

LEGISLATIVE BILL 890

Approved by the Governor April 19, 1986

Introduced by Sieck, 24; Pappas, 42; Lundy, 36

AN ACT relating to revenue and taxation; to amend sections 77-27,142.03 and 77-27,143, Reissue Revised Statutes of Nebraska, 1943, and sections 77-27,142 and 77-27,142.02, Revised Statutes Supplement, 1985; to change provisions relating to the municipal sales and use tax; to authorize increases as prescribed; to provide for termination; to change provisions relating to elections; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 77-27,142, Revised Statutes Supplement, 1985, be amended to read as follows:

77-27,142. (1) Any incorporated municipality by ordinance of its governing body is hereby authorized to impose a sales and use tax of one half per cent. ~~or~~ one per cent, or one and one half per cent upon the same transactions within such incorporated municipality on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time. ~~After April 6, 1978; no~~ No sales and use tax shall be imposed pursuant to this section until an election has been held and a majority of the qualified electors have approved such tax pursuant to sections 77-27,142.01 and 77-27,142.02.

(2) A city of the metropolitan class is hereby authorized to increase any city sales and use tax existing on January 1, 1978, imposed pursuant to this section by an amount not to exceed one half of one per cent if the question of such tax increase is submitted to the voters of such city and the voters by a majority vote approve such increase. The question of such increase shall be submitted to the voters at the primary or general election in 1980 if the city council shall submit a certified copy of a resolution to that effect to the election commissioner not later than forty-one days prior to the primary or general election. Notwithstanding the provisions of section 77-27,143, if the increase is approved by the voters at the primary or general election in 1980, the election commissioner

shall file a certified copy of the election results with the Tax Commissioner on or before the last day of the month in which the election is held. If the increase is not approved by the voters at the primary or general election in 1980, no tax increased pursuant to this section shall remain in effect after December 31, 1980.

(3) A city of the primary class is hereby authorized to increase any city sales and use tax existing on January 1, 1985, imposed pursuant to this section by an amount not to exceed one half of one per cent if the question of such tax increase is submitted to the voters of such city and the voters by a majority vote approve such increase. The question of such increase shall be submitted to the voters at the next primary or general election or at a special election if the city council shall submit a certified copy of a resolution proposing the tax increase to the election commissioner within a reasonable time prior to the primary, general, or special election. If the increase is approved by the voters at the primary, general, or special election, the election commissioner shall file a certified copy of the election results with the Tax Commissioner on or before the last day of the month in which the election is held. If the voters of a city of the primary class have not approved such an increase by December 31, 1987, the question of such an increase shall not be submitted thereafter to the voters and there shall be no increase in the city sales and use tax.

(4) A city of the first or second class or village is hereby authorized to increase any city sales and use tax existing on January 1, 1986, imposed pursuant to this section by an amount not to exceed one half of one per cent if the question of such tax increase is submitted to the voters of such city or village and the voters by a majority vote approve such increase. The question of such increase shall be submitted to the voters at any primary or general election or at a special election if the city council or village board shall submit a certified copy of a resolution proposing the tax increase to the election commissioner or county clerk within a reasonable time prior to the primary, general, or special election. If the increase is approved by the voters at the primary, general, or special election, the election commissioner shall file a certified copy of the election results with the Tax Commissioner on or before the last day of the month in which the election is held.

Sec. 2. That section 77-27,142.02, Revised

Statutes Supplement, 1985, be amended to read as follows:

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 regular city, county, or state 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 may 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 days before a special election. The question may include any order the submission of such question, which shall be submitted in 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. 3. That section 77-27,142.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,142.03. Whenever, at least forty-five days prior to any city, county, or state election, the qualified electors of any municipality, equal in number to ten per cent of the votes cast at the last preceding municipal election, shall petition the governing body to submit such question, it shall be the duty of the governing body to submit the question at the next city, county, or state primary, general, or special election. The question of imposing a sales and use tax shall not be submitted to the electors of an incorporated municipality more often than once every two years twenty-three months.

Sec. 4. That section 77-27,143, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,143. (1) The administration of all sales and use taxes adopted under sections 77-27,142 to 77-27,148 the Local Option Revenue Act shall be by the Tax Commissioner, who may prescribe forms and adopt and promulgate reasonable rules and regulations in conformity with sections 77-27,142 to 77-27,148 the act for the making of returns and for the ascertainment, assessment, and collection of taxes imposed hereunder under such act. The incorporated municipality shall furnish a certified copy of the adopting or repealing ordinance to the Tax Commissioner in accordance with such rules and regulations as he or she may prescribe adopt and promulgate. For ordinances passed prior to October 1, 1969, the effective date of any tax imposed under the authority of sections 77-27,142 to 77-27,148 shall be either sixty days after receipt by the Tax Commissioner of the certified copy of the adopting ordinance or the first day of the next calendar quarter following such receipt, whichever is later. For ordinances passed after October 1, 1969, the effective date shall be the first day of the next calendar quarter following receipt by the Tax Commissioner of the certified copy of the adopting ordinance, PROVIDED, if the certified copy of the adopted ordinance is received sixty days prior to the start of the next calendar quarter.

(2) For ordinances containing a termination date and passed after October 1, 1986, the termination date shall be the first day of a calendar quarter. The incorporated municipality shall furnish a certified statement to the Tax Commissioner no more than one hundred twenty days and at least sixty days prior to the termination date that the termination date stated in the ordinance is still valid. If the certified statement is not furnished within the prescribed time, the tax shall remain in effect, and the Tax Commissioner shall continue to collect the tax until the first day of the calendar quarter which is at least sixty days after receipt of the certified statement notwithstanding the termination date stated in the ordinance.

Sec. 5. That original sections 77-27,142.03 and 77-27,143, Reissue Revised Statutes of Nebraska, 1943, and sections 77-27,142 and 77-27,142.02, Revised Statutes Supplement, 1985, are repealed.