

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 301

Introduced by Carlson, 38.

Read first time January 17, 2013

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-458, Reissue
2 Revised Statutes of Nebraska, and section 77-3442,
3 Revised Statutes Cumulative Supplement, 2012; to change
4 provisions relating to transfers of property; to
5 harmonize provisions; to repeal the original sections;
6 and to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-3442, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-3442 (1) Property tax levies for the support of local
4 governments for fiscal years beginning on or after July 1, 1998,
5 shall be limited to the amounts set forth in this section except as
6 provided in section 77-3444.

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

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

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

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

11 (e) Federal aid school districts may exceed the maximum
12 levy prescribed by subdivision (2)(a) or (2)(c) of this section only
13 to the extent necessary to qualify to receive federal aid pursuant to
14 Title VIII of Public Law 103-382, as such title existed on September
15 1, 2001. For purposes of this subdivision, federal aid school
16 district means any school district which receives ten percent or more
17 of the revenue for its general fund budget from federal government
18 sources pursuant to Title VIII of Public Law 103-382, as such title
19 existed on September 1, 2001.

20 (f) For school fiscal year 2002-03 through school fiscal
21 year 2007-08, school districts and multiple-district school systems
22 may, upon a three-fourths majority vote of the school board of the
23 school district, the board of the unified system, or the school board
24 of the high school district of the multiple-district school system
25 that is not a unified system, exceed the maximum levy prescribed by

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

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

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

25 (i) For each fiscal year, learning communities may levy a

1 maximum levy of one cent on each one hundred dollars of taxable
2 property subject to the levy for elementary learning center
3 employees, for contracts with other entities or individuals who are
4 not employees of the learning community for elementary learning
5 center programs and services, and for pilot projects, except that no
6 more than ten percent of such levy may be used for elementary
7 learning center employees.

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

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

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

25 (b) Natural resources districts shall also have the power

1 and authority to levy a tax equal to the dollar amount by which their
2 restricted funds budgeted to administer and implement ground water
3 management activities and integrated management activities under the
4 Nebraska Ground Water Management and Protection Act exceed their
5 restricted funds budgeted to administer and implement ground water
6 management activities and integrated management activities for
7 FY2003-04, not to exceed one cent on each one hundred dollars of
8 taxable valuation annually on all of the taxable property within the
9 district.

10 (c) In addition, natural resources districts located in a
11 river basin, subbasin, or reach that has been determined to be fully
12 appropriated pursuant to section 46-714 or designated as
13 overappropriated pursuant to section 46-713 by the Department of
14 Natural Resources shall also have the power and authority to levy a
15 tax equal to the dollar amount by which their restricted funds
16 budgeted to administer and implement ground water management
17 activities and integrated management activities under the Nebraska
18 Ground Water Management and Protection Act exceed their restricted
19 funds budgeted to administer and implement ground water management
20 activities and integrated management activities for FY2005-06, not to
21 exceed three cents on each one hundred dollars of taxable valuation
22 on all of the taxable property within the district for fiscal year
23 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

24 (5) Any educational service unit authorized to levy a
25 property tax pursuant to section 79-1225 may levy a maximum levy of

1 one and one-half cents per one hundred dollars of taxable valuation
2 of property subject to the levy.

3 (6)(a) Incorporated cities and villages which are not
4 within the boundaries of a municipal county may levy a maximum levy
5 of forty-five cents per one hundred dollars of taxable valuation of
6 property subject to the levy plus an additional five cents per one
7 hundred dollars of taxable valuation to provide financing for the
8 municipality's share of revenue required under an agreement or
9 agreements executed pursuant to the Interlocal Cooperation Act or the
10 Joint Public Agency Act. The maximum levy shall include amounts
11 levied to pay for sums to support a library pursuant to section
12 51-201, museum pursuant to section 51-501, visiting community nurse,
13 home health nurse, or home health agency pursuant to section 71-1637,
14 or statue, memorial, or monument pursuant to section 80-202.

15 (b) Incorporated cities and villages which are within the
16 boundaries of a municipal county may levy a maximum levy of ninety
17 cents per one hundred dollars of taxable valuation of property
18 subject to the levy. The maximum levy shall include amounts paid to a
19 municipal county for county services, amounts levied to pay for sums
20 to support a library pursuant to section 51-201, a museum pursuant to
21 section 51-501, a visiting community nurse, home health nurse, or
22 home health agency pursuant to section 71-1637, or a statue,
23 memorial, or monument pursuant to section 80-202.

