

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 289

FINAL READING

Introduced by Louden, 49; Burling, 33; Christensen, 44; Fischer, 43; Heidemann, 1; McDonald, 41; Preister, 5; Rogert, 16; Wallman, 30

Read first time January 10, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-3444, Reissue Revised Statutes of Nebraska; to change
3 and eliminate provisions relating to elections to exceed
4 levy limits; and to repeal the original section.

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

1 Section 1. Section 77-3444, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-3444 (1) A political subdivision, other than a Class I
4 school district, may exceed the limits provided in section 77-3442
5 or a final levy allocation determination as provided in section
6 77-3443 by an amount not to exceed a maximum levy approved by a
7 majority of registered voters voting on the issue in a primary,
8 general, or special election at which the issue is placed before
9 the registered voters. A vote to exceed the limits provided in
10 section 77-3442 or a final levy allocation as provided in section
11 77-3443 must be approved prior to October 10 of the fiscal
12 year which is to be the first to exceed the limits or final
13 levy allocation. The governing body of the political subdivision
14 may call for the submission of the issue to the voters (a) by
15 passing a resolution calling for exceeding the limits or final
16 levy allocation by a vote of at least two-thirds of the members
17 of the governing body and delivering a copy of the resolution to
18 the county clerk or election commissioner of every county which
19 contains all or part of the political subdivision or (b) upon
20 receipt of a petition by the county clerk or election commissioner
21 of every county containing all or part of the political subdivision
22 requesting an election signed by at least five percent of the
23 registered voters residing in the political subdivision. The
24 resolution or petition shall include the amount of levy which
25 would be imposed in excess of the limits provided in section

1 77-3442 or the final levy allocation as provided in section 77-3443
2 and the duration of the excess levy authority. The excess levy
3 authority shall not have a duration greater than five years. Any
4 resolution or petition calling for a special election shall be
5 filed with the county clerk or election commissioner no later than
6 thirty days prior to the date of the election, and the time of
7 publication and providing a copy of the notice of election required
8 in section 32-802 shall be no later than twenty days prior to the
9 election. The county clerk or election commissioner shall place the
10 issue on the ballot at an election as called for in the resolution
11 or petition which is at least thirty days after receipt of the
12 resolution or petition. The election shall be held pursuant to
13 the Election Act. For petitions filed with the county clerk or
14 election commissioner on or after May 1, 1998, the petition shall
15 be in the form as provided in sections 32-628 to 32-631. Any
16 excess levy authority approved under this section shall terminate
17 pursuant to its terms, on a vote of the governing body of the
18 political subdivision to terminate the authority to levy more than
19 the limits, at the end of the fourth fiscal year following the
20 first year in which the levy exceeded the limit or the final levy
21 allocation, or as provided in subsection ~~(5)~~ (4) of this section,
22 whichever is earliest. A governing body may pass no more than one
23 resolution calling for an election pursuant to this section during
24 any one calendar year. Only one election may be held in any one
25 calendar year pursuant to a petition initiated under this section.

1 (2) The ballot question may include any terms and
2 conditions set forth in the resolution or petition and shall
3 include the following: "Shall (name of political subdivision) be
4 allowed to levy a property tax not to exceed cents per
5 one hundred dollars of taxable valuation in excess of the limits
6 prescribed by law until fiscal year for the purposes
7 of (general operations; building construction, remodeling, or site
8 acquisition; or both general operations and building construction,
9 remodeling, or site acquisition)?" If a majority of the votes cast
10 upon the ballot question are in favor of such tax, the county board
11 shall authorize a tax in excess of the limits in section 77-3442
12 or the final levy allocation in section 77-3443 but such tax shall
13 not exceed the amount stated in the ballot question. If a majority
14 of those voting on the ballot question are opposed to such tax, the
15 governing body of the political subdivision shall not impose such
16 tax.

