

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 474

Final Reading

Introduced by Krist, 10; Mello, 5.

Read first time January 22, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 14-109, 15-202, 15-203, 16-205, 17-525, 18-2142.02,
3 18-2142.04, 19-4018, 19-4031, and 19-4034, Reissue
4 Revised Statutes of Nebraska; to change provisions
5 relating to occupation taxes imposed by cities and
6 villages; to repeal the original sections; and to declare
7 an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-109, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 14-109 (1)(a) The city council shall have power to tax
4 for revenue, license, and regulate any person within the limits of
5 the city by ordinance except as otherwise provided in this section.
6 Such tax may include both a tax for revenue and license. The city
7 council may raise revenue by levying and collecting a tax on any
8 occupation or business within the limits of the city. After the
9 effective date of this act, any occupation tax imposed pursuant to
10 this section shall make a reasonable classification of businesses,
11 users of space, or kinds of transactions for purposes of imposing
12 such tax, except that no occupation tax shall be imposed on any
13 transaction which is subject to tax under section 53-160, 66-489,
14 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which
15 is exempt from tax under section 77-2704.24. The occupation tax shall
16 be imposed in the manner provided in section 18-1208, except that
17 section 18-1208 does not apply to an occupation tax subject to
18 section 86-704. All such taxes shall be uniform in respect to the
19 class upon which they are imposed. All scientific and literary
20 lectures and entertainments shall be exempt from taxation, as well as
21 concerts and all other musical entertainments given exclusively by
22 the citizens of the city. It shall be the duty of the city clerk to
23 deliver to the city treasurer the certified copy of the ordinance
24 levying such tax, and the city clerk shall append thereto a warrant
25 requiring the city treasurer to collect such tax.

1 (b) For purposes of this subsection, limits of the city
2 does not include the extraterritorial zoning jurisdiction of such
3 city.

4 (2)(a) Except as otherwise provided in subdivision (c) of
5 this subsection, the city council shall also have power to require
6 any individual whose primary residence or person who owns a place of
7 business which is within the limits of the city and that owns and
8 operates a motor vehicle within such limits to annually register such
9 motor vehicle in such manner as may be provided and to require such
10 person to pay an annual motor vehicle fee therefor and to require the
11 payment of such fee upon the change of ownership of such vehicle. All
12 such fees which may be provided for under this subsection shall be
13 credited to a separate fund of the city, thereby created, to be used
14 exclusively for constructing, repairing, maintaining, or improving
15 streets, roads, alleys, public ways, or parts thereof or for the
16 amortization of bonded indebtedness when created for such purposes.

17 (b) No motor vehicle fee shall be required under this
18 subsection if (i) a vehicle is used or stored but temporarily in such
19 city for a period of six months or less in a twelve-month period,
20 (ii) an individual does not have a primary residence or a person does
21 not own a place of business within the limits of the city and does
22 not own and operate a motor vehicle within the limits of the city, or
23 (iii) an individual is a full-time student attending a postsecondary
24 institution within the limits of the city and the motor vehicle's
25 situs under the Motor Vehicle Certificate of Title Act is different

1 from the place at which he or she is attending such institution.

2 (c) After December 31, 2012, no motor vehicle fee shall
3 be required of any individual whose primary residence is or person
4 who owns a place of business within the extraterritorial zoning
5 jurisdiction of such city.

6 (d) For purposes of this subsection, limits of the city
7 includes the extraterritorial zoning jurisdiction of such city.

8 (3) For purposes of this section, person includes bodies
9 corporate, societies, communities, the public generally, individuals,
10 partnerships, limited liability companies, joint-stock companies,
11 cooperatives, and associations. Person does not include any federal,
12 state, or local government or any political subdivision thereof.

13 Sec. 2. Section 15-202, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 15-202 A city of the primary class shall have power to
16 levy taxes for general revenue purposes on all property within the
17 corporate limits of the city taxable according to the laws of
18 Nebraska and to levy an occupation tax on public service property or
19 corporations in such amounts as may be proper and necessary, in the
20 judgment of the mayor and council, for purposes of revenue. All such
21 taxes shall be uniform with respect to the class upon which they are
22 imposed. The occupation tax may be based upon a certain percentage of
23 the gross receipts of such public service corporation or upon such
24 other basis as may be determined upon by the mayor and council. After
25 the effective date of this act, any occupation tax imposed pursuant

1 to this section shall make a reasonable classification of businesses,
2 users of space, or kinds of transactions for purposes of imposing
3 such tax, except that no occupation tax shall be imposed on any
4 transaction which is subject to tax under section 53-160, 66-489,
5 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which
6 is exempt from tax under section 77-2704.24. The occupation tax and
7 shall be imposed in the manner provided in section 18-1208, except
8 that section 18-1208 does not apply to an occupation tax subject to
9 section 86-704.

