

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 392

Introduced by Mines, 18

Read first time January 16, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to municipal counties; to amend sections
2 13-520, 13-2801, 13-2802, 13-2803, 13-2804, 13-2805,
3 13-2806, 13-2808, 13-2809, 13-2810, 13-2813, 13-2814,
4 13-2818, and 13-2819, Revised Statutes Cumulative
5 Supplement, 2006; to change provisions relating to
6 municipal counties including those created by merger or
7 consolidation of a city of the metropolitan class; to
8 provide for tax levies; to define terms; to harmonize
9 provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-520, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 13-520 The limitations in section 13-519 shall not apply
4 to (1) restricted funds budgeted for capital improvements, (2)
5 restricted funds expended from a qualified sinking fund for
6 acquisition or replacement of tangible personal property with a
7 useful life of five years or more, (3) restricted funds pledged
8 to retire bonded indebtedness, used by a public airport to retire
9 interest-free loans from the Department of Aeronautics in lieu of
10 bonded indebtedness at a lower cost to the public airport, or used
11 to pay other financial instruments that are approved and agreed to
12 before July 1, 1999, in the same manner as bonds by a governing
13 body created under section 35-501, (4) restricted funds budgeted
14 in support of a service which is the subject of an agreement or
15 a modification of an existing agreement whether operated by one
16 of the parties to the agreement or by an independent joint entity
17 or joint public agency, or to funds in support of a service that
18 had been the subject of such an agreement between a city and a
19 county or counties immediately prior to the merger or consolidation
20 of the city and the county or counties pursuant to sections
21 13-2801 to 13-2819 and section 9 of this act, (5) restricted funds
22 budgeted to pay for repairs to infrastructure damaged by a natural
23 disaster which is declared a disaster emergency pursuant to the
24 Emergency Management Act, (6) restricted funds budgeted to pay
25 for judgments, except judgments or orders from the Commission of

1 Industrial Relations, obtained against a governmental unit which
2 require or obligate a governmental unit to pay such judgment,
3 to the extent such judgment is not paid by liability insurance
4 coverage of a governmental unit, or (7) the dollar amount by
5 which restricted funds budgeted by a natural resources district
6 to administer and implement ground water management activities and
7 integrated management activities under the Nebraska Ground Water
8 Management and Protection Act exceed its restricted funds budgeted
9 to administer and implement ground water management activities and
10 integrated management activities for FY2003-04.

11 Sec. 2. Section 13-2801, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 13-2801 (1) One or more counties and at least one of
14 the municipalities in each county may create a municipal county
15 to carry out all county services and all municipal services. The
16 process of creating a municipal county shall begin by passage of
17 a joint resolution by the governing bodies of the counties and
18 municipalities involved. The joint resolution may be initiated by
19 the governing bodies or by petition as provided in subsection (2)
20 of this section.

21 (2) Whenever registered voters of any county and of at
22 least one municipality in the county, equal in number to ten
23 percent of the total vote cast for Governor in the county or
24 municipality at the preceding election, petition the respective
25 county board and city council or village board of trustees to

1 pass a resolution as contemplated by this section, it shall
2 be the duty of the county board and city council or village
3 board to pass a joint resolution creating an interjurisdictional
4 planning commission. Petitions shall be filed with the county
5 clerk, election commissioner, city clerk, or other officer having
6 charge of the records of the governing body. The official shall
7 ascertain the number of registered voters signing such petitions
8 and transmit his or her findings, along with the petition, to the
9 county board and city council or village board of trustees.

10 (3) ~~Within~~ Except as provided in subsection (6) of
11 this section, within ninety days after the passage of the joint
12 resolution or within ninety days after receipt of a petition
13 by the registered voters, the governing bodies of the counties
14 and municipalities involved shall create an interjurisdictional
15 planning commission. A commission may also be created by
16 the district court having jurisdiction over the counties and
17 municipalities involved upon the failure by the counties and
18 municipalities to pass a joint resolution after submission of
19 a petition by the registered voters. The commission shall have
20 no less than nine members and no more than twenty-one members
21 representing the counties and municipalities involved as determined
22 by the governing bodies of the counties and municipalities involved
23 in order to achieve proportionate representation. The governing
24 bodies shall select the members. Representation on the commission
25 shall be prorated based upon population of the counties and

1 municipalities involved, except that (a) each county and each
2 municipality involved shall have at least one representative
3 selected by its respective governing body and (b) not more than
4 forty percent of the total membership shall be public officials.
5 Meetings of the commission shall be subject to the Open Meetings
6 Act.

