies of the audit thereof shall be placed and kept on file at the principal place of business of the district; and shall be filed with the Auditor of Public Accounts and the Nebraska Power Review Board within one hundred and twenty days after December 31 of each year. ~~The Auditor of Public Accounts shall charge the expense of such audit to such district, and each district shall pay to the Auditor of Public Accounts the reasonable cost thereof.~~

Sec. 9. That section 70-623.02, Revised Statutes Supplement, 1992, be amended to read as follows:

70-623.02. The audit required by section 70-623 shall be made at the close of the fiscal year. The person making the audit shall have access to all books, records, vouchers, papers, contracts, or other data containing information on the subject (1) in the office of the public power or public power and irrigation district, (2) in the office of the chief executive officer of the district provided for in section 70-620.01, or (3) in the possession or under the control of any of the officers, agents, or servants of the district. All officers, agents, and servants of the public power or public power and irrigation district shall furnish to the ~~Auditor of Public Accounts~~ person making the audit and his or her agents, servants, and employees such information regarding the auditing of the public power or public power and irrigation districts as may be demanded.

Sec. 10. That section 70-623.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-623.03. ~~In lieu of the audit provided for in sections 70-623 to 70-623.02, any public power district, that is subject to an examination and audit of its affairs by the United States Rural Electrification Administration, may file with the Auditor of Public Accounts, within one hundred twenty days after the close of the fiscal year of such district, a written copy of the audit made by or under the authority of such Rural Electrification Administration if such audit contains and shows the items set forth in section 70-623.01. In case any such~~ If any

public power district, ~~that is subject to audit by the United States Rural Electrification Administration, shall fail~~ fails to file a copy of such an audit within the time ~~above~~ prescribed in section 70-623, then its books, records, and financial affairs shall, within one hundred eighty days after the close of the fiscal year of ~~such~~ the district, be audited ~~in the same manner and under the same conditions as are provided in said sections 70-623 to 70-623.02~~ by a certified public accountant or firm of accountants selected by the Auditor of Public Accounts. The cost of the audit shall be paid by the district. A copy of such audit, ~~whether made by or under the authority of the Rural Electrification Administration or by a certified public accountant or firm of accountants selected by the Auditor of Public Accounts;~~ shall be placed and kept on file at the principal place of business of the district.

Sec. 11. The audit of any rural power district organized pursuant to Chapter 70, article 8, shall be conducted in the manner prescribed in section 84-304.01.

Sec. 12. A public power district or public power and irrigation district organized pursuant to Chapter 70, article 6, a rural power district organized pursuant to Chapter 70, article 8, or any agency created pursuant to sections 18-2426 to 18-2434 shall prepare in writing each year a proposed budget which shall include at a minimum: Revenue from all sources separately stated as to each source and expenditures from the prior two years; estimates of the current year's revenue from all sources separately stated as to each source and expenditures; and a summary which outlines the fiscal policy of the district or agency for the period covered by the budget. Such proposed budget shall be available for inspection by the general public at each district's or agency's principal headquarters at least seven days prior to the meeting of the board of directors at which such budget is to be adopted. The budget shall be in a form approved by the Nebraska Power Review Board.

Notice of the place and time of such meeting of the board of directors shall be published at least seven days prior to the date set for such meeting in a newspaper of general circulation within the district or agency. The notice shall include a statement that the proposed budget is available for public inspection and the location where it is available. Any changes to the proposed budget made between the date the proposed budget is made available for public inspection and the date of the board meeting shall be added to the proposed budget at the principal headquarters of the district or agency prior to the board meeting. At such meeting the public shall have an opportunity to testify before the proposed budget is adopted, and a written record shall be kept of such meeting. If the adopted budget reflects a change from that shown in the proposed budget a summary of such changes shall be available for inspection at the principal headquarters of such district or agency.

Sec. 13. That section 77-3438, Revised Statutes Supplement, 1992, be amended to read as follows:

77-3438. (1) Except as provided in sections 77-3438.01, 77-3439, and 77-3440, no governing body shall adopt a budget statement

pursuant to section 13-506 or pursuant to the charter or ordinance of a city with a home rule charter in which the anticipated aggregate receipts from property taxes for any fiscal year exceed the anticipated aggregate receipts from property taxes for the prior fiscal year or, for a governing body which budgeted no revenue to be received from the levy of taxes on real and personal property in such year, the most recent fiscal year prior to such year for which the governing body did budget to receive property taxes.