10 Sec. 3. Section 15-203, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 15-203 A city of the primary class shall have power to
13 raise revenue by levying and collecting a license or occupation tax
14 on any person, partnership, limited liability company, corporation,
15 or business within the limits of the city and regulate the same by
16 ordinance except as otherwise provided in this section and in section
17 15-212. After the effective date of this act, any occupation tax
18 imposed pursuant to this section shall make a reasonable
19 classification of businesses, users of space, or kinds of
20 transactions for purposes of imposing such tax, except that no
21 occupation tax shall be imposed on any transaction which is subject
22 to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145,
23 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under
24 section 77-2704.24. The occupation tax shall be imposed in the manner
25 provided in section 18-1208, except that section 18-1208 does not

1 apply to an occupation tax subject to section 86-704. All such taxes
2 shall be uniform in respect to the class upon which they are imposed.
3 All scientific and literary lectures and entertainments shall be
4 exempt from such taxation as well as concerts and all other musical
5 entertainments given exclusively by the citizens of the city.

6 Sec. 4. Section 16-205, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 16-205 A city of the first class may raise revenue by
9 levying and collecting a license or occupation tax on any person,
10 partnership, limited liability company, corporation, or business
11 within the limits of the city and ~~to~~ may regulate the same by
12 ordinance. After the effective date of this act, any occupation tax
13 imposed pursuant to this section shall make a reasonable
14 classification of businesses, users of space, or kinds of
15 transactions for purposes of imposing such tax, except that no
16 occupation tax shall be imposed on any transaction which is subject
17 to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145,
18 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under
19 section 77-2704.24. The occupation tax shall be imposed in the manner
20 provided in section 18-1208, except that section 18-1208 does not
21 apply to an occupation tax subject to section 86-704. All such taxes
22 shall be uniform in respect to the class upon which they are imposed.
23 All scientific and literary lectures and entertainments shall be
24 exempt from such taxation as well as concerts and all other musical
25 entertainments given exclusively by the citizens of the city.

1 Sec. 5. Section 17-525, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 17-525 Second-class cities and villages shall have power
4 to raise revenue by levying and collecting a license tax on any
5 occupation or business within the limits of the city or village, and
6 regulate the same by ordinance. After the effective date of this act,
7 any occupation tax imposed pursuant to this section shall make a
8 reasonable classification of businesses, users of space, or kinds of
9 transactions for purposes of imposing such tax, except that no
10 occupation tax shall be imposed on any transaction which is subject
11 to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145,
12 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under
13 section 77-2704.24. The occupation tax shall be imposed in the manner
14 provided in section 18-1208, except that section 18-1208 does not
15 apply to an occupation tax subject to section 86-704. All such taxes
16 shall be uniform in respect to the classes upon which they are
17 imposed. All scientific and literary lectures and entertainments
18 shall be exempt from such taxation, as well as concerts and other
19 musical entertainments given exclusively by the citizens of the city
20 or village.

21 Sec. 6. Section 18-2142.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 18-2142.02 A city may levy a general business occupation
24 tax upon the businesses and users of space within an enhanced
25 employment area for the purpose of paying all or any part of the

1 costs and expenses of any redevelopment project within such enhanced
2 employment area. ~~For purposes of the tax imposed under this section,~~
3 ~~the governing body may make a reasonable classification of~~
4 ~~businesses, users of space, or kinds of transactions. After the~~
5 effective date of this act, any occupation tax imposed pursuant to
6 this section shall make a reasonable classification of businesses,
7 users of space, or kinds of transactions for purposes of imposing
8 such tax, except that no occupation tax shall be imposed on any
9 transaction which is subject to tax under section 53-160, 66-489,
10 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which
11 is exempt from tax under section 77-2704.24. The collection of a tax
12 imposed pursuant to this section shall be made and enforced in such a
13 manner as the governing body shall by ordinance determine to produce
14 the required revenue. The governing body may provide that failure to
15 pay the tax imposed pursuant to this section shall constitute a
16 violation of the ordinance and subject the violator to a fine or
17 other punishment as provided by ordinance. Any such occupation tax
18 agreed to by the authority and the city shall remain in effect so
19 long as the authority has bonds outstanding which have been issued
20 stating such occupation tax as an available source for payment.

