

## LEGISLATIVE BILL 299

Approved by the Governor April 16, 1996

Introduced by Warner, 25

AN ACT relating to government; to amend sections 2-206, 2-2431, 16-802, 17-939, 22-210, 23-122, 23-164, 25-519, 25-1409, 25-2228, 46-142, 46-271, 46-568, 54-304, 54-314, and 79-3820, Reissue Revised Statutes of Nebraska, sections 13-503, 13-511, and 23-3616, Revised Statutes Supplement, 1994, sections 13-508, 79-3814, 79-3816, and 85-1517, Revised Statutes Supplement, 1995; section 79-3817, Reissue Revised Statutes of Nebraska, as amended by section 31, Legislative Bill 1050, Ninety-fourth Legislature, Second Session, 1996, and section 79-3819, Revised Statutes Supplement, 1995, as amended by section 32, Legislative Bill 1050, Ninety-fourth Legislature, Second Session, 1996; to provide, change, and eliminate spending limits on political subdivisions with tax levy authority; to state intent; to create a task force; to change and eliminate certain publication requirements; to harmonize provisions; to appropriate funds; to repeal the original sections; to outright repeal sections 77-1712, 77-1713, and 77-1714, Reissue Revised Statutes of Nebraska, sections 77-3438.01 and 77-3440, Revised Statutes Supplement, 1994, sections 77-3437 and 77-3438.02, Revised Statutes Supplement, 1995, and sections 77-3438 and 77-3439, Revised Statutes Supplement, 1995, as amended by sections 1064 and 1065, respectively, Legislative Bill 900, Ninety-fourth Legislature, 1996; and to declare an emergency.

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

Section 1. For purposes of sections 1 to 5 of this act:

(1) Capital improvements means (a) acquisition of real property, (b) acquisition, construction, or extension of any improvements on real property, (c) furnishing or equipping of any improvement, except that routine maintenance and the acquisition of any equipment with a useful life of less than five years shall not be considered capital improvements, and (d) acquisition or replacement of other tangible personal property with a useful life of five years or more;

(2) Governing body has the same meaning as in section 13-503;

(3) Governmental unit means every political subdivision which has authority to levy a property tax except sanitary and improvement districts which have been in existence for five years or less and school districts;

(4) Population growth means (a) for governmental units other than community colleges, the percentage increase, if any, in inhabitants in the governmental unit between the two most recent consecutive years for which population estimates are available and (b) for community colleges, the percentage increase, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined. A governmental unit may use federal census numbers from the annual county population estimates from the Bureau of Economic Analysis of the United States Department of Commerce federal census update or recount or numbers calculated using a method similar to the method described in section 77-3,119 for the two most recent available consecutive years for determining population growth;

(5) Restricted funds means (a) property tax, excluding any amounts required to pay interest and principal on bonded indebtedness and any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) state aid, and (e) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee; and

(6) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-305.15 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, and 77-27,136 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520 and 77-27,136 and insurance premium tax paid to counties;

(d) For community colleges, state aid to community colleges paid under sections 85-1536 and 85-1537; and

(e) For natural resources districts, state aid to natural resources

districts paid pursuant to section 77-27.136.

Sec. 2. For fiscal years beginning on or after July 1, 1996, and before July 1, 1997, 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 population growth plus two percent expressed in dollars. For cities of the first and second class and villages, restricted funds shall be reduced to take into account the fourteen-month fiscal year for 1995-96. For fiscal years beginning on or after July 1, 1997, and before 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 population growth expressed in dollars. A governmental unit may exceed the budget limit 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. 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 annexed property or have consolidated, the calculations made under this section for the annexing unit or consolidating units shall be made based on the combined total of restricted funds, population, or full-time equivalent students of each governmental unit or a portion thereof.

Sec. 3. The limitation in section 2 of this act shall not apply to (1) restricted funds budgeted for capital improvements financed by the proceeds from a bond issue, appropriations from a sinking fund, or any other means, (2) restricted funds pledged to retire bonded indebtedness, (3) restricted funds budgeted in support of a service which becomes the subject of an interlocal cooperation agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity for two fiscal years beginning with the first budget adopted after the agreement or modification is signed, (4) restricted funds budgeted to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, or (5) restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a governmental unit.

Sec. 4. A governmental unit may choose not to increase its total of restricted funds by the full amount allowed by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority. The governmental unit shall calculate its unused restricted funds authority and submit an accounting of such amount with the budget documents for that year. Such unused restricted funds authority may then be used in later years for increases in the total of restricted funds allowed by law. Any unused budget authority existing on the effective date of this act by reason of any prior law may be used for increases in restricted funds authority.