7 (4) (a) The commission shall hold at least one public
8 hearing prior to preparing the plan for the creation of the
9 municipal county, study all governmental subdivisions in the
10 affected area, and then make a determination of whether creation
11 of a municipal county is in the public interest. If it is not
12 in the public interest to do so, the commission shall issue
13 a report stating its findings, including, but not limited to,
14 any recommendations regarding (i) interlocal agreements, (ii)
15 agreements to provide for the joint delivery of services, or
16 (iii) any other such recommendations. If it is in the public
17 interest to do so, the commission shall prepare one plan for the
18 creation of the municipal county. Such plan shall be approved by
19 the governing body of each county and each municipality involved
20 prior to submission of the issue to a vote of the registered voters
21 unless the commission was created by a petition of the registered
22 voters.

23 (b) The plan shall specify (i) which counties and
24 municipalities will be dissolved upon creation of the municipal
25 county, (ii) the form of government, with an elected executive

1 officer, a professional municipal county manager or administrator
2 appointed by the commission, or both, to operate the executive
3 functions of the municipal county, (iii) the number of council
4 members of the municipal county and whether they will be elected
5 by district or at large, and (iv) which elected officials, if any,
6 will be eliminated.

7 (c) At least ninety days prior to submission of the
8 issue to a vote of the registered voters, the commission and the
9 governing body of each county and each municipality involved shall
10 hold at least one public hearing in its respective jurisdiction
11 and make available for review by residents of the county and
12 municipality all material terms and conditions set forth in the
13 resolution to create the municipal county, including information
14 regarding the tax implications and quality and cost of services to
15 be provided by the proposed plan to create the municipal county.

16 (5) Upon approval of the plan by the governing body
17 of each county and each municipality involved, if required, or
18 upon the governing bodies' approval or failure to approve if the
19 commission was created by a petition of the registered voters, the
20 county clerks or election commissioners shall place the issue on
21 the ballot at the next primary, general, or special election.

22 (6) Whenever the proposed creation of a municipal county
23 involves a merger or consolidation between one or more counties and
24 a city of the metropolitan class, the following provisions shall
25 apply:

1 (a) Within thirty days after the passage of the joint
2 resolution or within thirty days after receipt of a petition
3 by the registered voters, the governing bodies of the county or
4 counties and the city of the metropolitan class involved shall
5 create an interjurisdictional planning commission. A commission may
6 also be created by the district court having jurisdiction over
7 the county or counties and the city of the metropolitan class
8 involved upon the failure by the county or counties and such city
9 to pass a joint resolution after submission of a petition by the
10 registered voters. The commission shall have seven members. Two
11 members shall be chosen by the governing body of the county or
12 counties proposed to be merged or consolidated, and two members
13 shall be chosen by the mayor of the city of the metropolitan class
14 proposed to be merged or consolidated, subject to confirmation by
15 the governing body of that city. The final three members of the
16 commission shall be the choice of the first four members jointly,
17 and shall have education, experience, or expertise with respect to
18 the formation or governance of political subdivisions. No member of
19 the commission may be an elected public official. Meetings of the
20 commission shall be subject to the Open Meetings Act. The governing
21 bodies may provide for the payment of reasonable compensation and
22 reasonable expenses for the members of the commission;

23 (b) The purpose of the commission shall be to create
24 a plan of merger for the county or counties and the city of
25 the metropolitan class and to present the plan of merger to the

1 governing bodies of the county or counties and city as provided in
2 subdivision (d) of this subsection;