21 Sec. 7. Section 18-2142.04, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 18-2142.04 (1) For purposes of this section:

24 (a) Authorized work means the performance of any one or
25 more of the following purposes within an enhanced employment area

1 designated pursuant to this section:

2 (i) The acquisition, construction, maintenance, and
3 operation of public offstreet parking facilities for the benefit of
4 the enhanced employment area;

5 (ii) Improvement of any public place or facility in the
6 enhanced employment area, including landscaping, physical
7 improvements for decoration or security purposes, and plantings;

8 (iii) Construction or installation of pedestrian shopping
9 malls or plazas, sidewalks or moving sidewalks, parks, meeting and
10 display facilities, bus stop shelters, lighting, benches or other
11 seating furniture, sculptures, trash receptacles, shelters,
12 fountains, skywalks, and pedestrian and vehicular overpasses and
13 underpasses, and any useful or necessary public improvements;

14 (iv) Leasing, acquiring, constructing, reconstructing,
15 extending, maintaining, or repairing parking lots or parking garages,
16 both above and below ground, or other facilities for the parking of
17 vehicles, including the power to install such facilities in public
18 areas, whether such areas are owned in fee or by easement, in the
19 enhanced employment area;

20 (v) Creation and implementation of a plan for improving
21 the general architectural design of public areas in the enhanced
22 employment area;

23 (vi) The development of any public activities and
24 promotion of public events, including the management, promotion, and
25 advocacy of retail trade activities or other promotional activities,

1 in the enhanced employment area;

2 (vii) Maintenance, repair, and reconstruction of any
3 improvements or facilities authorized by the Community Development
4 Law;

5 (viii) Any other project or undertaking for the
6 betterment of the public facilities in the enhanced employment area,
7 whether the project is capital or noncapital in nature;

8 (ix) Enforcement of parking regulations and the provision
9 of security within the enhanced employment area; or

10 (x) Employing or contracting for personnel, including
11 administrators for any improvement program under the Community
12 Development Law, and providing for any service as may be necessary or
13 proper to carry out the purposes of the Community Development Law;

14 (b) Employee means a person employed at a business
15 located within an enhanced employment area; and

16 (c) Number of new employees means the number of
17 equivalent employees that are employed at a business located within
18 an enhanced employment area designated pursuant to this section
19 during a year that are in excess of the number of equivalent
20 employees during the year immediately prior to the year the enhanced
21 employment area was designated pursuant to this section.

22 (2) If an area is not blighted or substandard, a city may
23 designate an area as an enhanced employment area if the governing
24 body determines that new investment within such enhanced employment
25 area will result in at least (a) two new employees and new investment

1 of one hundred twenty-five thousand dollars in counties with fewer
2 than fifteen thousand inhabitants, (b) five new employees and new
3 investment of two hundred fifty thousand dollars in counties with at
4 least fifteen thousand inhabitants but fewer than twenty-five
5 thousand inhabitants, (c) ten new employees and new investment of
6 five hundred thousand dollars in counties with at least twenty-five
7 thousand inhabitants but fewer than fifty thousand inhabitants, (d)
8 fifteen new employees and new investment of one million dollars in
9 counties with at least fifty thousand inhabitants but fewer than one
10 hundred thousand inhabitants, (e) twenty new employees and new
11 investment of one million five hundred thousand dollars in counties
12 with at least one hundred thousand inhabitants but fewer than two
13 hundred thousand inhabitants, (f) twenty-five new employees and new
14 investment of two million dollars in counties with at least two
15 hundred thousand inhabitants but fewer than four hundred thousand
16 inhabitants, or (g) thirty new employees and new investment of three
17 million dollars in counties with at least four hundred thousand
18 inhabitants. Any business that has one hundred thirty-five thousand
19 square feet or more and annual gross sales of ten million dollars or
20 more shall provide an employer-provided health benefit of at least
21 three thousand dollars annually to all new employees who are working
22 thirty hours per week or more on average and have been employed at
23 least six months. In making such determination, the governing body
24 may rely upon written undertakings provided by any owner of property
25 within such area.

