

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 647

Introduced by Hartnett, 45

Read first time January 22, 2003

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to political subdivisions; to amend section
2 39-868, Reissue Revised Statutes of Nebraska, and
3 sections 13-503 and 84-304, Revised Statutes supplement,
4 2002; to provide powers and duties for bridge
5 commissions; to change provisions relating to the
6 Nebraska Budget Act; to provide for examination of
7 records by the Auditor of Public Accounts; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-503, Revised Statutes Supplement,
2 2002, is amended to read:

3 13-503. For purposes of the Nebraska Budget Act, unless
4 the context otherwise requires:

5 (1) Governing body shall mean the governing body of any
6 county agricultural society, elected county fair board, joint
7 airport authority formed under the Joint Airport Authorities Act,
8 city or county airport authority, bridge commission created
9 pursuant to section 39-868, cemetery district, city, village,
10 municipal county, community college, community redevelopment
11 authority, county, drainage or levee district, educational service
12 unit, rural or suburban fire protection district, historical
13 society, hospital district, irrigation district, natural resources
14 district, nonprofit county historical association or society for
15 which a tax is levied under subsection (1) of section 23-355.01,
16 public building commission, railroad transportation safety
17 district, reclamation district, road improvement district, rural
18 water district, school district, sanitary and improvement district,
19 township, offstreet parking district, transit authority,
20 metropolitan utilities district, and political subdivision with the
21 authority to have a property tax request, with the authority to
22 levy a toll, or that receives state aid;

23 (2) Levying board shall mean any governing body which has
24 the power or duty to levy a tax;

25 (3) Fiscal year shall mean the twelve-month period used
26 by each governing body in determining and carrying on its financial
27 and taxing affairs;

28 (4) Tax shall mean any general or special tax levied

1 against persons, property, or business for public purposes as
2 provided by law but shall not include any special assessment;

3 (5) Auditor shall mean the Auditor of Public Accounts;

4 (6) Cash reserve shall mean funds required for the period
5 before revenue would become available for expenditure but shall not
6 include funds held in any special reserve fund;

7 (7) Public funds shall mean all money, including nontax
8 money, used in the operation and functions of governing bodies.
9 For purposes of a county, city, or village which has a lottery
10 established under the Nebraska County and City Lottery Act, only
11 those net proceeds which are actually received by the county, city,
12 or village from a licensed lottery operator shall be considered
13 public funds, and public funds shall not include amounts awarded as
14 prizes;

15 (8) Adopted budget statement shall mean a proposed budget
16 statement which has been adopted or amended and adopted as provided
17 in section 13-506. Such term shall include additions, if any, to
18 an adopted budget statement made by a revised budget which has been
19 adopted as provided in section 13-511;

20 (9) Special reserve fund shall mean any special fund set
21 aside by the governing body for a particular purpose and not
22 available for expenditure for any other purpose. Funds created for
23 (a) the retirement of bonded indebtedness, (b) the funding of
24 employee pension plans, (c) the purposes of the Political
25 Subdivisions Self-Funding Benefits Act, (d) the purposes of the
26 Local Option Municipal Economic Development Act, (e) voter-approved
27 sinking funds, or (f) statutorily authorized sinking funds shall be
28 considered special reserve funds;

1 (10) Biennial period shall mean the two fiscal years
2 comprising a biennium commencing in odd-numbered years used by a
3 city in determining and carrying on its financial and taxing
4 affairs; and

5 (11) Biennial budget shall mean a budget by a city of the
6 primary or metropolitan class that adopts a charter provision
7 providing for a biennial period to determine and carry on the
8 city's financial and taxing affairs.

9 Sec. 2. Section 39-868, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 39-868. Through the exercise of the powers conferred by
12 sections 39-855 to 39-872, the governing body of any county, city,
13 or village may by resolution create a bridge commission. Upon the
14 passage of such resolution, the governing body of such county shall
15 appoint three, four, or five persons who shall constitute the
16 bridge commission of such county. The bridge commission shall be a
17 public body corporate and politic and a political subdivision of
18 the State of Nebraska. The bridge commission shall have the power
19 to contract, to sue and be sued, and to adopt a seal and alter the
20 same at pleasure, but shall not have power to pledge the credit or
21 taxing power of the county.

22 Sec. 3. Section 84-304, Revised Statutes Supplement,
23 2002, is amended to read:

24 84-304. It shall be the duty of the Auditor of Public
25 Accounts:

26 (1) To give information in writing to the Legislature,
27 whenever required, upon any subject relating to the fiscal affairs
28 of the state or with regard to any duty of his or her office;

1 (2) To furnish offices for himself or herself and all
2 fuel, lights, books, blanks, forms, paper, and stationery required
3 for the proper discharge of the duties of his or her office;

4 (3) To examine or cause to be examined, at such time as
5 he or she shall determine, books, accounts, vouchers, records, and
6 expenditures of all state officers, state bureaus, state boards,
7 state commissioners, the state library, societies and associations
8 supported by the state, state institutions, state colleges, and the
9 University of Nebraska, except when required to be performed by
10 other officers or persons;

11 (4) (a) To examine or cause to be examined, at the expense
12 of the political subdivision, when the Auditor of Public Accounts
13 determines such examination necessary or when requested by the
14 political subdivision, the books, accounts, vouchers, records, and
15 expenditures of an agricultural association formed under Chapter 2,
16 article 20, county agricultural society, joint airport authority
17 formed under the Joint Airport Authorities Act, city or county
18 airport authority, bridge commission created pursuant to section
19 39-868, cemetery district, development district, drainage district,
20 health district, historical society, hospital authority or
21 district, county hospital, housing agency as defined in section
22 71-1575, irrigation district, county or municipal library,
23 community mental health center, railroad transportation safety
24 district, rural water district, township, Wyuka Cemetery, any
25 village, any political subdivision with the authority to levy a
26 property tax or a toll, or any entity created pursuant to the Joint
27 Public Agency Act which has separately levied a property tax based
28 on legal authority for a joint public agency to levy such a tax

1 independent of the public agencies forming such joint public
2 agency.