Sec. 5. The Auditor of Public Accounts shall prepare budget documents to be submitted by governmental units which calculate the restricted funds authority for each governmental unit. Each governmental unit shall submit its calculated restricted funds authority with its budget documents at the time the budgets are due to the Auditor of Public Accounts. If the Auditor of Public Accounts determines from the budget documents that a governmental unit is not complying with the budget limits provided in sections 1 to 5 of this act, he or she shall notify the governing body of his or her determination and notify the State Treasurer of the noncompliance. The State Treasurer shall then suspend distribution of state aid allocated to the governmental unit until such sections are complied with. The funds shall be held for six months until the governmental unit complies, and if the governmental unit complies within the six-month period, it shall receive the suspended funds, but after six months, if the governmental unit fails to comply, the suspended funds shall be forfeited and shall be redistributed to other recipients of the state aid or, in the case of homestead exemption reimbursement, returned to the General Fund.

Sec. 6. It is the intent of the Legislature that any reductions in a school district budget, made to comply with the budget limitation in the Tax Equity and Educational Opportunities Support Act, affect classroom expenses as a last resort.

Sec. 7. The Task Force on Unfunded Mandates is created. The task

force shall consist of:

(1) The chairperson of the Executive Board of the Legislative Council;

(2) Seven additional members of the Legislature to be selected by the Executive Board of the Legislative Council; and

(3) Five representatives of political subdivisions selected by the members listed in subdivisions (1) and (2) of this section, to include one representative of municipalities, one representative of counties, and three representatives of the education community.

The chairperson of the Executive Board of the Legislative Council shall be the chairperson of the task force. The task force shall identify and review all programs and services enacted by the Legislature which resulted or may result in an increase in expenditures of funds by the political subdivisions assigned to perform or provide the programs and services. The task force shall provide a written report to the members of the Legislature by December 1, 1996, which may include recommendations for any changes to state law which may either modify or repeal all identified programs and services with the intent of reducing the fiscal impact of the programs and services on the political subdivision or eliminating the programs and services entirely. The task force shall seek recommendations and proposals from groups and individuals.

The Legislature requests each standing committee of the Legislature to undertake an interim study during 1996 to identify unfunded mandates and to recommend, if desirable, the modification or repeal of unfunded mandates impacting the subject matter jurisdiction of the committee. Each standing committee that undertakes such a study shall report its findings to the Task Force on Unfunded Mandates on or before November 1, 1996, and the task force shall consider the findings in making its recommendations.

The task force terminates on December 31, 1996.

Sec. 8. Section 2-206, Reissue Revised Statutes of Nebraska, is amended to read:

2-206. It shall be the duty of each county society to publish annually a list of the awards, and an abstract of the treasurer's account, in such manner as the society may direct, and to make a report of its proceedings during the year, and a synopsis of the awards for the improvements in agriculture and manufactures together with an abstract of the several descriptions of these improvements; and also to make a report of the condition of agriculture in that county, which report shall be made out in accordance with the rules and regulations of the State Board of Agriculture and shall be forwarded to the state board at its annual meeting.

Sec. 9. Section 2-2431, Reissue Revised Statutes of Nebraska, is amended to read:

2-2431. The Department of Agriculture shall examine the petition and if it finds that the ~~same~~ the petition bears the requisite number of signatures and otherwise meets the requirements of sections 2-2428 to 2-2449, it shall fix a time and place for hearing upon such petition and cause notice thereof to be given to all persons having any interest in the organization of the proposed district by publication once in each of the counties lying wholly or partly within the proposed district once each week for two consecutive weeks in a legal newspaper or newspapers of general circulation in such counties. Such notice shall state (1) the fact of filing of the petition; (2) in summary form, the information required by subsection (1) of section 2-2430 to be included in the petition; (3) the purpose of the formation of such proposed district; (4) the time and place of hearing such petition; and (5) the purpose of such hearing. Such hearing shall be held at such time and place as designated by the department, not less than twenty days nor more than forty days after the filing of the petition.