17 ~~(3) The county clerk or election commissioner may set~~
18 ~~a uniform date for a special election to be held before October~~
19 ~~10, 1998, to submit the issue of exceeding the limits provided~~
20 ~~in section 77-3442 or the final levy allocation as provided in~~
21 ~~section 77-3443 to the voters of political subdivisions in the~~
22 ~~county seeking additional levy authority. Any political subdivision~~
23 ~~may individually or in conjunction with one or more other political~~
24 ~~subdivisions conduct a special election on a date different from~~
25 ~~that set by the county clerk or election commissioner, except that~~

1 a governing body shall pass a resolution calling for a special
2 election for this purpose and deliver a copy of the resolution to
3 the county clerk or election commissioner no later than thirty days
4 prior to the date of the election.

5 ~~(4)~~ (3) In lieu of the election procedures in subsection
6 (1) of this section, any political subdivision subject to section
7 77-3443, other than a Class I school district, and villages may
8 approve a levy in excess of the limits in section 77-3442 or the
9 final levy allocation provided in section 77-3443 for a period of
10 one year at a meeting of the residents of the political subdivision
11 or village, called after notice is published in a newspaper of
12 general circulation in the political subdivision or village at
13 least twenty days prior to the meeting. At least ten percent of the
14 registered voters residing in the political subdivision or village
15 shall constitute a quorum for purposes of taking action to exceed
16 the limits or final levy allocation. A record shall be made of the
17 registered voters residing in the political subdivision or village
18 who are present at the meeting. The method of voting at the meeting
19 shall protect the secrecy of the ballot. If a majority of the
20 registered voters present at the meeting vote in favor of exceeding
21 the limits or final levy allocation, a copy of the record of that
22 action shall be forwarded to the county board prior to October 10
23 and the county board shall authorize a levy as approved by the
24 residents for the year. If a majority of the registered voters
25 present at the meeting vote against exceeding the limits or final

1 allocation, the limit or allocation shall not be exceeded and the
2 political subdivision shall have no power to call for an election
3 under subsection (1) of this section.

4 ~~(5)~~ (4) A political subdivision, other than a Class
5 I school district, may rescind or modify a previously approved
6 excess levy authority prior to its expiration by a majority of
7 registered voters voting on the issue in a primary, general, or
8 special election at which the issue is placed before the registered
9 voters. A vote to rescind or modify must be approved prior to
10 October 10 of the fiscal year for which it is to be effective.
11 The governing body of the political subdivision may call for the
12 submission of the issue to the voters (a) by passing a resolution
13 calling for the rescission or modification by a vote of at least
14 two-thirds of the members of the governing body and delivering a
15 copy of the resolution to the county clerk or election commissioner
16 of every county which contains all or part of the political
17 subdivision or (b) upon receipt of a petition by the county clerk
18 or election commissioner of every county containing all or part of
19 the political subdivision requesting an election signed by at least
20 five percent of the registered voters residing in the political
21 subdivision. The resolution or petition shall include the amount
22 and the duration of the previously approved excess levy authority
23 and a statement that either such excess levy authority will be
24 rescinded or such excess levy authority will be modified. If the
25 excess levy authority will be modified, the amount and duration of

1 such modification shall be stated. The modification shall not have
2 a duration greater than five years. The county clerk or election
3 commissioner shall place the issue on the ballot at an election as
4 called for in the resolution or petition which is at least thirty
5 days after receipt of the resolution or petition, and the time of
6 publication and providing a copy of the notice of election required
7 in section 32-802 shall be no later than twenty days prior to the
8 election. The election shall be held pursuant to the Election Act.

9 ~~(6)~~ (5) For purposes of this section, when the political
10 subdivision is a sanitary and improvement district, registered
11 voter means a person qualified to vote as provided in section
12 31-735. Any election conducted under this section for a sanitary
13 and improvement district shall be conducted and counted as provided
14 in sections 31-735 to 31-735.06.

15 ~~(7)~~ (6) For purposes of this section, when the political
16 subdivision is a school district or a multiple-district school
17 system, registered voter includes both (a) persons qualified to
18 vote for the members of the school board of the school district
19 which is voting to exceed the maximum levy limits pursuant to this
20 section and (b) persons in those portions of any Class I district
21 which are affiliated with or a part of the school district which is
22 voting pursuant to this section, if such voter is also qualified to
23 vote for the school board of the affected Class I school district.

24 Sec. 2. Original section 77-3444, Reissue Revised
25 Statutes of Nebraska, is repealed.