1 (3) Upon designation of an enhanced employment area under
2 this section, a city may levy a general business occupation tax upon
3 the businesses and users of space within such enhanced employment
4 area for the purpose of paying all or any part of the costs and
5 expenses of authorized work within such enhanced employment area. ~~For~~
6 ~~purposes of the tax imposed under this section, the governing body~~
7 ~~may make a reasonable classification of businesses, users of space,~~
8 ~~or kinds of transactions. After the effective date of this act, any~~
9 occupation tax imposed pursuant to this section shall make a
10 reasonable classification of businesses, users of space, or kinds of
11 transactions for purposes of imposing such tax, except that no
12 occupation tax shall be imposed on any transaction which is subject
13 to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145,
14 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under
15 section 77-2704.24. The collection of a tax imposed pursuant to this
16 section shall be made and enforced in such a manner as the governing
17 body shall by ordinance determine to produce the required revenue.
18 The governing body may provide that failure to pay the tax imposed
19 pursuant to this section shall constitute a violation of the
20 ordinance and subject the violator to a fine or other punishment as
21 provided by ordinance. Any occupation tax levied by the city under
22 this section shall remain in effect so long as the city has bonds
23 outstanding which have been issued under the authority of this
24 section and are secured by such occupation tax or that state such
25 occupation tax as an available source for payment. The total amount

1 of occupation taxes levied shall not exceed the total costs and
2 expenses of the authorized work including the total debt service
3 requirements of any bonds the proceeds of which are expended for or
4 allocated to such authorized work. The assessments or taxes levied
5 must be specified by ordinance and the proceeds shall not be used for
6 any purpose other than the making of such improvements and for the
7 repayment of bonds issued in whole or in part for the financing of
8 such improvements. The authority to levy the general business
9 occupation tax contained in this section and the authority to issue
10 bonds secured by or payable from such occupation tax shall be
11 independent of and separate from any occupation tax referenced in
12 section 18-2103.

13 (4) A city may issue revenue bonds for the purpose of
14 defraying the cost of authorized work and to secure the payment of
15 such bonds with the occupation tax revenue described in this section.
16 Such revenue bonds may be issued in one or more series or issues
17 where deemed advisable, and each such series or issue may contain
18 different maturity dates, interest rates, priorities on revenue
19 available for payment of such bonds and priorities on securities
20 available for guaranteeing payment thereof, and such other differing
21 terms and conditions as are deemed necessary. The following shall
22 apply to any such bonds:

23 (a) Such bonds shall be limited obligations of the city.
24 Bonds and interest on such bonds, issued under the authority of this
25 section, shall not constitute nor give rise to a pecuniary liability

1 of the city or a charge against its general credit or taxing powers.
2 Such limitation shall be plainly stated upon the face of each of such
3 bonds;

4 (b) Such bonds may (i) be executed and delivered at any
5 time and from time to time, (ii) be in such form and denominations,
6 (iii) be of such tenor, (iv) be payable in such installments and at
7 such time or times not exceeding twenty years from their date, (v) be
8 payable at such place or places, (vi) bear interest at such rate or
9 rates, payable at such place or places, and evidenced in such manner,
10 (vii) be redeemable prior to maturity, with or without premium, and
11 (viii) contain such provisions as shall be deemed in the best
12 interest of the city and provided for in the proceedings of the
13 governing body under which the bonds shall be authorized to be
14 issued;

15 (c) The authorization, terms, issuance, execution, or
16 delivery of such bonds shall not be subject to sections 10-101 to
17 10-126; and

18 (d) Such bonds may be sold at public or private sale in
19 such manner and at such time or times as may be determined by the
20 governing body to be most advantageous. The city may pay all
21 expenses, premiums, and commissions which the governing body may deem
22 necessary or advantageous in connection with the authorization, sale,
23 and issuance thereof from the proceeds or the sale of the bonds or
24 from the revenue of the occupation tax described in this section.

25 Sec. 8. Section 19-4018, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 19-4018 Pursuant to ~~sections 19-4015 to 19-4038~~ the
3 Business Improvement District Act, cities of the metropolitan,
4 primary, first, or second class may impose (1) a special assessment
5 upon the property within a business improvement district in the city
6 or (2) a general business ~~license and~~ occupation tax on businesses
7 and users of space within a business improvement district. After the
8 effective date of this act, any occupation tax imposed pursuant to
9 this section shall make a reasonable classification of businesses,
10 users of space, or kinds of transactions for purposes of imposing
11 such tax, except that no occupation tax shall be imposed on any
12 transaction which is subject to tax under section 53-160, 66-489,
13 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which
14 is exempt from tax under section 77-2704.24. The proceeds or other
15 available funds may be used for the purposes stated in section
16 19-4019.

