LB589
2023

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 589

Introduced by Briese, 41; at the request of the Governor.
Read first time January 17, 2023
Committee: Revenue

A BILL FOR AN ACT relating to revenue and taxation; to amend sections
77-1632 and 77-1633, Revised Statutes Cumulative Supplement, 2022;
to adopt the School District Property Tax Limitation Act; to
harmonize provisions; to provide an operative date; and to repeal
the original sections.
Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 8 of this act shall be known and may be cited as the School District Property Tax Limitation Act.

Sec. 2. For purposes of the School District Property Tax Limitation Act:

(1) Approved bonds means bonds that are issued by a school district after the question of issuing such bonds has been approved by the voters of such school district;

(2) Average daily membership has the same meaning as in section 79-1003;

(3) Base growth percentage means three percent;

(4) Department means the State Department of Education;

(5) Non-property-tax revenue means revenue of a school district from all state and local sources other than real and personal property taxes. Non-property-tax revenue does not include reimbursements for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 and does not include grants and donations;

(6) Property tax request means the total amount of property taxes requested to be raised for a school district through the levy imposed pursuant to section 77-1601;

(7) Property tax request authority means the amount that may be included in a property tax request as determined pursuant to the School District Property Tax Limitation Act;

(8) School board has the same meaning as in section 79-101;

(9) School district has the same meaning as in section 79-101; and

(10) Student enrollment means the total number of students in the school district according to the fall school district membership report described in subsection (4) of section 79-528.

Sec. 3. (1) Except as provided in sections 4 and 5 of this act, a school district's property tax request for any year shall not exceed the school district's property tax request authority.

(2) The department shall calculate each school district's property
tax request authority on an annual basis as follows:

(a) The school district's property tax request from the prior year shall be added to the non-property-tax revenue from the prior year, and the total shall be increased by whichever of the following percentages is the highest:

(i) The base growth percentage;

(ii) The annual percentage increase in the student enrollment of the school district multiplied by four-tenths;

(iii) The percentage obtained by first dividing the annual increase in the total number of limited English proficiency students in the school district by the student enrollment of the school district and then multiplying the quotient by twenty-five hundredths; or

(iv) The percentage obtained by first dividing the annual increase in the total number of poverty students in the school district by the student enrollment of the school district and then multiplying the quotient by twenty-five hundredths; and

(b) The amount determined under subdivision (2)(a) of this section shall then be decreased by the amount of total non-property-tax revenue for the current year. In determining the total non-property-tax revenue for the current year, any category of non-property-tax revenue for which there is insufficient data as of August 1 to make an accurate determination shall be deemed to be equal to the prior year's amount.

(3) The department shall certify the amount determined for each school district under this section to the school board of such school district. Such certified amount shall be the school district's property tax request authority.
majority of legal voters voting on the issue at a special election called
for such purpose upon the recommendation of the school board of such
school district 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 school district. The recommendation of
the school board or the petition of the legal voters shall include the
amount by which the school board would increase its property tax request
for the year over and above the property tax request authority of such
school district. The county clerk or election commissioner shall call for
a special election on the issue within thirty days after the receipt of
such school board recommendation or legal voter petition. The election
shall be held pursuant to the Election Act, and all costs shall be paid
by the school district.

(2) A school district's property tax request may exceed its property
tax request authority by a percentage approved by an affirmative vote of
at least seventy-five percent of the school board of such school
district. Such percentage shall not exceed:

(a) Seven percent for school districts with an average daily
membership of no more than four hundred seventy-one students;
(b) Six percent for school districts with an average daily
membership of more than four hundred seventy-one students but no more
than three thousand forty-four students;
(c) Five percent for school districts with an average daily
membership of more than three thousand forty-four students but no more
than ten thousand students; or
(d) Four percent for school districts with an average daily
membership of more than ten thousand students.

(3) A school district's property tax request may exceed its property
tax request authority pursuant to any property tax authority approved by
the voters at a levy override election under section 77-3444 held prior
to January 1, 2024.
Sec. 6. A school district may choose not to increase its property tax request by the full amount allowed by the school district's property tax request authority in a particular year. In such cases, the school district may carry forward to future years the amount of unused property tax request authority. The department shall calculate each school district's unused property tax request authority and shall submit an accounting of such amount to the school board of the school district. Such unused property tax request authority may then be used in later years for increases in the school district's property tax request.

Sec. 7. The department shall prepare documents to be submitted by school districts to aid the department in calculating each school district's property tax request authority and unused property tax request authority. Each school district shall submit such documents to the department on or before September 20 of each year. If a school district fails to submit such documents to the department or if the department determines from such documents that a school district is not complying with the limits provided in the School District Property Tax Limitation Act, the department shall notify the school district of its determination. The Commissioner of Education shall then direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the school district submits the required documents or complies with the School District Property Tax Limitation Act. The state aid shall be held for six months. If the school district complies within the six-month period, it shall receive the suspended state aid. If the school district fails to comply within the six-month period, the suspended state aid shall revert to the General Fund.

