

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1031

Introduced by Hansen, 26; Morfeld, 46.

Read first time January 19, 2016

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 74-1306 and 77-1601.02, Reissue Revised Statutes of Nebraska,
3 section 77-3445, Revised Statutes Cumulative Supplement, 2014, and
4 sections 77-3442 and 77-3443, Revised Statutes Supplement, 2015; to
5 change the levy authority of railroad transportation safety
6 districts; to harmonize provisions; to provide an operative date;
7 and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 74-1306, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 74-1306 Before July 1 of each calendar year, the board of directors
4 shall prepare an itemized budget of funds needed for the next fiscal year
5 which are necessary to carry out the authorities granted under sections
6 74-1302, 74-1303, and 74-1305. The board of directors shall transmit such
7 budget to the county board. The board of directors may county board shall
8 levy a tax sufficient to produce the amount of funds requested but not to
9 exceed two and six-tenths cents on each one hundred dollars upon the
10 taxable value of all taxable property in the county as provided in
11 section 77-3442 subject to section 77-3443. Such levy shall be in
12 addition to all other levies authorized or limited by law and shall not
13 be considered to be within either the county maximum levy limitation
14 contained in subsection (8) of section 74-3442 or the levy limitation for
15 other political subdivisions within the county as provided in such
16 subsection. The tax so levied shall be collected in the same manner as
17 other property taxes, and the proceeds therefrom shall be kept in a
18 separate account identified by the official name of the railroad
19 transportation safety district. The county treasurer shall transfer such
20 funds to the district as requested by the board of directors.

21 Sec. 2. Section 77-1601.02, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-1601.02 (1) The property tax request for the prior year shall be
24 the property tax request for the current year for purposes of the levy
25 set by the county board of equalization in section 77-1601 unless the
26 governing body of the county, municipality, school district, learning
27 community, sanitary and improvement district, natural resources district,
28 educational service unit, railroad transportation safety district, or
29 community college passes by a majority vote a resolution or ordinance
30 setting the tax request at a different amount. Such resolution or
31 ordinance shall only be passed after a special public hearing called for

1 such purpose is held and after notice is published in a newspaper of
2 general circulation in the area of the political subdivision at least
3 five days prior to the hearing. The hearing notice shall contain the
4 following information: The dollar amount of the prior year's tax request
5 and the property tax rate that was necessary to fund that tax request;
6 the property tax rate that would be necessary to fund last year's tax
7 request if applied to the current year's valuation; and the proposed
8 dollar amount of the tax request for the current year and the property
9 tax rate that will be necessary to fund that tax request. Any resolution
10 setting a tax request under this section shall be certified and forwarded
11 to the county clerk on or before October 13 of the year for which the tax
12 request is to apply.

13 (2) Any levy which is not in compliance with this section and
14 section 77-1601 shall be construed as an unauthorized levy under section
15 77-1606.

16 Sec. 3. Section 77-3442, Revised Statutes Supplement, 2015, is
17 amended to read:

18 77-3442 (1) Property tax levies for the support of local governments
19 for fiscal years beginning on or after July 1, 1998, shall be limited to
20 the amounts set forth in this section except as provided in section
21 77-3444.

22 (2)(a) Except as provided in subdivision (2)(e) of this section,
23 school districts and multiple-district school systems, except learning
24 communities and school districts that are members of learning
25 communities, may levy a maximum levy of one dollar and five cents per one
26 hundred dollars of taxable valuation of property subject to the levy.

27 (b) For each fiscal year, learning communities may levy a maximum
28 levy for the general fund budgets of member school districts of ninety-
29 five cents per one hundred dollars of taxable valuation of property
30 subject to the levy. The proceeds from the levy pursuant to this
31 subdivision shall be distributed pursuant to section 79-1073.

1 (c) Except as provided in subdivision (2)(e) of this section, for
2 each fiscal year, school districts that are members of learning
3 communities may levy for purposes of such districts' general fund budget
4 and special building funds a maximum combined levy of the difference of
5 one dollar and five cents on each one hundred dollars of taxable property
6 subject to the levy minus the learning community levies pursuant to
7 subdivisions (2)(b) and (2)(g) of this section for such learning
8 community.

9 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
10 of this section are amounts levied to pay for sums agreed to be paid by a
11 school district to certificated employees in exchange for a voluntary
12 termination of employment and amounts levied to pay for special building
13 funds and sinking funds established for projects commenced prior to April
14 1, 1996, for construction, expansion, or alteration of school district
15 buildings. For purposes of this subsection, commenced means any action
16 taken by the school board on the record which commits the board to expend
17 district funds in planning, constructing, or carrying out the project.