Sec. 10. Section 13-503, Revised Statutes Supplement, 1994, is amended to read:

13-503. For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body shall mean, in the case of a city, the council; in the case of a village, cemetery district, community hospital for two or more adjoining counties, road improvement district, sanitary drainage district, or sanitary and improvement district, the board of trustees; in the case of a county, the county board; in the case of a township, the town board; in the case of a school district, the school board; in the case of a rural or suburban fire protection district, reclamation district, natural resources district, or hospital district, the board of directors; in the case of a health district, the board of health; in the case of a regional library, the regional library commission; in the case of an educational service unit, the board; in the case of a community college, the Community College Board of

Governors for the area the board serves; in the case of an airport authority, the airport authority board; in the case of a weed control authority, the board; and in the case of a county agricultural society, the board of directors;

(2) Levying board shall mean any governing body which has the power or duty to levy a tax;

(3) Fiscal year shall mean the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax shall mean any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor shall mean the Auditor of Public Accounts;

(6) Cash reserve shall mean funds required for the period before revenue would become available for expenditure but shall not include funds held in any special reserve fund;

(7) Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement shall mean a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such term shall include additions, if any, to an adopted budget statement made by a ~~supplemental~~ revised budget which has been adopted as provided in section 13-511; and

(9) Special reserve fund shall mean any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, or (f) statutorily authorized sinking funds shall be considered special reserve funds.

Sec. 11. Section 13-508, Revised Statutes Supplement, 1995, is amended to read:

13-508. After publication and hearing thereon and within the time prescribed by law, each governing body shall file with and certify to the levying board on or before September 20 of each year and file with the auditor a copy of the adopted statement of the amount for reimbursement of property taxes pursuant to subsection (2) of section 13-504 and the adopted budget statement which complies with sections ~~77-3438 to 77-3440 1 to 5 of this act~~ or sections 79-3814 to 79-3821, together with the amount of the tax to be levied. Proof of publication shall be attached to the statements. The governing body shall certify the amount of tax to be levied by the levying board, which levy shall not exceed the maximum levy prescribed by state law. The governing body, in certifying the amount to be so levied, may make allowance for delinquent taxes not exceeding five percent of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, a governing body shall not certify, nor a levying board levy, an amount of tax greater than the amount determined under section 13-505. Each governing body empowered to levy or certify a levy shall use the final adjusted values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

Sec. 12. Section 13-511, Revised Statutes Supplement, 1994, is amended to read:

13-511. (1) Unless otherwise provided by law, whenever during the current fiscal year it becomes apparent to a governing body that there are circumstances which could not reasonably have been anticipated at the time the budget for the current year was adopted or the budget adopted violated sections 1 to 5 of this act, such that ~~either~~ the revenue of the current fiscal year for any fund thereof will be insufficient, or additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with sections 1 to 5 of this act, such governing body

may propose to ~~supplement~~ revise the previously adopted budget statement and shall conduct a public hearing on such proposal. Notice of the time and place of the hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. Such published notice shall set forth (a) the time and place of the hearing, (b) the amount in dollars of additional or reduced money required and for what purpose, (c) a statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year to meet the need for additional money in that manner, and (d) a copy of the summary of the originally adopted budget previously published.

(2) At such hearing any taxpayer may appear or file a written statement protesting ~~such any~~ application for additional money. A written record shall be kept of all such hearings.

(3) Upon conclusion of the public hearing on the proposed ~~supplemental revised~~ budget and approval of the proposed ~~supplemental revised~~ budget by the governing body, the governing body shall file with the county clerk of the county or counties in which such governing body is located, and with the auditor, a copy of the ~~supplemental revised~~ budget, as adopted, and shall certify the revised amount of ~~additional~~ tax to be levied. The governing body may then issue warrants in payment for expenditures authorized by the adopted ~~supplemental revised~~ budget. Such warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year from funds derived from taxes levied therefor.

Sec. 13. Section 16-802, Reissue Revised Statutes of Nebraska, is amended to read:

16-802. Any city of the first class in Nebraska is hereby authorized to own, purchase, construct, equip, lease, or operate within such city offstreet motor vehicle parking facilities for the use of the general public. The grant of power herein does not include the power to engage, directly or indirectly, in the sale of gasoline, oil, or other merchandise or in the furnishing of any service other than that of parking motor vehicles as provided herein. Any such city shall have the authority to acquire by grant, contract, or purchase, or through the condemnation of property, as provided by law for such acquisition, all real or personal property, including a site or sites on which to construct ~~said the facilities~~, necessary or convenient in the carrying out of this grant of power. ~~Before~~ PROVIDED, that before any such city may commence a program to construct, purchase, or acquire by other means a proposed offstreet parking facility or facilities, notice shall be given, by publication once each week for not less than thirty days three weeks, inviting application for private ownership and operation of offstreet parking facilities. If no application or applications have been received or, if received, the same have been disapproved by the governing body of such city within ninety days from the first date of publication, then such city may proceed in the exercise of the powers herein granted.