Sec. 8. The department may adopt and promulgate rules and regulations to carry out the School District Property Tax Limitation Act.

Sec. 9. Section 77-1632, Revised Statutes Cumulative Supplement, 2022, is amended to read:
77-1632 (1) If the annual assessment of property would result in an increase in the total property taxes levied by a county, city, village, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be decreased accordingly when such rate is set by the county board of equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so to the extent allowed by law after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section. If any county, city, school district, or community college seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision shall comply with the requirements of section 77-1633 in lieu of the requirements in subsections (3) and (4) of this section.

(2) If the annual assessment of property would result in no change or a decrease in the total property taxes levied by a county, city, village, school district, learning community, sanitary and improvement district, natural resources district, educational service unit, or community college, as determined using the previous year's rate of levy, such political subdivision's property tax request for the current year shall be no more than its property tax request in the prior year, and the political subdivision's rate of levy for the current year shall be adjusted accordingly when such rate is set by the county board of
equalization pursuant to section 77-1601. The governing body of the political subdivision shall pass a resolution or ordinance to set the amount of its property tax request after holding the public hearing required in subsection (3) of this section. If the governing body of a political subdivision seeks to set its property tax request at an amount that exceeds its property tax request in the prior year, it may do so to the extent allowed by law after holding the public hearing required in subsection (3) of this section and by passing a resolution or ordinance that complies with subsection (4) of this section. If any county, city, school district, or community college seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision shall comply with the requirements of section 77-1633 in lieu of the requirements in subsections (3) and (4) of this section.

(3) The resolution or ordinance required under this section shall only be passed after a special public hearing called for such purpose is held and after notice is published in a newspaper of general circulation in the area of the political subdivision at least four calendar days prior to the hearing. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. If the political subdivision's total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the notice may be posted at the governing body's principal headquarters. The hearing notice shall contain the following information: The certified taxable valuation under section 13-509 for the prior year, the certified taxable valuation under section 13-509 for the current year, and the percentage increase or decrease in such valuations from the prior year to the current year; the dollar amount of the prior year's tax request and the property tax rate that was necessary to fund that tax request; the property tax rate that would be necessary to fund last year's tax request if applied to the current year's valuation; the proposed dollar amount of the tax request for the current year and the
property tax rate that will be necessary to fund that tax request; the percentage increase or decrease in the property tax rate from the prior year to the current year; and the percentage increase or decrease in the total operating budget from the prior year to the current year.

(4) Any resolution or ordinance setting a political subdivision's property tax request under this section at an amount that exceeds the political subdivision's property tax request in the prior year shall include, but not be limited to, the following information:

(a) The name of the political subdivision;
(b) The amount of the property tax request;
(c) The following statements:
   (i) The total assessed value of property differs from last year's total assessed value by ..... percent;
   (ii) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be $..... per $100 of assessed value;
   (iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be $..... per $100 of assessed value; and
   (iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will (increase or decrease) last year's budget by ..... percent; and
(d) The record vote of the governing body in passing such resolution or ordinance.

(5) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 15 of the year for which the tax request is to apply.

Sec. 10. Section 77-1633, Revised Statutes Cumulative Supplement, 2022, is amended to read:

77-1633 (1) For purposes of this section, political subdivision means any county, city, school district, or community college.
(2) If any political subdivision seeks to increase its property tax request by more than the allowable growth percentage, such political subdivision may do so to the extent allowed by law if:

(a) A public hearing is held and notice of such hearing is provided in compliance with subsection (3) of this section; and

(b) The governing body of such political subdivision passes a resolution or an ordinance that complies with subsection (4) of this section.

(3)(a) Each political subdivision within a county that seeks to increase its property tax request by more than the allowable growth percentage shall participate in a joint public hearing. Each such political subdivision shall designate one representative to attend the joint public hearing on behalf of the political subdivision. If a political subdivision includes area in more than one county, the political subdivision shall be deemed to be within the county in which the political subdivision's principal headquarters are located. At such hearing, there shall be no items on the agenda other than discussion on each political subdivision's intent to increase its property tax request by more than the allowable growth percentage.

(b) The joint public hearing shall be held on or after September 17 and prior to September 29 and before any of the participating political subdivisions file their adopted budget statement pursuant to section 13-508.

(c) The joint public hearing shall be held after 6 p.m. local time on the relevant date.

(d) The joint public hearing shall be organized by the county clerk or his or her designee. At the joint public hearing, the representative of each political subdivision shall give a brief presentation on the political subdivision's intent to increase its property tax request by more than the allowable growth percentage and the effect of such request on the political subdivision's budget. The presentation shall include:
(i) The name of the political subdivision;
(ii) The amount of the property tax request; and
(iii) The following statements:
   (A) The total assessed value of property differs from last year's total assessed value by ..... percent;
   (B) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be $..... per $100 of assessed value;
   (C) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be $..... per $100 of assessed value;
   (D) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by ..... percent; and
   (E) To obtain more information regarding the increase in the property tax request, citizens may contact the (name of political subdivision) at (telephone number and email address of political subdivision).