18 (e) Federal aid school districts may exceed the maximum levy
19 prescribed by subdivision (2)(a) or (2)(c) of this section only to the
20 extent necessary to qualify to receive federal aid pursuant to Title VIII
21 of Public Law 103-382, as such title existed on September 1, 2001. For
22 purposes of this subdivision, federal aid school district means any
23 school district which receives ten percent or more of the revenue for its
24 general fund budget from federal government sources pursuant to Title
25 VIII of Public Law 103-382, as such title existed on September 1, 2001.

26 (f) For school fiscal year 2002-03 through school fiscal year
27 2007-08, school districts and multiple-district school systems may, upon
28 a three-fourths majority vote of the school board of the school district,
29 the board of the unified system, or the school board of the high school
30 district of the multiple-district school system that is not a unified
31 system, exceed the maximum levy prescribed by subdivision (2)(a) of this

1 section in an amount equal to the net difference between the amount of
2 state aid that would have been provided under the Tax Equity and
3 Educational Opportunities Support Act without the temporary aid
4 adjustment factor as defined in section 79-1003 for the ensuing school
5 fiscal year for the school district or multiple-district school system
6 and the amount provided with the temporary aid adjustment factor. The
7 State Department of Education shall certify to the school districts and
8 multiple-district school systems the amount by which the maximum levy may
9 be exceeded for the next school fiscal year pursuant to this subdivision
10 (f) of this subsection on or before February 15 for school fiscal years
11 2004-05 through 2007-08.

12 (g) For each fiscal year, learning communities may levy a maximum
13 levy of two cents on each one hundred dollars of taxable property subject
14 to the levy for special building funds for member school districts. The
15 proceeds from the levy pursuant to this subdivision shall be distributed
16 pursuant to section 79-1073.01.

17 (h) For each fiscal year, learning communities may levy a maximum
18 levy of one-half cent on each one hundred dollars of taxable property
19 subject to the levy for elementary learning center facility leases, for
20 remodeling of leased elementary learning center facilities, and for up to
21 fifty percent of the estimated cost for focus school or program capital
22 projects approved by the learning community coordinating council pursuant
23 to section 79-2111.

24 (i) For each fiscal year, learning communities may levy a maximum
25 levy of one and one-half cents on each one hundred dollars of taxable
26 property subject to the levy for early childhood education programs for
27 children in poverty, for elementary learning center employees, for
28 contracts with other entities or individuals who are not employees of the
29 learning community for elementary learning center programs and services,
30 and for pilot projects, except that no more than ten percent of such levy
31 may be used for elementary learning center employees.

1 (3)(a) For fiscal years 2011-12 and 2012-13, community college areas
2 may levy a maximum of ten and one-quarter cents per one hundred dollars
3 of taxable valuation of property subject to the levy for operating
4 expenditures and may also levy the additional levies provided in
5 subdivisions (1)(b) and (c) of section 85-1517.

6 (b) For fiscal year 2013-14 and each fiscal year thereafter,
7 community college areas may levy the levies provided in subdivisions (2)
8 (a) through (c) of section 85-1517, in accordance with the provisions of
9 such subdivisions. A community college area may exceed the levy provided
10 in subdivision (2)(b) of section 85-1517 by the amount necessary to
11 retire general obligation bonds assumed by the community college area or
12 issued pursuant to section 85-1515 according to the terms of such bonds
13 or for any obligation pursuant to section 85-1535 entered into prior to
14 January 1, 1997.

15 (4)(a) Natural resources districts may levy a maximum levy of four
16 and one-half cents per one hundred dollars of taxable valuation of
17 property subject to the levy.

18 (b) Natural resources districts shall also have the power and
19 authority to levy a tax equal to the dollar amount by which their
20 restricted funds budgeted to administer and implement ground water
21 management activities and integrated management activities under the
22 Nebraska Ground Water Management and Protection Act exceed their
23 restricted funds budgeted to administer and implement ground water
24 management activities and integrated management activities for FY2003-04,
25 not to exceed one cent on each one hundred dollars of taxable valuation
26 annually on all of the taxable property within the district.

27 (c) In addition, natural resources districts located in a river
28 basin, subbasin, or reach that has been determined to be fully
29 appropriated pursuant to section 46-714 or designated as overappropriated
30 pursuant to section 46-713 by the Department of Natural Resources shall
31 also have the power and authority to levy a tax equal to the dollar

1 amount by which their restricted funds budgeted to administer and
2 implement ground water management activities and integrated management
3 activities under the Nebraska Ground Water Management and Protection Act
4 exceed their restricted funds budgeted to administer and implement ground
5 water management activities and integrated management activities for
6 FY2005-06, not to exceed three cents on each one hundred dollars of
7 taxable valuation on all of the taxable property within the district for
8 fiscal year 2006-07 and each fiscal year thereafter through fiscal year
9 2017-18.