24 (7) Sanitary and improvement districts which have been in
25 existence for more than five years may levy a maximum levy of forty

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

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

1 county's five cents per one hundred dollars of valuation authorized
2 for support of an agreement or agreements to be levied by the
3 political subdivision for the purpose of supporting that political
4 subdivision's share of revenue required under an agreement or
5 agreements executed pursuant to the Interlocal Cooperation Act or the
6 Joint Public Agency Act. If an allocation by a county would cause
7 another county to exceed its levy authority under this section, the
8 second county may exceed the levy authority in order to levy the
9 amount allocated. Property tax levies for costs of reassumption of
10 the assessment function pursuant to section 77-1340 or 77-1340.04 are
11 not included in the levy limits established in this subsection for
12 fiscal years 2010-11 through 2013-14.

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

18 (10) Property tax levies (a) for judgments, except
19 judgments or orders from the Commission of Industrial Relations,
20 obtained against a political subdivision which require or obligate a
21 political subdivision to pay such judgment, to the extent such
22 judgment is not paid by liability insurance coverage of a political
23 subdivision, (b) for preexisting lease-purchase contracts approved
24 prior to July 1, 1998, (c) for bonds as defined in section 10-134
25 approved according to law and secured by a levy on property except as

1 provided in section 44-4317 for bonded indebtedness issued by
2 educational service units and school districts, and (d) for payments
3 by a public airport to retire interest-free loans from the Department
4 of Aeronautics in lieu of bonded indebtedness at a lower cost to the
5 public airport are not included in the levy limits established by
6 this section.

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

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

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

18 (14) For school districts that file a binding resolution
19 on or before May 9, 2008, with the county assessors, county clerks,
20 and county treasurers for all counties in which the school district
21 has territory pursuant to subsection ~~(7)~~(8) of section 79-458, if
22 the combined levies, except levies for bonded indebtedness approved
23 by the voters of the school district and levies for the refinancing
24 of such bonded indebtedness, are in excess of the greater of (a) one
25 dollar and twenty cents per one hundred dollars of taxable valuation

1 of property subject to the levy or (b) the maximum levy authorized by
2 a vote pursuant to section 77-3444, all school district levies,
3 except levies for bonded indebtedness approved by the voters of the
4 school district and levies for the refinancing of such bonded
5 indebtedness, shall be considered unauthorized levies under section
6 77-1606.

7 Sec. 2. Section 79-458, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 79-458 (1) Any freeholder or freeholders, person in
10 possession or constructive possession as vendee pursuant to a
11 contract of sale of the fee, holder of a school land lease under
12 section 72-232, or entrant upon government land who has not yet
13 received a patent therefor may file a petition on or before June 1
14 ~~for all other years~~ with a board consisting of the county assessor,
15 county clerk, and county treasurer, except as provided in subsection
16 (4) of this section, asking to have any tract or tracts of land
17 described in the petition set off from an existing school district in
18 which the land is situated and attached to a different school
19 district which is contiguous to such tract or tracts of land if:

20 (a)(i) The school district in which the land is situated
21 is a Class II or III school district which has had an average daily
22 membership in grades nine through twelve of less than sixty for the
23 two consecutive school fiscal years immediately preceding the filing
24 of the petition;

25 (ii) Such Class II or III school district has voted

1 pursuant to section 77-3444 to exceed the maximum levy established
2 pursuant to subdivision (2)(a) of section 77-3442, which vote is
3 effective for the school fiscal year in which the petition is filed
4 or for the following school fiscal year;

5 (iii) The high school in such Class II or III school
6 district is within fifteen miles on a maintained public highway or
7 maintained public road of another public high school; and

8 (iv) Neither school district is a member of a learning
9 community; or

10 (b) Except as provided in subsection ~~(7)~~(8) of this
11 section, the school district in which the land is situated,
12 regardless of the class of school district, has approved a budget for
13 the school fiscal year in which the petition is filed that will cause
14 the combined levies for such school fiscal year, except levies for
15 bonded indebtedness approved by the voters of such school district
16 and levies for the refinancing of such bonded indebtedness, to exceed
17 the greater of (i) one dollar and twenty cents per one hundred
18 dollars of taxable valuation of property subject to the levy or (ii)
19 the maximum levy authorized by a vote pursuant to section 77-3444.

20 For purposes of determining whether a tract of land is
21 contiguous, all petitions currently being considered by the board
22 shall be considered together as a whole.

23 (2) The petition shall state the reasons for the proposed
24 change and shall show with reference to the land of each petitioner:

25 (a) That (i) the land described in the petition is either owned by

1 the petitioner or petitioners or that he, she, or they hold a school
2 land lease under section 72-232, are in possession or constructive
3 possession as vendee under a contract of sale of the fee simple
4 interest, or have made an entry on government land but have not yet
5 received a patent therefor and (ii) such tract of land includes all
6 such contiguous land owned or controlled by each petitioner; (b) that
7 the conditions of subdivision (1)(a) or (1)(b) of this section have
8 been met; and (c) that such petition is approved by a majority of the
9 members of the school board of the district to which such land is
10 sought to be attached.