(e) Any member of the public shall be allowed to speak at the joint public hearing and shall be given a reasonable amount of time to do so.

(f) Notice of the joint public hearing shall be provided:
   (i) By sending a postcard to all affected property taxpayers. The postcard shall be sent to the name and address to which the property tax statement is mailed;
   (ii) By posting notice of the hearing on the home page of the relevant county's website, except that this requirement shall only apply if the county has a population of more than twenty-five thousand inhabitants; and
   (iii) By publishing notice of the hearing in a legal newspaper in or of general circulation in the relevant county.

(g) Each political subdivision that participates in the joint public
hearing shall send the information prescribed in subdivision (3)(h) of this section to the county clerk by September 5. The county clerk shall transmit the information to the county assessor no later than September 10. The county clerk shall notify each participating political subdivision of the date, time, and location of the joint public hearing. The county assessor shall send the information required to be included on the postcards pursuant to subdivision (3)(h) of this section to a printing service designated by the county board. The initial cost for printing the postcards shall be paid from the county general fund. Such postcards shall be mailed at least seven calendar days before the joint public hearing. The cost of creating and mailing the postcards, including staff time, materials, and postage, shall be charged proportionately to the political subdivisions participating in the joint public hearing based on the total number of parcels in each participating political subdivision.

(h) The postcard sent under this subsection and the notice posted on the county's website, if required under subdivision (3)(f)(ii) of this section, and published in the newspaper shall include the date, time, and location for the joint public hearing, a listing of and telephone number for each political subdivision that will be participating in the joint public hearing, and the amount of each participating political subdivision's property tax request. The postcard shall also contain the following information:

(i) The following words in capitalized type at the top of the postcard: NOTICE OF PROPOSED TAX INCREASE;

(ii) The name of the county that will hold the joint public hearing, which shall appear directly underneath the capitalized words described in subdivision (3)(h)(i) of this section;

(iii) The following statement: The following political subdivisions are proposing a revenue increase which would result in an overall increase in property taxes in (insert current tax year). THE ACTUAL TAX
ON YOUR PROPERTY MAY INCREASE OR DECREASE. This notice contains estimates of the tax on your property as a result of this revenue increase. These estimates are calculated on the basis of the proposed (insert current tax year) data. The actual tax on your property may vary from these estimates.

(iv) The parcel number for the property;
(v) The name of the property owner and the address of the property;
(vi) The property's assessed value in the previous tax year;
(vii) The amount of property taxes due in the previous tax year for each participating political subdivision;
(viii) The property's assessed value for the current tax year;
(ix) The amount of property taxes due for the current tax year for each participating political subdivision;
(x) The change in the amount of property taxes due for each participating political subdivision from the previous tax year to the current tax year; and
(xi) The following statement: To obtain more information regarding the tax increase, citizens may contact the political subdivision at the telephone number provided in this notice.

(4) After the joint public hearing required in subsection (3) of this section, the governing body of each participating political subdivision shall pass an ordinance or resolution to set such political subdivision's property tax request. If the political subdivision is increasing its property tax request over the amount from the prior year, including any increase in excess of the allowable growth percentage, then such ordinance or resolution shall include, but not be limited to, the following information:

(a) The name of the political subdivision;
(b) The amount of the property tax request;
(c) The following statements:
(i) The total assessed value of property differs from last year's
total assessed value by ..... percent;

(ii) The tax rate which would levy the same amount of property taxes as last year, when multiplied by the new total assessed value of property, would be $..... per $100 of assessed value;

(iii) The (name of political subdivision) proposes to adopt a property tax request that will cause its tax rate to be $..... per $100 of assessed value; and

(iv) Based on the proposed property tax request and changes in other revenue, the total operating budget of (name of political subdivision) will exceed last year's by ..... percent; and

(d) The record vote of the governing body in passing such resolution or ordinance.

(5) Any resolution or ordinance setting a property tax request under this section shall be certified and forwarded to the county clerk on or before October 15 of the year for which the tax request is to apply.

(6) The county clerk, or his or her designee, shall prepare a report which shall include (a) the names of the representatives of the political subdivisions participating in the joint public hearing and (b) the name and address of each individual who spoke at the joint public hearing, unless the address requirement is waived to protect the security of the individual, and the name of any organization represented by each such individual. Such report shall be delivered to the political subdivisions participating in the joint public hearing within ten days after such hearing.

Sec. 11. This act becomes operative on January 1, 2024.

Sec. 12. Original sections 77-1632 and 77-1633, Revised Statutes Cumulative Supplement, 2022, are repealed.