Sec. 14. Section 17-939, Reissue Revised Statutes of Nebraska, is amended to read:

17-939. The mayor and council of any such city of the second class or the board of trustees of any such village are hereby authorized to issue bonds in a sum not exceeding ten thousand dollars for the purpose of acquiring title by purchase or by virtue of eminent domain to land now used for cemetery purposes and that may be hereafter acquired for any necessary addition to any existing cemetery. ~~No~~ PROVIDED, no such bonds shall be issued until the question of issuing the same shall be submitted to the electors of any such city or village at a general election thereof, or at a special election called for the purpose of submitting the proposition of issuing such bonds, and unless at such election a majority of the electors voting on ~~said the~~ proposition shall have voted in favor of issuing such bonds. Such bonds shall be payable in not exceeding ten years from date and shall bear interest payable annually or semiannually. Notice of such election shall be given by publication in a legal newspaper published or of general circulation in ~~said the~~ city or village for ~~four~~ three successive weeks, the final publication to be not more than ten days prior to the date of such election, as therein specified. The ~~said~~ election shall be governed, insofar as applicable, by the laws of this state governing general elections.

Sec. 15. Section 22-210, Reissue Revised Statutes of Nebraska, is amended to read:

22-210. The remainder of the lots shall be offered at public sale by the sheriff of the county to the highest bidder, at such time as the county board may designate. Notice of such sale shall be posted up in three public places of the county, and published in some newspaper of general

circulation therein at least thirty days previous to such sale. The terms of sale shall be determined by the county board and they may dispose of lots at private sale upon such terms as they may deem best.

Sec. 16. Section 23-122, Reissue Revised Statutes of Nebraska, is amended to read:

23-122. The county board of all counties having a population of less than one hundred fifty thousand inhabitants shall cause to be published, within ten working days after the close of each annual, regular, or special meeting of the board, a brief statement of the proceedings thereof which shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item, in one newspaper of general circulation published in the county and also its proceedings upon the equalization of the assessment roll. Between ~~and~~ except that between July 15 and August 15 of each year, the names of all employees and their employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicate the duties and functions of the position. ~~and any changes in salaries or the hiring of new employees during the calendar quarter preceding the months of October, January, and April shall be published during the months of November, February, and May.~~ No publication in a newspaper shall be required unless the same can be done at an expense not exceeding three-fourths of the legal rate for advertising notices.

Sec. 17. Section 23-164, Reissue Revised Statutes of Nebraska, is amended to read:

23-164. The county board shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and, from time to time, amended, supplemented, or changed. ~~No~~ ~~PROVIDED~~, no such regulation, restriction, or boundary shall become effective until after public hearings are held by both the county planning commission and county board in relation thereto, when its parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be given by the publication thereof in a legal newspaper of general circulation in such county, and in the local newspaper of any county which has territory within three miles of the property affected by such action of the county board, one time at least ten days prior to such hearing. Notice of the time and place of such hearing shall also be given in writing to the chairman ~~chairperson~~ of any municipal, county, or joint planning commission in the State of Nebraska which has jurisdiction over land within three miles of the property affected by such action. In the absence of a planning commission, such notice shall be given to the clerks of units of local government in the State of Nebraska having jurisdiction over land within three miles of the property affected by such action.

Sec. 18. Section 23-3616, Revised Statutes Supplement, 1994, is amended to read:

23-3616. For the purpose of owning, operating, constructing, maintaining, and equipping a sewerage disposal system and plant or plants as authorized by the County Industrial Sewer Construction Act or improving or extending an existing system, a county may make a special levy known as the sewer tax levy not to exceed three and five-tenths cents on each one hundred dollars upon the actual value of all the taxable property within any such county. Any levy exceeding such amount for the purposes of such act shall be submitted for approval to the registered voters of the county at a general election or special election called for such purpose. ~~Any levy made pursuant to this section shall not be included as part of the county property tax levy for purposes of sections 77-3437 to 77-3440.~~ The proceeds of such levy shall be used only for the purposes enumerated in this section and for no other purpose.

Sec. 19. Section 25-519, Reissue Revised Statutes of Nebraska, is amended to read:

25-519. The publication shall be made once in each week for ~~four~~ three successive weeks in some newspaper printed in the county where the petition is filed, if there ~~be~~ is any printed in such county, and, if there ~~is~~ is not, in some newspaper printed in this state of general circulation in that county. It must contain a summary statement of the object and prayer of the petition, mention the court wherein it is filed, and notify the person or persons thus to be served when they are required to answer.

Sec. 20. Section 25-1409, Reissue Revised Statutes of Nebraska, is amended to read:

25-1409. When the plaintiff shall make an affidavit, that the representatives of the defendant, or any of them, in whose name the action may



be ordered to be revived, are nonresidents of the state, or have left the same to avoid the service of the order, or so concealed themselves that the order cannot be served upon them, or that the names and residence of the heirs or devisees of the person against whom the action may be ordered to be revived, or some of them, are unknown to the affiant, a notice may be published once in each week for four successive weeks, in the same manner as provided by section 25-519, notifying them to appear on a day therein named, not less than ten days after the publication is complete, and show cause why the action should not be revived against them; and if sufficient cause be not shown to the contrary, the action shall stand revived.