10 (5) Any educational service unit authorized to levy a property tax
11 pursuant to section 79-1225 may levy a maximum levy of one and one-half
12 cents per one hundred dollars of taxable valuation of property subject to
13 the levy.

14 (6)(a) Incorporated cities and villages which are not within the
15 boundaries of a municipal county may levy a maximum levy of forty-five
16 cents per one hundred dollars of taxable valuation of property subject to
17 the levy plus an additional five cents per one hundred dollars of taxable
18 valuation to provide financing for the municipality's share of revenue
19 required under an agreement or agreements executed pursuant to the
20 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum
21 levy shall include amounts levied to pay for sums to support a library
22 pursuant to section 51-201, museum pursuant to section 51-501, visiting
23 community nurse, home health nurse, or home health agency pursuant to
24 section 71-1637, or statue, memorial, or monument pursuant to section
25 80-202.

26 (b) Incorporated cities and villages which are within the boundaries
27 of a municipal county may levy a maximum levy of ninety cents per one
28 hundred dollars of taxable valuation of property subject to the levy. The
29 maximum levy shall include amounts paid to a municipal county for county
30 services, amounts levied to pay for sums to support a library pursuant to
31 section 51-201, a museum pursuant to section 51-501, a visiting community

1 nurse, home health nurse, or home health agency pursuant to section
2 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

3 (7) Sanitary and improvement districts which have been in existence
4 for more than five years may levy a maximum levy of forty cents per one
5 hundred dollars of taxable valuation of property subject to the levy, and
6 sanitary and improvement districts which have been in existence for five
7 years or less shall not have a maximum levy. Unconsolidated sanitary and
8 improvement districts which have been in existence for more than five
9 years and are located in a municipal county may levy a maximum of eighty-
10 five cents per hundred dollars of taxable valuation of property subject
11 to the levy.

12 (8) Counties may levy or authorize a maximum levy of fifty cents per
13 one hundred dollars of taxable valuation of property subject to the levy,
14 except that five cents per one hundred dollars of taxable valuation of
15 property subject to the levy may only be levied to provide financing for
16 the county's share of revenue required under an agreement or agreements
17 executed pursuant to the Interlocal Cooperation Act or the Joint Public
18 Agency Act. The maximum levy shall include amounts levied to pay for sums
19 to support a library pursuant to section 51-201 or museum pursuant to
20 section 51-501. The county may allocate up to fifteen cents of its
21 authority to other political subdivisions subject to allocation of
22 property tax authority under subsection (1) of section 77-3443 and not
23 specifically covered in this section to levy taxes as authorized by law
24 which do not collectively exceed fifteen cents per one hundred dollars of
25 taxable valuation on any parcel or item of taxable property. The county
26 may allocate to one or more other political subdivisions subject to
27 allocation of property tax authority by the county under subsection (1)
28 of section 77-3443 some or all of the county's five cents per one hundred
29 dollars of valuation authorized for support of an agreement or agreements
30 to be levied by the political subdivision for the purpose of supporting
31 that political subdivision's share of revenue required under an agreement

1 or agreements executed pursuant to the Interlocal Cooperation Act or the
2 Joint Public Agency Act. If an allocation by a county would cause another
3 county to exceed its levy authority under this section, the second county
4 may exceed the levy authority in order to levy the amount allocated.

5 (9) Municipal counties may levy or authorize a maximum levy of one
6 dollar per one hundred dollars of taxable valuation of property subject
7 to the levy. The municipal county may allocate levy authority to any
8 political subdivision or entity subject to allocation under section
9 77-3443.

10 (10) Rural and suburban fire protection districts may levy a maximum
11 levy of ten and one-half cents per one hundred dollars of taxable
12 valuation of property subject to the levy if (a) such district is located
13 in a county that had a levy pursuant to subsection (8) of this section in
14 the previous year of at least forty cents per one hundred dollars of
15 taxable valuation of property subject to the levy or (b) for any rural or
16 suburban fire protection district that had a levy request pursuant to
17 section 77-3443 in the previous year, the county board of the county in
18 which the greatest portion of the valuation of such district is located
19 did not authorize any levy authority to such district in the previous
20 year.

21 (11) Railroad transportation safety districts may levy a maximum
22 levy of two and six-tenths cents per one hundred dollars of taxable
23 valuation of property subject to the levy.

