

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 266

Introduced by Chambers, 11.

Read first time January 16, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Local Option Revenue Act; to amend
2 sections 77-27,142, 77-27,142.01, and 77-27,142.02,
3 Revised Statutes Cumulative Supplement, 2012; to
4 eliminate provisions relating to increases in sales and
5 use taxes; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 77-27,142, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-27,142 ~~(1)~~—Any incorporated municipality by ordinance
4 of its governing body is hereby authorized to impose a sales and use
5 tax of one-half percent, one percent, or one and one-half percent,
6 ~~one and three quarters percent, or two percent~~ upon the same
7 transactions that are sourced under the provisions of sections
8 77-2703.01 to 77-2703.04 within such incorporated municipality on
9 which the State of Nebraska is authorized to impose a tax pursuant to
10 the Nebraska Revenue Act of 1967, as amended from time to time. No
11 sales and use tax shall be imposed pursuant to this section until an
12 election has been held and a majority of the qualified electors have
13 approved such tax pursuant to sections 77-27,142.01 and 77-27,142.02.

14 ~~(2)(a) Any incorporated municipality that proposes to~~
15 ~~impose a municipal sales and use tax at a rate greater than one and~~
16 ~~one-half percent or increase a municipal sales and use tax to a rate~~
17 ~~greater than one and one-half percent shall submit the question of~~
18 ~~such tax or increase at a primary or general election held within the~~
19 ~~incorporated municipality. The question shall be submitted upon an~~
20 ~~affirmative vote by at least seventy percent of all of the members of~~
21 ~~the governing body of the incorporated municipality.~~

22 ~~(b) Any rate greater than one and one-half percent shall~~
23 ~~be used as follows:~~

24 ~~(i) In a city of the metropolitan class, the proceeds~~
25 ~~from the first one-quarter percent of the rate greater than one and~~

1 ~~one-half percent shall be used to reduce other taxes, the proceeds~~
2 ~~from the next one-eighth percent of the rate greater than one and~~
3 ~~one-half percent shall be used for public infrastructure projects,~~
4 ~~and the proceeds from the next one-eighth percent of the rate greater~~
5 ~~than one and one-half percent shall be used for purposes of the~~
6 ~~interlocal agreement or joint public agency agreement described in~~
7 ~~subsection (3) of this section;~~

8 ~~(ii) In a city of the primary class, up to fifteen~~
9 ~~percent of the proceeds from the rate in excess of one and one-half~~
10 ~~percent may be used for non-public infrastructure projects of an~~
11 ~~interlocal agreement or joint public agency agreement with another~~
12 ~~political subdivision within the municipality or the county in which~~
13 ~~the municipality is located, and the remaining proceeds shall be used~~
14 ~~for public infrastructure projects or voter approved infrastructure~~
15 ~~related to an economic development program as defined in section~~
16 ~~18-2705; and~~

17 ~~(iii) In any incorporated municipality other than a city~~
18 ~~of the metropolitan or primary class, the proceeds from the rate in~~
19 ~~excess of one and one-half percent shall be used for public~~
20 ~~infrastructure projects or voter approved infrastructure related to~~
21 ~~an economic development program as defined in section 18-2705.~~

22 ~~For purposes of this section, public infrastructure~~
23 ~~project means and includes, but is not limited to, any of the~~
24 ~~following projects, or any combination thereof: Public highways and~~
25 ~~bridges and municipal roads, streets, bridges, and sidewalks; solid~~

1 ~~waste management facilities; wastewater, storm water, and water~~
2 ~~treatment works and systems, water distribution facilities, and water~~
3 ~~resources projects, including, but not limited to, pumping stations,~~
4 ~~transmission lines, and mains and their appurtenances; hazardous~~
5 ~~waste disposal systems; resource recovery systems; airports; port~~
6 ~~facilities; buildings and capital equipment used in the operation of~~
7 ~~municipal government; convention and tourism facilities;~~
8 ~~redevelopment projects as defined in section 18-2103; mass transit~~
9 ~~and other transportation systems, including parking facilities; and~~
10 ~~equipment necessary for the provision of municipal services.~~