Sec. 21. Section 25-2228, Reissue Revised Statutes of Nebraska, is amended to read:

25-2228. All legal publications and notices of whatever kind or character that may by law be required to be published a certain number of days or a certain number of weeks shall be legally published when they have been published in one issue in each week in a daily, semiweekly, or triweekly newspaper, such publication in such daily, semiweekly, or triweekly paper or papers to be made upon any one day of the week upon which such paper is published, except Sunday, ~~and the publication of such notices the succeeding week or weeks, if the same is required to be published more than one week,~~ shall be upon the same day of the week as the first publication. Nothing in this ~~act contained~~ section shall be construed as preventing the publication of such legal notices and publications in weekly newspapers. Any newspaper publishing such legal notices or publications, as hereinbefore provided, must be otherwise qualified under existing law to publish such notices or publications. All legal publications and all notices of whatever kind or character that may be required by law to be published a certain number of days or a certain number of weeks, shall be and hereby are declared to be legally published when they shall have been published once a week in a weekly, semiweekly, triweekly, or daily newspaper for the number of weeks, covering the period of publication. For the purpose of this section, when a newspaper is published regularly four or more times each week, it shall be deemed a daily newspaper.

Sec. 22. Section 46-142, Reissue Revised Statutes of Nebraska, is amended to read:

46-142. Upon the presentation of the coupons and bonds due at the office of the treasurer of the county in which the district was originally organized, it shall be his or her duty to pay the same from the bond funds. Whenever, after ten years from the issuance of the bonds, the sinking fund shall amount to the sum of ten thousand dollars, the board of directors may direct the county treasurer in which the district was originally organized to pay such an amount of the bonds not due as the money of the fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising for at least ~~four~~ three weeks in some daily newspaper in each of the cities hereinbefore named, and in any newspaper which the board may deem advisable, for sealed proposals for the redemption of the bonds. Such proposals shall be opened by the board in open meeting, at the time named in the notice, and the lowest bid for the bonds must be accepted. ~~No~~ NO ~~PROVIDED,~~ ~~no~~ bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of the bonds shall desire to have the same redeemed, as herein provided, the money shall be invested by the treasurer of the county in which the district was originally organized, under the direction of the board of directors of the district, in United States bonds, or the bonds or warrants of the state, which shall be kept in the bond fund, and may be used to redeem the district bonds whenever the holders thereof may desire.

Sec. 23. Section 46-271, Reissue Revised Statutes of Nebraska, is amended to read:

46-271. Any corporation or association organized under the laws of this state for the purpose of constructing or operating canals, reservoirs or other works for irrigation purposes may, through its board of directors or trustees, assess the shares, stock, or interest of the stockholders thereof for the purpose of obtaining funds to defray the necessary running expenses. Any assessments levied under ~~the provisions of~~ this section shall become and be a lien upon the stock or interest so assessed. Such assessments shall, if not paid, become delinquent at the expiration of sixty days, and the stock or interest may be sold at public sale to satisfy such lien. Notice of such sale shall be published for ~~four~~ three consecutive weeks prior thereto, in some newspaper published and of general circulation in the county where the office of the company is located. Upon the date mentioned in the advertisement, or upon the date to which the sale may have been adjourned, such stock, or interest, or so much thereof as may be necessary to satisfy such lien and

costs, shall be sold to the highest bidder for cash.

Sec. 24. Section 46-568, Reissue Revised Statutes of Nebraska, is amended to read:

46-568. The board may at any time file a petition in the court, praying a judicial examination and determination of (1) any power conferred hereby by any amendment hereto, (2) any tax or assessment levied, or (3) any act, proceeding, or contract of the district, whether or not the contract shall have been executed, including proposed contracts for the acquisition, construction, maintenance, or operation of works for the district. Such petition shall set forth the facts on which the validity of such power, assessment, act, proceeding, or contract is founded and shall be verified by the president of the board. Notice of the filing of the petition shall be given by the clerk of the district court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract or contracts mentioned in the petition may be examined. The notice shall be served by publication in at least ~~five~~ three consecutive issues of a weekly newspaper of general circulation published in the county in which the principal office of the district is located and by posting the same in the office of the district at least thirty days prior to the date fixed in the notice for the hearing on the petition. Any owner of property in the district or person interested in the contract or proposed contract may appear and demur to or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court, and the petition shall be taken as confessed by all persons who fail to appear. The petition and notice shall be sufficient to give the court jurisdiction. Upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, make such findings with reference thereto, and render such judgment and decree thereon as the case warrants. Costs may be divided or apportioned among the contesting parties in the discretion of the trial court. Review of the judgment and decree of the court may be had as in other similar cases but shall be commenced within thirty days after the rendition of the judgment or decree, or the making of the final order complained of. The code of civil procedure shall govern in matters of pleading and practice where not otherwise specified in this section. The court shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties.