24 (~~12~~ 11) Property tax levies (a) for judgments, except judgments or
25 orders from the Commission of Industrial Relations, obtained against a
26 political subdivision which require or obligate a political subdivision
27 to pay such judgment, to the extent such judgment is not paid by
28 liability insurance coverage of a political subdivision, (b) for
29 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)
30 for bonds as defined in section 10-134 approved according to law and
31 secured by a levy on property except as provided in section 44-4317 for

1 bonded indebtedness issued by educational service units and school
2 districts, and (d) for payments by a public airport to retire interest-
3 free loans from the Department of Aeronautics in lieu of bonded
4 indebtedness at a lower cost to the public airport are not included in
5 the levy limits established by this section.

6 (13 12) The limitations on tax levies provided in this section are
7 to include all other general or special levies provided by law.
8 Notwithstanding other provisions of law, the only exceptions to the
9 limits in this section are those provided by or authorized by sections
10 77-3442 to 77-3444.

11 (14 13) Tax levies in excess of the limitations in this section
12 shall be considered unauthorized levies under section 77-1606 unless
13 approved under section 77-3444.

14 (15 14) For purposes of sections 77-3442 to 77-3444, political
15 subdivision means a political subdivision of this state and a county
16 agricultural society.

17 (16 15) For school districts that file a binding resolution on or
18 before May 9, 2008, with the county assessors, county clerks, and county
19 treasurers for all counties in which the school district has territory
20 pursuant to subsection (7) of section 79-458, if the combined levies,
21 except levies for bonded indebtedness approved by the voters of the
22 school district and levies for the refinancing of such bonded
23 indebtedness, are in excess of the greater of (a) one dollar and twenty
24 cents per one hundred dollars of taxable valuation of property subject to
25 the levy or (b) the maximum levy authorized by a vote pursuant to section
26 77-3444, all school district levies, except levies for bonded
27 indebtedness approved by the voters of the school district and levies for
28 the refinancing of such bonded indebtedness, shall be considered
29 unauthorized levies under section 77-1606.

30 Sec. 4. Section 77-3443, Revised Statutes Supplement, 2015, is
31 amended to read:

1 77-3443 (1) All political subdivisions, other than (a) school
2 districts, community colleges, natural resources districts, educational
3 service units, cities, villages, counties, municipal counties, rural and
4 suburban fire protection districts that have levy authority pursuant to
5 subsection (10) of section 77-3442, railroad transportation safety
6 districts, and sanitary and improvement districts and (b) political
7 subdivisions subject to municipal allocation under subsection (2) of this
8 section, may levy taxes as authorized by law which are authorized by the
9 county board of the county or the council of a municipal county in which
10 the greatest portion of the valuation is located, which are counted in
11 the county or municipal county levy limit provided in section 77-3442,
12 and which do not collectively total more than fifteen cents per one
13 hundred dollars of taxable valuation on any parcel or item of taxable
14 property for all governments for which allocations are made by the
15 municipality, county, or municipal county, except that such limitation
16 shall not apply to property tax levies for preexisting lease-purchase
17 contracts approved prior to July 1, 1998, for bonded indebtedness
18 approved according to law and secured by a levy on property, and for
19 payments by a public airport to retire interest-free loans from the
20 Department of Aeronautics in lieu of bonded indebtedness at a lower cost
21 to the public airport. The county board or council shall review and
22 approve or disapprove the levy request of all political subdivisions
23 subject to this subsection. The county board or council may approve all
24 or a portion of the levy request and may approve a levy request that
25 would allow the requesting political subdivision to levy a tax at a levy
26 greater than that permitted by law. The county board of a county or the
27 council of a municipal county which contains a transit authority created
28 pursuant to section 14-1803 shall allocate no less than three cents per
29 one hundred dollars of taxable property within the city or municipal
30 county subject to the levy to the transit authority if requested by such
31 authority. For any political subdivision subject to this subsection that

1 receives taxes from more than one county or municipal county, the levy
2 shall be allocated only by the county or municipal county in which the
3 greatest portion of the valuation is located. The county board of
4 equalization shall certify all levies by October 15 to insure that the
5 taxes levied by political subdivisions subject to this subsection do not
6 exceed the allowable limit for any parcel or item of taxable property.
7 The levy allocated by the county or municipal county may be exceeded as
8 provided in section 77-3444.

