

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 289

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 provisions relating to elections to exceed levy limits; and
4 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 or
5 a final levy allocation determination as provided in section 77-3443
6 by an amount not to exceed a maximum levy approved 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 exceed the limits provided in section 77-3442 or a
10 final levy allocation as provided in section 77-3443 must be approved
11 prior to October 10 of the fiscal year which is to be the first to
12 exceed the limits or final levy allocation. The governing body of the
13 political subdivision may call for the submission of the issue to the
14 voters (a) by passing a resolution calling for exceeding the limits or
15 final levy allocation by a vote of at least two-thirds of the members
16 of the governing body and delivering a copy of the resolution to the
17 county clerk or election commissioner of every county which contains
18 all or part of the political subdivision or (b) upon receipt of a
19 petition by the county clerk or election commissioner of every county
20 containing all or part of the political subdivision requesting an
21 election signed by at least five percent of the registered voters
22 residing in the political subdivision. The resolution or petition
23 shall include the amount of levy which would be imposed in excess of
24 the limits provided in section 77-3442 or the final levy allocation as
25 provided in section 77-3443 and the duration of the excess levy
26 authority. The excess levy authority shall not have a duration greater
27 than five years. Any resolution or petition calling for a special

1 election shall be filed with the county clerk or election commissioner
 2 no later than thirty days prior to the date of the election, and the
 3 time of publication and providing a copy of the notice of election
 4 required in section 32-802 shall be no later than twenty days prior to
 5 the election. The county clerk or election commissioner shall place
 6 the issue on the ballot at an election as called for in the resolution
 7 or petition which is at least thirty days after receipt of the
 8 resolution or petition. The election shall be held pursuant to the
 9 Election Act. For petitions filed with the county clerk or election
 10 commissioner on or after May 1, 1998, the petition shall be in the
 11 form as provided in sections 32-628 to 32-631. Any excess levy
 12 authority approved under this section shall terminate pursuant to its
 13 terms, on a vote of the governing body of the political subdivision to
 14 terminate the authority to levy more than the limits, at the end of
 15 the fourth fiscal year following the first year in which the levy
 16 exceeded the limit or the final levy allocation, or as provided in
 17 subsection (5) of this section, whichever is earliest. A governing
 18 body may pass no more than one resolution calling for an election
 19 pursuant to this section during any one calendar year. Only one
 20 election may be held in any one calendar year pursuant to a petition
 21 initiated under this section.

22 (2) The ballot question may include any terms and conditions
 23 set forth in the resolution or petition and shall include the
 24 following: "Shall (name of political subdivision) be allowed to levy a
 25 property tax not to exceed cents per one hundred dollars
 26 of taxable valuation in excess of the limits prescribed by law until
 27 fiscal year for the purposes of (general operations;

1 building construction, remodeling, or site acquisition; or both
2 general operations and building construction, remodeling, or site
3 acquisition)?" . If a majority of the votes cast upon the ballot
4 question are in favor of such tax, the county board shall authorize a
5 tax in excess of the limits in section 77-3442 or the final levy
6 allocation in section 77-3443 but such tax shall not exceed the amount
7 stated in the ballot question. If a majority of those voting on the
8 ballot question are opposed to such tax, the governing body of the
9 political subdivision shall not impose such tax.

10 (3) The county clerk or election commissioner may set a
11 uniform date for a special election to be held before October 10,
12 1998, to submit the issue of exceeding the limits provided in section
13 77-3442 or the final levy allocation as provided in section 77-3443 to
14 the voters of political subdivisions in the county seeking additional
15 levy authority. Any political subdivision may individually or in
16 conjunction with one or more other political subdivisions conduct a
17 special election on a date different from that set by the county clerk
18 or election commissioner, except that a governing body shall pass a
19 resolution calling for a special election for this purpose and deliver
20 a copy of the resolution to the county clerk or election commissioner
21 no later than thirty days prior to the date of the election.

22 (4) In lieu of the election procedures in subsection (1) of
23 this section, any political subdivision subject to section 77-3443,
24 other than a Class I school district, and villages may approve a levy
25 in excess of the limits in section 77-3442 or the final levy
26 allocation provided in section 77-3443 for a period of one year at a
27 meeting of the residents of the political subdivision or village,

1 called after notice is published in a newspaper of general circulation
2 in the political subdivision or village at least twenty days prior to
3 the meeting. At least ten percent of the registered voters residing in
4 the political subdivision or village shall constitute a quorum for
5 purposes of taking action to exceed the limits or final levy
6 allocation. A record shall be made of the registered voters residing
7 in the political subdivision or village who are present at the
8 meeting. The method of voting at the meeting shall protect the
9 secrecy of the ballot. If a majority of the registered voters
10 present at the meeting vote in favor of exceeding the limits or final
11 levy allocation, a copy of the record of that action shall be
12 forwarded to the county board prior to October 10 and the county board
13 shall authorize a levy as approved by the residents for the year. If a
14 majority of the registered voters present at the meeting vote against
15 exceeding the limits or final allocation, the limit or allocation
16 shall not be exceeded and the political subdivision shall have no
17 power to call for an election under subsection (1) of this section.

18 (5) A political subdivision, other than a Class I school
19 district, may rescind or modify a previously approved excess levy
20 authority prior to its expiration by a majority of registered voters
21 voting on the issue in a primary, general, or special election at
22 which the issue is placed before the registered voters. A vote to
23 rescind or modify must be approved prior to October 10 of the fiscal
24 year for which it is to be effective. The governing body of the
25 political subdivision may call for the submission of the issue to the
26 voters (a) by passing a resolution calling for the rescission or
27 modification by a vote of at least two-thirds of the members of the

1 governing body and delivering a copy of the resolution to the county
2 clerk or election commissioner of every county which contains all or
3 part of the political subdivision or (b) upon receipt of a petition by
4 the county clerk or election commissioner of every county containing
5 all or part of the political subdivision requesting an election signed
6 by at least five percent of the registered voters residing in the
7 political subdivision. The resolution or petition shall include the
8 amount and the duration of the previously approved excess levy
9 authority and a statement that either such excess levy authority will
10 be rescinded or such excess levy authority will be modified. If the
11 excess levy authority will be modified, the amount and duration of
12 such modification shall be stated. The modification shall not have a
13 duration greater than five years. The county clerk or election
14 commissioner shall place the issue on the ballot at an election as
15 called for in the resolution or petition which is at least thirty days
16 after receipt of the resolution or petition, and the time of
17 publication and providing a copy of the notice of election required in
18 section 32-802 shall be no later than twenty days prior to the
19 election. The election shall be held pursuant to the Election Act.

20 (6) For purposes of this section, when the political
21 subdivision is a sanitary and improvement district, registered voter
22 means a person qualified to vote as provided in section 31-735. Any
23 election conducted under this section for a sanitary and improvement
24 district shall be conducted and counted as provided in sections 31-735
25 to 31-735.06.

26 (7) For purposes of this section, when the political
27 subdivision is a school district or a multiple-district school system,

1 registered voter includes both (a) persons qualified to vote for the
2 members of the school board of the school district which is voting to
3 exceed the maximum levy limits pursuant to this section and (b)
4 persons in those portions of any Class I district which are affiliated
5 with or a part of the school district which is voting pursuant to this
6 section, if such voter is also qualified to vote for the school board
7 of the affected Class I school district.

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