Sec. 25. Section 54-304, Reissue Revised Statutes of Nebraska, is amended to read:

54-304. The owner of any stallion, jack, bull, buck, or boar shall restrain the same, and any person may take possession of any such animal running at large in the county in which such person resides, or in which he or she occupies or uses real estate. He or she shall give notice thereof to the sheriff or any constable in the county in which such animal is taken, who shall give notice to the owner of such animal, if known to him or her, by delivering a written notice to ~~said~~ the owner, or leaving the same at his or her usual place of abode, giving a description of the animal so taken. If such owner does not appear within ten days after such notice to claim his or her property and pay costs and damages if any, then the sheriff or constable shall sell the animal so taken, at public auction to the highest bidder for cash, having given twenty days' notice of the time and place of sale, with a description of the property, ~~by publishing the same in a newspaper of general circulation in the county, or if there is no such paper,~~ by posting such notice in three public places in the township or precinct in which such animal was found at large. Out of the proceeds of such sale he or she shall pay all costs and any damages done by such animal, to be ascertained and determined by him or her, and the sheriff or constable shall pay the remainder, if any, into the county treasury for the use of the county. If legal proof is made to the county board by the owner of such animal of a right thereto at any time within one year of the sale, the county board shall order the proper amount to be paid to the owner by its warrant drawn for that purpose. If the owner, or any person for him or her, on or before the day of sale shall pay the costs thus far made and all damages, to be determined by the sheriff or constable if the parties cannot agree, and make satisfactory proof of his ownership, the sheriff or constable shall release the animal to him; ~~PROVIDED, this or her.~~ This remedy shall not be construed as a bar to any suit for damages sustained and not covered by the proceeds of the sale as hereinbefore provided.

Sec. 26. Section 54-314, Reissue Revised Statutes of Nebraska, is amended to read:

54-314. Twenty days' notice of the filing of the claim of the overseer or other officer shall be given in writing to residents. Nonresidents shall be notified by publication in ~~the~~ a legal county newspaper. ~~The notice shall run for three consecutive weeks.~~



Sec. 27. Section 79-3814, Revised Statutes Supplement, 1995, is amended to read:

79-3814. (1) Except as provided in subsection (2) of this section, no district shall increase its general fund budget of expenditures more than the applicable allowable growth percentage. The Except for fiscal years 1996-97 and 1997-98, the Legislature shall annually establish an allowable growth range which shall be expressed as basic allowable growth rates plus a specified number of percentage points. The Legislature shall set the basic allowable growth rates based on projections of available state revenue and the cost of living and cost of education from nationally accepted cost indexes which shall be provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, the Department of Revenue, and the State Department of Education.

(2) Notwithstanding Except for fiscal year 1996-97, notwithstanding any of the provisions of subsection (1) of this section and sections 79-3815 to 79-3821, the general fund budget of expenditures of each district shall not exceed the general fund budget of expenditures adopted for the immediately preceding school fiscal year unless a district, pursuant to the procedures and requirements specified in subsection (1) of section 79-3820, by an affirmative vote of seventy-five percent of the school board, votes to exceed such limitation, in which case the budget limitations and all other provisions of subsection (1) of this section and sections 79-3815 to 79-3821 shall apply.

Sec. 28. Section 79-3816, Revised Statutes Supplement, 1995, is amended to read:

79-3816. The (1) For fiscal year 1996-97, the basic allowable growth rate for general fund expenditures other than expenditures for special education shall be two percent plus the growth in students. For fiscal year 1997-98, the basic allowable growth rate for general fund expenditures other than expenditures for special education shall be the growth in students. For purposes of this subsection, the growth in students shall be the percentage increase in the number of students calculated by dividing the fall membership count from the school year immediately preceding the school year for which the budget is being determined multiplied by the average ratio of average daily membership to fall membership for the most recent available data year and the two school years prior to that year by the average daily membership in the school district from the second school year preceding the year for which the budget is being determined and then subtracting one from the ratio. If the calculated growth in students is negative, the growth in students shall be zero for the purposes of this section.