(2) A governing body may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section if a final order of a court, the State Board of Equalization, or the Tax Commissioner from which no appeal is taken requires reimbursement by the governing body of property taxes to a taxpayer. The increase shall not exceed the amount of the reimbursement.

(3) A county board may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section not to exceed the dollar amount of reduction in state aid to the county resulting from the changes made to section 77-27,136 by Laws 1992, LB 1063.

(4) For political subdivisions that have annexed property or have consolidated after December 15, 1989, or for a new educational service unit organized pursuant to section 79-2202.06 or an existing educational service unit, which new or existing unit has added or received a school district or portion thereof, the anticipated aggregate receipts from property taxes shall be computed based on the combined aggregate property taxes of each subdivision in the fiscal year immediately preceding consolidation, annexation, or addition. The estimated amount of property taxes for the immediately preceding fiscal year from the annexed, added, or consolidated property to be added to the property taxes of the political subdivision shall be computed by multiplying the property tax levy of the political subdivision for the immediately preceding fiscal year by the taxable valuation of the annexed, added, or consolidated property for the immediately preceding fiscal year.

Sec. 14. That section 79-3819, Revised Statutes Supplement, 1992, be amended to read as follows:

79-3819. (1) A district may exceed its applicable allowable growth rate by a specific dollar amount in the situations described in this section.

(2) A district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in state or federal law. For purposes of this subsection, a final order of a court, the State Board of Equalization, or the Tax Commissioner from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

(3) The district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.

| Average daily membership of district | Projected increase of formula student by percentage |
|--------------------------------------|---|
| 0 - 50 | 10 |
| 50.01 - 250 | 5 |
| 250.01 - 1,000 | 3 |
| 1,000.01 and over | 1 |

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

(4) Construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a district to exceed its applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's applicable allowable growth rate for the ensuing school year.

(5) A district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(6) A district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured

risk or as a result of any final judgment of any court of competent jurisdiction, requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

Sec. 15. That section 84-304.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-304.01. It shall be the duty of the Auditor of Public Accounts to establish, by rule and regulation, minimum standards applicable to all audit, financial, or accounting reports or copies of such reports required to be filed with the Auditor of Public Accounts by any political subdivision of the State of Nebraska. Such minimum standards shall be in accordance with sound accounting principles and designed to bring about uniformity in the content and form of such reports within the same type of political subdivision. Audit reports of any political subdivision required to file such reports with the Auditor of Public Accounts shall be conducted in accordance with generally accepted government auditing standards. In connection with his or her duties, but at his or her discretion, the Auditor of Public Accounts may conduct performance audits of all political subdivisions receiving more than twenty-five thousand dollars in the audit year in tax funds from the state including all public utilities and all counties, townships, municipalities, cities, villages, districts, authorities, and other public corporations and entities.

Sec. 16. That section 84-304.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-304.02. The Auditor of Public Accounts, or a person designated by him or her, shall prepare a written review of all audit, accounting, or financial reports required to be filed by a political subdivision of the state with the Auditor of Public Accounts and cause one copy of such written review to be mailed to the political subdivision involved and one copy to the accountant who prepared the report. Such written review shall specifically set forth wherein the audit, accounting, or financial report fails to comply with the applicable minimum standards ~~adopted pursuant to section 84-304.01~~ and the necessary action to be taken to bring the report into compliance with such standards. The Auditor of Public Accounts may, upon continued failure to comply with such standards, refuse to accept for filing an audit, accounting, or financial report or any future report submitted for filing by any political subdivision.

Sec. 17. That original sections 13-504, 13-505, 13-506, 18-2451, 70-623, 70-623.03, 84-304.01, and 84-304.02, Reissue Revised Statutes of Nebraska, 1943, and sections 13-501, 13-508, 70-623.02, 77-3438, and 79-3819, Revised Statutes Supplement, 1992, are repealed.

Sec. 18. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.