11 ~~(c) Any rate greater than one and one half percent shall~~
12 ~~terminate no more than ten years after its effective date or, if~~
13 ~~bonds are issued and the local option sales and use tax revenue is~~
14 ~~pledged for payment of such bonds, upon payment of such bonds and any~~
15 ~~refunding bonds, whichever date is later, except as provided in~~
16 ~~subdivision (2)(d) of this section.~~

17 ~~(d) If a portion of the rate greater than one and one-~~
18 ~~half percent is stated in the ballot question as being imposed for~~
19 ~~the purpose of the interlocal agreement or joint public agency~~
20 ~~agreement described in subdivision (2)(b)(ii) or subsection (3) of~~
21 ~~this section, and such portion is at least one eighth percent, there~~
22 ~~shall be no termination date for the rate representing such portion~~
23 ~~rounded to the next higher one quarter or one half percent.~~

24 ~~(e) Sections 13-518 to 13-522 apply to the revenue from~~
25 ~~any such tax or increase.~~

1 ~~(3)(a) No municipal sales and use tax shall be imposed at~~
2 ~~a rate greater than one and one half percent or increased to a rate~~
3 ~~greater than one and one half percent unless the municipality is a~~
4 ~~party to an interlocal agreement pursuant to the Interlocal~~
5 ~~Cooperation Act or a joint public agency agreement pursuant to the~~
6 ~~Joint Public Agency Act with a political subdivision within the~~
7 ~~municipality or the county in which the municipality is located~~
8 ~~creating a separate legal or administrative entity relating to a~~
9 ~~public infrastructure project.~~

10 ~~(b) Except as provided in subdivision (2)(b)(ii) of this~~
11 ~~section, such interlocal agreement or joint public agency agreement~~
12 ~~shall contain provisions, including benchmarks, relating to the long-~~
13 ~~term development of unified governance of public infrastructure~~
14 ~~projects with respect to the parties. The Legislature may provide~~
15 ~~additional requirements for such agreements, including benchmarks,~~
16 ~~but such additional requirements shall not apply to any debt~~
17 ~~outstanding at the time the Legislature enacts such additional~~
18 ~~requirements. The separate legal or administrative entity created~~
19 ~~shall not be one that was in existence for one calendar year~~
20 ~~preceding the submission of the question of such tax or increase at a~~
21 ~~primary or general election held within the incorporated~~
22 ~~municipality.~~

23 ~~(c) Any other public agency as defined in section 13-803~~
24 ~~may be a party to such interlocal cooperation agreement or joint~~
25 ~~public agency agreement.~~

1 ~~(d) A municipality is not required to use all of the~~
2 ~~additional revenue generated by a sales and use tax imposed at a rate~~
3 ~~greater than one and one-half percent or increased to a rate greater~~
4 ~~than one and one-half percent under this subsection for the purposes~~
5 ~~of the interlocal cooperation agreement or joint public agency~~
6 ~~agreement set forth in this subsection.~~

7 ~~(4) The provisions of subsections (2) and (3) of this~~
8 ~~section do not apply to the first one and one-half percent of a sales~~
9 ~~and use tax imposed by a municipality.~~

10 ~~(5) Notwithstanding any provision of any municipal~~
11 ~~charter, any incorporated municipality or interlocal agency or joint~~
12 ~~public agency pursuant to an agreement as provided in subsection (3)~~
13 ~~of this section may issue bonds in one or more series for any~~
14 ~~municipal purpose and pay the principal of and interest on any such~~
15 ~~bonds by pledging receipts from the increase in the municipal sales~~
16 ~~and use taxes authorized by such municipality. Any municipality which~~
17 ~~has or may issue bonds under this section may dedicate a portion of~~
18 ~~its property tax levy authority as provided in section 77-3442 to~~
19 ~~meet debt service obligations under the bonds. For purposes of this~~
20 ~~subsection, bond means any evidence of indebtedness, including, but~~
21 ~~not limited to, bonds, notes including notes issued pending long term~~
22 ~~financing arrangements, warrants, debentures, obligations under a~~
23 ~~loan agreement or a lease purchase agreement, or any similar~~
24 ~~instrument or obligation.~~

