

LEGISLATIVE BILL 501

Approved by the Governor May 26, 2009

Introduced by Sullivan, 41; Karpisek, 32.

FOR AN ACT relating to elections; to amend sections 32-607, 32-960, 77-27,142.01, 77-27,142.02, and 77-27,142.03, Reissue Revised Statutes of Nebraska, and section 13-519, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to the submission of certain questions at an election; to change candidate filing form requirements; to change population requirements for elections conducted by mail; 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, 2008, 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, 2005, the last prior year's total of budgeted restricted funds shall be increased for a community college area by adding to such area's fiscal year base-year revenue the amount of revenue to be collected under subdivision (2)(c) of section 85-1517 that is in excess of the amount budgeted under this subdivision in the prior fiscal year.

(c) 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.

(2) A governmental unit may exceed the limit provided in subdivisions (1)(a) and (b) 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 ~~fifteen~~ 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 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 32-607, Reissue Revised Statutes of Nebraska, is amended to read:

32-607 All candidate filing forms shall contain the following statement: I hereby swear that I will abide by the laws of the State of Nebraska regarding the results of the primary and general elections, that I am a registered voter and qualified to be elected, and that I will serve if elected. Candidate filing forms shall also contain the candidate's name; residence address; mailing address if different from the residence address; telephone number; office sought; and party affiliation if the office sought is a partisan office. Candidate filing forms shall be filed with the following filing officers:

(1) For candidates for national, state, or congressional office, directors of public power and irrigation districts, directors of reclamation districts, directors of natural resources districts, members of the boards of educational service units, members of governing boards of community colleges, delegates to national conventions, and other offices filled by election held in more than one county and judges desiring retention, in the office of the Secretary of State;

(2) For officers elected within a county, in the office of the election commissioner or county clerk. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form;

(3) For officers in school districts which include land in adjoining counties, in the office of the election commissioner or county clerk of the county in which the greatest number of registered voters entitled to vote for the officers reside. If the candidate is not a resident of the county, he or she shall submit a certificate of registration obtained under section 32-316 with the candidate filing form; and

(4) For city or village officers, in the office of the city or village clerk, except that in the case of joint elections, the filing may be either in the office of the election commissioner or county clerk or in the office of the city or village clerk with deputized personnel. When the city or village clerk is deputized to take filings, he or she shall return all filings to the office of the election commissioner or county clerk by the end of the next business day following the filing deadline.

Sec. 3. Section 32-960, Reissue Revised Statutes of Nebraska, is amended to read:

32-960 In any county with less than ~~seven~~ ten thousand inhabitants, the county clerk may apply to the Secretary of State to mail ballots for all elections held after approval of the application to registered voters of any or all of the precincts in the county in lieu of establishing polling places for such precincts. The application shall include a written plan for the conduct of the election, including a timetable for the conduct of the election and provisions for the notice of election to be published and for the application for ballots for early voting notwithstanding other statutory provisions regarding the content and publication of a notice of election or the application for ballots for early voting. If the Secretary of State approves such application for one or more precincts in the county, the county clerk shall follow the applicable procedures in sections 32-953 to 32-959 for conducting elections by mail, except that the deadline for receipt of the ballots shall be 8 p.m. on the day of the election.

Sec. 4. Section 77-27,142.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,142.01 ~~(1) The governing body of any incorporated municipality which, after January 1, 1978, and prior to February 14, 1978, authorizes a sales and use tax pursuant to section 77-27,142, shall submit the question of continuing such tax at the first regular city, county, or state election held within such incorporated municipality after such tax is imposed. If a majority of those voting on the question shall be opposed to such tax, the governing body of the incorporated municipality shall immediately discontinue the tax.~~

~~(2) The governing body of any incorporated municipality may submit~~

the question of changing any terms and conditions of a sales and use tax previously authorized under section 77-27,142. The question of modification shall be submitted to the voters at any primary or general election or at a special election if the governing body submits a certified copy of the resolution proposing modification to the election commissioner or county clerk within a ~~reasonable~~ the time prior to the primary, general, or special election prescribed in section 77-27,142.02.

Sec. 5. Section 77-27,142.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,142.02 Except as otherwise provided by section 77-27,142, after February 14, 1978, the power granted by section 77-27,142 shall not be exercised unless and until the question has been submitted at a primary, general, or special election held within the incorporated municipality and in which all qualified electors shall be entitled to vote on such question. The officials of the incorporated municipality shall order the submission of the question by submitting a certified copy of the resolution proposing the tax to the election commissioner or county clerk ~~not later than forty-one days prior to the primary or general election, or within thirty~~ by March 1 for a primary election, by September 1 for a general election, or at least fifty days before a special election. The question may include any terms and conditions set forth in the resolution proposing the tax, such as a termination date or the specific project or program for which the revenue received from such tax will be allocated, and shall include the following language: Shall the governing body of the incorporated municipality impose a sales and use tax upon the same transactions within such municipality on which the State of Nebraska is authorized to impose a tax? If a majority of the votes cast upon such question shall be in favor of such tax, then the governing body of such incorporated municipality shall be empowered as provided by section 77-27,142 and shall forthwith proceed to impose a tax pursuant to the Local Option Revenue Act. If a majority of those voting on the question shall be opposed to such tax, then the governing body of the incorporated municipality shall not impose such a tax.

Sec. 6. Section 77-27,142.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,142.03 (1) ~~Whenever, at least forty-five days prior to any city, county, or state election, If~~ the qualified electors of any municipality, equal in number to at least ten percent of the votes cast at the last preceding municipal election, ~~shall~~ petition the governing body to submit ~~such~~ the question at least seventy-five days before the next primary, general, or special election, ~~it shall be the duty of the governing body to~~ shall submit the question at the next primary, general, or special election.

(2) The question of imposing a sales and use tax which has been submitted to the electors and failed shall not be submitted to the electors of an incorporated municipality again until twenty-three months after such failure.

Sec. 7. Original sections 32-607, 32-960, 77-27,142.01, 77-27,142.02, and 77-27,142.03, Reissue Revised Statutes of Nebraska, and section 13-519, Revised Statutes Cumulative Supplement, 2008, are repealed.