3 (b) The Auditor of Public Accounts may waive the audit
4 requirement of subdivision (4)(a) of this section upon the
5 submission by the political subdivision of a written request in a
6 form prescribed by the auditor. The auditor shall notify the
7 political subdivision in writing of the approval or denial of the
8 request for a waiver;

9 (5) To report promptly to the Director of Administrative
10 Services and the appropriate standing committee of the Legislature
11 the fiscal condition shown by such examinations conducted by the
12 auditor, including any irregularities or misconduct of officers or
13 employees, any misappropriation or misuse of public funds or
14 property, and any improper system or method of bookkeeping or
15 condition of accounts;

16 (6)(a) To examine or cause to be examined the books,
17 accounts, vouchers, records, and expenditures of a fire protection
18 district. The expense of the examination shall be paid by the
19 political subdivision.

20 (b) Whenever the expenditures of a fire protection
21 district are one hundred fifty thousand dollars or less per fiscal
22 year, the fire protection district shall be audited no more than
23 once every five years except as directed by the board of directors
24 of the fire protection district or unless the auditor receives a
25 verifiable report from a third party indicating any irregularities
26 or misconduct of officers or employees of the fire protection
27 district, any misappropriation or misuse of public funds or
28 property, or any improper system or method of bookkeeping or

1 condition of accounts of the fire protection district. In the
2 absence of such a report, the auditor may waive the five-year audit
3 requirement upon the submission of a written request by the fire
4 protection district in a form prescribed by the auditor. The
5 auditor shall notify the fire protection district in writing of the
6 approval or denial of a request for waiver of the five-year audit
7 requirement. Upon approval of the request for waiver of the
8 five-year audit requirement, a new five-year audit period shall
9 begin.

10 (c) Whenever the expenditures of a fire protection
11 district exceed one hundred fifty thousand dollars in a fiscal
12 year, the auditor may waive the audit requirement upon the
13 submission of a written request by the fire protection district in
14 a form prescribed by the auditor. The auditor shall notify the
15 fire protection district in writing of the approval or denial of a
16 request for waiver. Upon approval of the request for waiver, a new
17 five-year audit period shall begin for the fire protection district
18 if its expenditures are one hundred fifty thousand dollars or less
19 per fiscal year in subsequent years;

20 (7) To appoint two assistant deputies (a) whose entire
21 time shall be devoted to the service of the state as directed by
22 the auditor, (b) who shall be certified public accountants with at
23 least five years' experience, (c) who shall be selected without
24 regard to party affiliation or to place of residence at the time of
25 appointment, (d) who shall promptly report in duplicate to the
26 auditor the fiscal condition shown by each examination, including
27 any irregularities or misconduct of officers or employees, any
28 misappropriation or misuse of public funds or property, and any

1 improper system or method of bookkeeping or condition of accounts,
2 and it shall be the duty of the auditor to file promptly with the
3 Governor a duplicate of such report, and (e) who shall qualify by
4 taking an oath which shall be filed in the office of the Secretary
5 of State;

6 (8) To conduct audits and related activities for state
7 agencies, political subdivisions of this state, or grantees of
8 federal funds disbursed by a receiving agency on a contractual or
9 other basis for reimbursement to assure proper accounting by all
10 such agencies, political subdivisions, and grantees for funds
11 appropriated by the Legislature and federal funds disbursed by any
12 receiving agency. The auditor may contract with any political
13 subdivision to perform the audit of such political subdivision
14 required by or provided for in section 23-1608 or 79-1229 or this
15 section and charge the political subdivision for conducting the
16 audit. The fees charged by the auditor for conducting audits on a
17 contractual basis shall be in an amount sufficient to pay the cost
18 of the audit. The fees remitted to the auditor for such audits and
19 services shall be deposited in the Auditor of Public Accounts Cash
20 Fund;

21 (9) To conduct all audits and examinations in a timely
22 manner and in accordance with the standards for audits of
23 governmental organizations, programs, activities, and functions
24 published by the Comptroller General of the United States;

25 (10) To develop a plan for implementing on-line filing of
26 budgeted and actual financial information by political
27 subdivisions. Such plan shall describe the technology and staff
28 resources necessary to implement on-line filing of such information

1 and the costs of these resources. Such plan shall be presented to
2 the Clerk of the Legislature on or before January 15, 2003; and

3 (11) To develop and maintain an annual budget and actual
4 financial information reporting system that is accessible on-line
5 by the public.

6 Sec. 4. Original section 39-868, Reissue Revised
7 Statutes of Nebraska, and sections 13-503 and 84-304, Revised
8 Statutes supplement, 2002, are repealed.