11 (3) The petition shall be verified by the oath of each
12 petitioner. Notice of the filing of the petition and of the hearing
13 on such petition before the board constituted as prescribed in
14 subsection (1) or ~~(4)~~(5) of this section shall be given at least ten
15 days prior to the date of such hearing by one publication in a legal
16 newspaper of general circulation in each district and by posting a
17 notice on the outer door of the schoolhouse in each district affected
18 thereby, and such notice shall designate the territory to be
19 transferred. Following the filing of a petition pursuant to this
20 section, such board shall hold a public hearing on the petition and
21 shall approve or disapprove the petition on or before July 15
22 following the filing of the petition based on a determination of
23 whether the petitioner has complied with all requirements of this
24 section. If such board approves the petition, such board shall change
25 the boundaries of the school districts so as to set off the land

1 described in the petition and attach it to such district pursuant to
2 the petition with an effective date of August 15 following the filing
3 of the petition, which actions shall cause such transfer to be in
4 effect for levies set for the year in which such transfer takes
5 effect.

6 (4) A freeholder, person in possession or constructive
7 possession as vendee pursuant to a contract of sale of the fee,
8 holder of a school land lease under section 72-232, or entrant upon
9 government land who has not yet received a patent therefor who
10 successfully petitioned to transfer property to a contiguous school
11 district pursuant to subsections (1) through (3) and (5) of this
12 section may file a petition to transfer such property back to the
13 school district from which it was transferred. Such petition shall be
14 filed before June 1 with the school board or board of education of
15 the original school district, and such transfer shall take effect if
16 approved by such board. Following the filing of a petition pursuant
17 to this subsection, such board shall hold a public hearing on the
18 petition and shall approve or disapprove the petition on or before
19 July 15 following the filing of the petition. If such board approves
20 the petition, the appropriate county officials shall change the
21 boundaries of the school districts so as to set off the land
22 described in the petition and reattach it to the original school
23 district with an effective date of August 15 following the filing of
24 the petition, which actions shall cause such transfer to be in effect
25 for levies set for the year in which such transfer takes effect.

1 ~~(4)~~(5) Petitions requesting transfers of property across
2 county lines shall be addressed jointly to the county clerks of the
3 counties concerned, and the petitions shall be acted upon by the
4 county assessors, county clerks, and county treasurers of the
5 counties involved as one board, with the county clerk of the county
6 from which the land is sought to be transferred acting as chairperson
7 of the board.

8 ~~(5)~~(6) Appeals may be taken from the action of ~~such~~
9 ~~board~~a board with authority under this section to approve or
10 disapprove a petition or, when such board fails to act on the
11 petition, on or before August 1 following the filing of the petition,
12 to the district court of the county in which the land is located on
13 or before August 10 following the filing of the petition, in the same
14 manner as appeals are now taken from the action of the county board
15 in the allowance or disallowance of claims against the county. If an
16 appeal is taken from the action of ~~the~~a board approving the petition
17 or failing to act on the petition, the transfer shall occur effective
18 August 15 following the filing of the petition, which actions shall
19 cause such transfer to be in effect for levies set for the year in
20 which such transfer takes effect, unless action by the district court
21 prevents such transfer.

22 ~~(6)~~(7) This section does not apply to any school
23 district located on an Indian reservation and substantially or
24 totally financed by the federal government.

25 ~~(7)~~(8) For school districts that have approved a budget

1 for school fiscal year 2007-08 that will cause the combined levies,
2 except levies for bonded indebtedness approved by the voters of the
3 school district and levies for the refinancing of such bonded
4 indebtedness, to exceed the greater of (a) one dollar and twenty
5 cents per one hundred dollars of taxable valuation of property
6 subject to the levy or (b) the maximum levy authorized by a vote
7 pursuant to section 77-3444, the school boards of such school
8 districts may adopt a binding resolution stating that the combined
9 levies, except levies for bonded indebtedness approved by the voters
10 of the school district and levies for the refinancing of such bonded
11 indebtedness, for school fiscal year 2008-09 shall not exceed the
12 greater of (i) one dollar and twenty cents per one hundred dollars of
13 taxable valuation of property subject to the levy or (ii) the maximum
14 levy authorized by a vote pursuant to section 77-3444. On or before
15 May 9, 2008, such binding resolutions shall be filed with the Auditor
16 of Public Accounts and the county assessors, county clerks, and
17 county treasurers for all counties in which the school district has
18 territory. If such binding resolution is filed on or before May 9,
19 2008, land shall not be set off and attached to another district
20 pursuant to subdivision (2)(b) of this section in 2008.

21 ~~(8)~~ (9) Nothing in this section shall be construed to
22 detach obligations for voter-approved bonds from any tract of land.

23 Sec. 3. Original section 79-458, Reissue Revised Statutes
24 of Nebraska, and section 77-3442, Revised Statutes Cumulative
25 Supplement, 2012, are repealed.

1 Sec. 4. Since an emergency exists, this act takes effect
2 when passed and approved according to law.