(2) For all other fiscal years, the basic allowable growth rate for general fund expenditures other than expenditures for special education shall be three percent and the allowable growth range shall be from three percent to five and one-half percent. The budget authority for special education shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority shall be used only for special education expenditures.

Sec. 29. Section 79-3817, Reissue Revised Statutes of Nebraska, as amended by section 31, Legislative Bill 1050, Ninety-fourth Legislature, Second Session, 1996, is amended to read:

79-3817. For fiscal years 1996-97 and 1997-98, the allowable growth percentage shall be equal to the allowable growth rate set forth in section 79-3816. On or before July 1 of each year other than 1996 and 1997, the department shall determine and certify to each district an applicable allowable growth percentage carried out at least eight decimal places for each district as follows:

(1) For school fiscal years before school fiscal year 1996-97, the department shall determine a target budget level for each district by multiplying the average daily membership for the most recently available complete data year of each district in grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by the unadjusted tiered cost per student as determined in section 79-3805 for each grade grouping. The sum of such products shall be each district's target budget level. For school year ~~1996-97~~ ~~1998-99~~ and each school year thereafter, the department shall determine a target budget level for each district by multiplying the average daily membership for the most recently available complete data year of each district in grades kindergarten, one through six, including full-day kindergarten, seven and eight, and nine through twelve by the adjusted tiered cost per student as calculated under section 16 of this act for each grade grouping. The sum of such products and the district's transportation allowance shall be each district's target budget level;

(2) The department shall establish a target budget level range of

general fund operating expenditure levels for each district which shall begin at twenty percent less than the target budget level and end at the target budget level. The beginning point of the range shall be assigned a number equal to the maximum allowable growth rate established in section 79-3816, and the end point of the range shall be assigned a number equal to the basic allowable growth rate as prescribed in section 79-3816 such that the lower end of the range shall be assigned the maximum allowable growth rate and the higher end of the range shall be assigned the basic allowable growth rate; and

(3) Each district's actual general fund operating expenditures shall be compared to its target budget level along the range described in subdivision (2) of this section to arrive at an applicable allowable growth rate as follows: If the district's actual general fund operating expenditures fall below the lower end of the range, such applicable allowable growth rate shall be the maximum growth rate identified in section 79-3816. If the district's actual general fund operating expenditures are greater than the higher end of the range, the district's allowable growth rate shall be the basic growth rate identified in section 79-3816. If the district's actual general fund operating expenditures fall between the lower end and the higher end of the range, the department shall use a linear transition calculation between the end points of the range to arrive at the applicable allowable growth rate for the district.

Sec. 30. Section 79-3819, Revised Statutes Supplement, 1995, as amended by section 32, Legislative Bill 1050, Ninety-fourth Legislature, Second Session, 1996, is amended to read:

79-3819. (1) A For fiscal years 1996-97 and 1997-98, a district may exceed its allowable growth rate for (a) budgeted expenditures for capital improvements as defined in section 1 of this act financed by the proceeds from a bond issue, appropriations from a sinking fund, or any other means, (b) expenditures to retire bonded indebtedness, (c) expenditures in support of a service which becomes the subject of an interlocal cooperation agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or an independent joint entity for two fiscal years beginning with the first budget adopted after the agreement or modification is signed, (d) expenditures to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (e) expenditures to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a school district which require or obligate a school district to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a school district, or (f) expenditures to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment.

(2) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in state or federal law. For purposes of this subsection, a final order of a court, the State Board of Equalization and Assessment, the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

~~(2)~~ (3) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.

Average daily membership of district	Projected increase of formula students by percentage
0 - 50	10
50.01 - 250	5
250.01 - 1,000	3
1,000.01 and over	1

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula

students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

(3) § (4) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a district to exceed its applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's applicable allowable growth rate for the ensuing school year.

(4) § (5) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(5) § (6) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured risk or as a result of any final judgment of any court of competent jurisdiction, requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(6) § (7) Except for fiscal years 1996-97 and 1997-98, a district may exceed its applicable allowable growth rate by a specific dollar amount if the district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of costs pursuant to the Retirement Incentive Plan authorized in section 34 of this act or the Staff Development Assistance authorized in section 35 of this act. The department shall compute the amount by which the increased cost of such program or programs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund expenditures by such amount for that fiscal year.

Sec. 31. Section 79-3820, Reissue Revised Statutes of Nebraska, is amended to read:

79-3820. (1) A district may exceed by an additional one percent the applicable allowable growth percentage prescribed in section 79-3817 upon an affirmative vote of at least seventy-five percent of the board. The vote shall be taken at a public meeting of the board following a special public hearing called for the purpose of receiving testimony on such proposed increase. The board shall give at least seven calendar days' notice of such public hearing and shall publish such notice at least once in a newspaper of general circulation in the district.