9 (2) All city airport authorities established under the Cities
10 Airport Authorities Act, community redevelopment authorities established
11 under the Community Development Law, transit authorities established
12 under the Transit Authority Law, and offstreet parking districts
13 established under the Offstreet Parking District Act may be allocated
14 property taxes as authorized by law which are authorized by the city,
15 village, or municipal county and are counted in the city or village levy
16 limit or municipal county levy limit provided by section 77-3442, except
17 that such limitation shall not apply to property tax levies for
18 preexisting lease-purchase contracts approved prior to July 1, 1998, for
19 bonded indebtedness approved according to law and secured by a levy on
20 property, and for payments by a public airport to retire interest-free
21 loans from the Department of Aeronautics in lieu of bonded indebtedness
22 at a lower cost to the public airport. For offstreet parking districts
23 established under the Offstreet Parking District Act, the tax shall be
24 counted in the allocation by the city proportionately, by dividing the
25 total taxable valuation of the taxable property within the district by
26 the total taxable valuation of the taxable property within the city
27 multiplied by the levy of the district. The city council of a city which
28 has created a transit authority pursuant to section 14-1803 or the
29 council of a municipal county which contains a transit authority shall
30 allocate no less than three cents per one hundred dollars of taxable
31 property subject to the levy to the transit authority if requested by

1 such authority. The city council, village board, or council shall review
2 and approve or disapprove the levy request of the political subdivisions
3 subject to this subsection. The city council, village board, or council
4 may approve all or a portion of the levy request and may approve a levy
5 request that would allow a levy greater than that permitted by law. The
6 levy allocated by the municipality or municipal county may be exceeded as
7 provided in section 77-3444.

8 (3) On or before August 1, all political subdivisions subject to
9 county, municipal, or municipal county levy authority under this section
10 shall submit a preliminary request for levy allocation to the county
11 board, city council, village board, or council that is responsible for
12 levying such taxes. The preliminary request of the political subdivision
13 shall be in the form of a resolution adopted by a majority vote of
14 members present of the political subdivision's governing body. The
15 failure of a political subdivision to make a preliminary request shall
16 preclude such political subdivision from using procedures set forth in
17 section 77-3444 to exceed the final levy allocation as determined in
18 subsection (4) of this section.

19 (4) Each county board, city council, village board, or council shall
20 (a) adopt a resolution by a majority vote of members present which
21 determines a final allocation of levy authority to its political
22 subdivisions and (b) forward a copy of such resolution to the chairperson
23 of the governing body of each of its political subdivisions. No final
24 levy allocation shall be changed after September 1 except by agreement
25 between both the county board, city council, village board, or council
26 which determined the amount of the final levy allocation and the
27 governing body of the political subdivision whose final levy allocation
28 is at issue.

29 Sec. 5. Section 77-3445, Revised Statutes Cumulative Supplement,
30 2014, is amended to read:

31 77-3445 A council on public improvements and services may be created

1 within each county or for adjoining counties by resolutions of county
2 boards or by joint resolutions passed by at least three different types
3 of political subdivisions located in the county which are authorized to
4 levy property taxes or which may benefit from property taxes affected by
5 the levy limits imposed by sections 77-3442 to 77-3444. Such councils
6 shall include, but are not limited to, one elected official from each
7 school board, county board, incorporated city or village, natural
8 resources district, community college, educational service unit, hospital
9 district, airport authority, fire protection district, railroad
10 transportation safety district, and township taxing property within the
11 county or counties. The elected governing body of each political
12 subdivision which has the legal authority to request property tax funding
13 or a levy set by the county board within a county may by resolution of
14 the governing body appoint one elected official from the governing board
15 to the council on public improvements and services.

16 Councils on public improvements and services may meet as often as
17 necessary prior to the adoption of budgets and property tax requests
18 affected by the levy limits described in sections 77-3442 to 77-3444. The
19 council shall jointly examine the budgets and property tax requests of
20 each governmental agency or quasi-governmental agency with statutory
21 authority to request a share of the property tax. The county clerk of
22 each county shall attend such meetings and keep a public record of the
23 proceedings. Each council on public improvements and services which is
24 created by resolution as provided in this section shall hold at least one
25 public meeting prior to the adoption of public budgets affected by the
26 levy limits imposed by sections 77-3442 to 77-3444. Such council may
27 continue to meet to discuss issues of public service provision in an
28 effective and coordinated manner, the impacts of levy limits, state and
29 federal law, program, or aid changes, and the joint provision or use of
30 capital facilities and equipment.

31 Sec. 6. This act becomes operative on January 1, 2017.

1 Sec. 7. Original sections 74-1306 and 77-1601.02, Reissue Revised
2 Statutes of Nebraska, section 77-3445, Revised Statutes Cumulative
3 Supplement, 2014, and sections 77-3442 and 77-3443, Revised Statutes
4 Supplement, 2015, are repealed.