17 Sec. 9. Section 19-4031, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 19-4031 (1) In addition to or in place of the special
20 assessments authorized by ~~sections 19-4015 to 19-4038,~~ the Business
21 Improvement District Act, a city may levy a general business
22 occupation tax upon the businesses and users of space within a
23 district established for acquiring, constructing, maintaining or
24 operating public offstreet parking facilities and providing in
25 connection therewith other public improvements and facilities

1 authorized by ~~sections 19-4015 to 19-4038,~~ the Business Improvement
2 District Act, for the purpose of paying all or any part of the total
3 cost and expenses of any authorized improvement or facility within
4 such district. Notice of a hearing on any such tax levied under
5 ~~sections 19-4015 to 19-4038~~ the Business Improvement District Act
6 shall be given to the businesses and users of space of such
7 districts, and appeals may be taken, all in the manner provided in
8 section 19-4030.

9 (2) ~~For the purposes of the tax to be imposed under this~~
10 ~~section, the city council may make a reasonable classification of~~
11 ~~businesses or users of space. After the effective date of this act,~~
12 any occupation tax imposed pursuant to this section shall make a
13 reasonable classification of businesses, users of space, or kinds of
14 transactions for purposes of imposing such tax, except that no
15 occupation tax shall be imposed on any transaction which is subject
16 to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145,
17 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under
18 section 77-2704.24. The collection of a tax imposed pursuant to this
19 section shall be made and enforced in such a manner as the city
20 council shall by ordinance determine to produce the required revenue.
21 The city council may provide that failure to pay the tax imposed
22 pursuant to this section shall constitute a violation of the
23 ordinance and subject the violator to a fine or other punishment as
24 provided by ordinance.

25 Sec. 10. Section 19-4034, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 19-4034 A city may levy a general business occupation
3 tax, or a special assessment against the real estate located in a
4 district to the extent of special benefit to such real estate, for
5 the purpose of paying all or any part of the cost of maintenance,
6 repair, and reconstruction, including utility costs of any
7 improvement or facility in the district. Districts created for
8 taxation or assessment of maintenance, repair, and reconstruction
9 costs, including utility costs of improvements or facilities which
10 are authorized by ~~sections 19-4015 to 19-4038, the Business~~
11 Improvement District Act, but which were not acquired or constructed
12 pursuant to ~~sections 19-4015 to 19-4038, the act,~~ may be taxed or
13 assessed as provided in ~~sections 19-4015 to 19-4038. the act.~~ Any
14 occupation tax levied under this section shall be limited to those
15 improvements and facilities authorized by section 19-4030. After the
16 effective date of this act, any occupation tax imposed pursuant to
17 this section shall make a reasonable classification of businesses,
18 users of space, or kinds of transactions for purposes of imposing
19 such tax, except that no occupation tax shall be imposed on any
20 transaction which is subject to tax under section 53-160, 66-489,
21 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which
22 is exempt from tax under section 77-2704.24. The city council may
23 levy such taxes or assessments under either of the following methods:
24 (1) The city council, sitting as a board of equalization,
25 may, not more frequently than annually, determine the costs of

1 maintenance or repair, and reconstruction, of a facility. Such costs
2 shall be either assessed to the real estate located in such district
3 in accordance with the proposed method of assessment, or taxed
4 against the businesses and users of space in the district, whichever
5 may be applicable as determined by the ordinance creating the
6 district. However, if the city council finds that the method of
7 assessment proposed in the ordinance creating the district does not
8 provide a fair and equitable method of apportioning such costs, then
9 it may assess the costs under such method as the city council finds
10 to be fair and equitable. At the hearing on such taxes or
11 assessments, objections may be made to the total cost and the
12 proposed allocation of such costs among the parcels of real estate or
13 businesses in such district; or

14 (2) After notice is given to the owners or businesses as
15 provided in section 19-4030 the city council may establish and may
16 change from time to time, the percentage of such costs for
17 maintenance, repair, and reconstruction which each parcel of real
18 estate or each business or user of space in any district shall pay.
19 The city council shall annually determine the total amount of such
20 costs for each period since costs were last taxed or assessed, and
21 shall, after a hearing, tax or assess such costs to the real estate
22 in the district in accordance with the percentages previously
23 established at such hearing. Notice of such hearing shall be given as
24 provided in section 19-4030 and shall state the total costs and
25 percentage to be taxed or assessed to each parcel of real estate.

1 Unless objections are filed with the city clerk at least five days
2 before the hearing, all objections to the amount of total costs and
3 the assessment percentages should be deemed to have been waived and
4 the assessments shall be levied as stated in such notice except that
5 the city council may reduce any assessment percentage.

6 Sec. 11. Original sections 14-109, 15-202, 15-203,
7 16-205, 17-525, 18-2142.02, 18-2142.04, 19-4018, 19-4031, and
8 19-4034, Reissue Revised Statutes of Nebraska, are repealed.

9 Sec. 12. Since an emergency exists, this act takes effect
10 when passed and approved according to law.