(2) § Except for fiscal years 1996-97 and 1997-98, a district may exceed the applicable allowable growth percentage prescribed in section 79-3817 by an amount approved by a majority of registered voters voting on the issue at a special election called for such purpose upon the recommendation of the board 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 registered voters of the district. The recommendation of the board or the petition of the voters shall include the amount and percentage by which the board would increase its general fund budget of expenditures for the ensuing school year over and above the current year's general fund budget of expenditures. The county clerk or election commissioner shall call for a

special election on the issue within fifteen days of the receipt of such board recommendation or voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the district.

Sec. 32. Section 85-1517, Revised Statutes Supplement, 1995, is amended to read:

85-1517. (1) The board may certify to the county board of equalization of each county within the community college area a tax levy of not to exceed nine cents on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purpose of supporting operating expenditures of the community college area.

(2)(a) In addition to the levy provided in subsection (1) of this section, the board may also certify to the county board of equalization of each county within the community college area a tax levy of not to exceed one and eight-tenths cents on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, for the purpose of establishing a capital improvement fund and bond sinking fund as provided in section 85-1515.

(b) In addition to the levy provided in subdivision (a) of this subsection, the board may also certify to the county board of equalization of each county within the community college area a tax levy on each one hundred dollars on the taxable valuation of all property within the community college area, uniform throughout such area, in the amount which will produce funds only in the amount necessary to pay for funding accessibility barrier elimination project costs and abatement of environmental hazards as such terms are defined in section 79-4,207. Such tax levy shall not be so certified unless approved by an affirmative vote of a majority of the board taken at a public meeting of the board following notice and a hearing. as provided in section 77-3439- The board shall give at least seven days' notice of such public hearing and shall publish such notice once in a newspaper of general circulation in the area to be affected by the increase.

(3) Except as provided by subsection (4) of this section, the levy provided in subsection (1) of this section shall not exceed nine cents on each one hundred dollars on the taxable valuation of all property within the community college area without prior approval by a majority vote of the qualified electors of the community college area voting in an election called for such purpose pursuant to section 85-1518.

(4) The tax levy limit provided in subsection (1) of this section may be exceeded by a seventy-five percent vote of the board. The tax levy increase permitted under this subsection shall not exceed and shall be the lesser of an additional two and one-half cents on each one hundred dollars of the taxable valuation of all property within the community college area or an amount sufficient to fund the local tax receipt portion of the total budget increase permitted under any budget increase limitation which is imposed by law and which is applicable to such area. The changes made to this subsection by Laws 1990, LB 1050, are expressly intended to apply to all litigation concerning any vote taken pursuant to this subsection prior to July 10, 1990, including all litigation pending on such date.

(5) The levy provided by subdivision (2)(a) of this section may be exceeded by that amount necessary to retire the general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds.

(6) Such tax shall be levied and assessed in the same manner as other property taxes and entered on the books of the county treasurer. The proceeds of such tax, as collected, shall be remitted to the treasurer of the board not less frequently than once each month.

Sec. 33. There is hereby appropriated \$5,000 from the General Fund for FY1996-97 to the Auditor of Public Accounts, for Program 506, to aid in carrying out the provisions of this legislative bill.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 34. Original sections 2-206, 2-2431, 16-802, 17-939, 22-210, 23-122, 23-164, 25-519, 25-1409, 25-2228, 46-142, 46-271, 46-568, 54-304, 54-314, and 79-3820, Reissue Revised Statutes of Nebraska, sections 13-503, 13-511, and 23-3616, Revised Statutes Supplement, 1994, sections 13-508, 79-3814, 79-3816, and 85-1517, Revised Statutes Supplement, 1995, section 79-3817, Reissue Revised Statutes of Nebraska, as amended by section 31, Legislative Bill 1050, Ninety-fourth Legislature, Second Session, 1996, and section 79-3819, Revised Statutes Supplement, 1995, as amended by section 32, Legislative Bill 1050, Ninety-fourth Legislature, Second Session, 1996, are repealed.

Sec. 35. The following sections are outright repealed: Sections

77-1712, 77-1713, and 77-1714, Reissue Revised Statutes of Nebraska, sections 77-3438.01 and 77-3440, Revised Statutes Supplement, 1994, sections 77-3437 and 77-3438.02, Revised Statutes Supplement, 1995, and sections 77-3438 and 77-3439, Revised Statutes Supplement, 1995, as amended by sections 1064 and 1065, respectively Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996.

Sec. 36. Since an emergency exists, this act takes effect when passed and approved according to law.