25 Sec. 2. Section 77-27,142.01, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 77-27,142.01 ~~(1)~~The governing body of any incorporated
3 municipality may submit the question of changing any terms and
4 conditions of a sales and use tax previously authorized under section
5 77-27,142. ~~Except as otherwise provided by section 77-27,142, the~~ The
6 question of modification shall be submitted to the voters at any
7 primary or general election or at a special election if the governing
8 body submits a certified copy of the resolution proposing
9 modification to the election commissioner or county clerk within the
10 time prior to the primary, general, or special election prescribed in
11 section 77-27,142.02.

12 ~~(2) If the change imposes a sales and use tax at a rate~~
13 ~~greater than one and one-half percent or increases the sales and use~~
14 ~~tax to a rate greater than one and one-half percent, the question~~
15 ~~shall include, but not be limited to:~~

16 ~~(a) The percentage increase of one-quarter percent or~~
17 ~~one-half percent in the sales and use tax rate;~~

18 ~~(b) A list of reductions or elimination of other taxes or~~
19 ~~fees, if any;~~

20 ~~(c) A description of the projects to be funded, in whole~~
21 ~~or in part, from the revenue collected, along with any savings or~~
22 ~~efficiencies resulting from the projects;~~

23 ~~(d) The year or years within which the revenue will be~~
24 ~~collected and, if bonds will be issued with some or all of the~~
25 ~~revenue pledged for payment of such bonds, a statement that the~~

1 ~~revenue will be collected until the payment in full of such bonds and~~
2 ~~any refunding bonds; and~~

3 ~~(e)(i) The percentage of revenue collected to be used for~~
4 ~~the purposes of the interlocal agreement or joint public agency~~
5 ~~agreement as provided in subdivision (2)(b)(ii) or subsection (3) of~~
6 ~~section 77-27,142; (ii) a statement of the overall purpose of the~~
7 ~~agreement which is the long term development of unified governance of~~
8 ~~public infrastructure projects, if applicable; and (iii) the name of~~
9 ~~any other political subdivision which is a party to the agreement.~~

10 ~~This subsection does not apply to the first one and one-~~
11 ~~half percent of a sales and use tax imposed by a municipality.~~

12 Sec. 3. Section 77-27,142.02, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 77-27,142.02 ~~Except as otherwise provided by subsection~~
15 ~~(2) of section 77-27,142, the~~The power granted by section 77-27,142
16 shall not be exercised unless and until the question has been
17 submitted at a primary, general, or special election held within the
18 incorporated municipality and in which all qualified electors shall
19 be entitled to vote on such question. The officials of the
20 incorporated municipality shall order the submission of the question
21 by submitting a certified copy of the resolution proposing the tax to
22 the election commissioner or county clerk by March 1 for a primary
23 election, by September 1 for a general election, or at least fifty
24 days before a special election. ~~Except as otherwise provided by~~
25 ~~subsection (2) of section 77-27,142.01, the~~The question may include

1 any terms and conditions set forth in the resolution proposing the
2 tax, such as a termination date or the specific project or program
3 for which the revenue received from such tax will be allocated, and
4 shall include the following language: Shall the governing body of the
5 incorporated municipality impose a sales and use tax upon the same
6 transactions within such municipality on which the State of Nebraska
7 is authorized to impose a tax? If a majority of the votes cast upon
8 such question shall be in favor of such tax, then the governing body
9 of such incorporated municipality shall be empowered as provided by
10 section 77-27,142 and shall forthwith proceed to impose a tax
11 pursuant to the Local Option Revenue Act. If a majority of those
12 voting on the question shall be opposed to such tax, then the
13 governing body of the incorporated municipality shall not impose such
14 a tax.

15 Sec. 4. Original sections 77-27,142, 77-27,142.01, and
16 77-27,142.02, Revised Statutes Cumulative Supplement, 2012, are
17 repealed.