3 (c) The plan shall specify (i) the manner in which the
4 county or counties and the city of the metropolitan class will be
5 dissolved or otherwise changed in legal status upon creation of the
6 municipal county, (ii) that the executive and legislative functions
7 of the county or counties and the city of the metropolitan class
8 shall be merged, with an elected mayor who shall be the chief
9 executive officer of the municipal county, and a municipal county
10 council of eleven members, who shall be elected as provided in
11 subdivision (1)(b) of section 13-2803, (iii) the initial division
12 and boundaries of the eleven council districts for the municipal
13 county council, (iv) the elected offices, if any, that will be
14 eliminated upon creation of the municipal county, (v) the date of
15 creation of the municipal county following the vote required under
16 section 13-2810, (vi) that, upon creation of the municipal county,
17 the municipal county council shall have the power to eliminate any
18 offices within the municipal county, other than the office of mayor
19 of the municipal county, and (vii) such other matters as deemed
20 appropriate by the commission;

21 (d) Within thirty days after its formation, the
22 commission shall hold a public hearing on the proposed creation of
23 the municipal county. Within ninety days after the public hearing,
24 the commission shall prepare its plan for the creation of the
25 municipal county and shall submit the plan for approval by the

1 governing bodies of the county or counties and the city of the
2 metropolitan class proposed to be merged or consolidated;

3 (e) Within forty-five days after receipt of the plan
4 from the commission, but no later than ninety days prior to
5 submission of the proposed merger for a vote pursuant to section
6 13-2810, the governing bodies of the county or counties and the
7 city of the metropolitan class shall hold a public hearing on the
8 commission's plan and shall vote to approve or disapprove the plan.
9 The governing bodies of the county or counties and the city of the
10 metropolitan class may hold the public hearing jointly, but shall
11 vote separately on the commission's plan; and

12 (f) Upon approval of the plan in subdivision (e) of
13 this subsection, or upon the governing bodies' approval or failure
14 to approve if the commission was created by a petition of the
15 registered voters, the county clerks or election commissioners
16 shall place the issue on the ballot of the next general election.
17 If at such time there is less than thirty days before the next
18 scheduled general election, the issue shall be placed on the ballot
19 of the first available election following such scheduled general
20 election.

21 Sec. 3. Section 13-2802, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 13-2802 Whenever creation of a municipal county is
24 proposed involving a city of the metropolitan class, the
25 ~~interjurisdictional planning commission shall include in its plan~~

1 ~~a recommendation with regard to plan of merger or consolidation~~
2 ~~approved pursuant to section 13-2801 shall not increase or decrease~~
3 the territory within which any metropolitan utilities district
4 shall have and may exercise the power of eminent domain pursuant to
5 subsection (2) of section 14-2116. ~~The plan shall further include a~~
6 ~~recommendation with regard to the territory which shall be deemed~~
7 ~~to be within the corporate boundary limits or extraterritorial~~
8 ~~zoning jurisdiction of a municipality or a municipality dissolved~~
9 ~~by the creation of the municipal county for purposes of the~~
10 ~~State Natural Gas Regulation Act. The question of creation of the~~
11 ~~municipal county shall not be submitted to a vote under section~~
12 ~~13-2810 until a law adopting the provisions required by this~~
13 ~~section has been enacted.~~

14 Sec. 4. Section 13-2803, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 13-2803 (1)(a) Except as provided in subdivision (1)(b)
17 of this section, a municipal county created under section 13-2801
18 shall be governed by a council of five to nine members, at least
19 two-thirds of whom shall be elected by district. The council
20 members shall be elected on a nonpartisan ballot. The area involved
21 in the consolidation shall be divided into districts of as equal
22 population as possible so that at least a majority of the members
23 of the council are elected by district. The division shall be made
24 by the county board members of each county involved by January
25 31 of the year in which the council members are to be elected.

1 A majority of the council members shall constitute a quorum for
2 the purpose of transacting business. The council shall annually
3 elect a chairperson from among its members. Each council member
4 shall be elected to a four-year term beginning with the first
5 general election following the formation, except that at the first
6 election, fifty to sixty percent of the members shall be elected to
7 four-year terms and the others shall be elected to two-year terms.
8 If there are to be at-large members, at the first election, the
9 district-elected members shall be elected to four-year terms and
10 the at-large members shall be elected to two-year terms, and if
11 ~~if~~ there are to be no at-large members, the members elected to
12 four-year terms and the members elected to two-year terms shall be
13 selected by lot.

14 (b) A Whenever a municipal county created under section
15 13-2801~~7~~ in which is situated involves a merger or consolidation
16 with a city of the metropolitan class, the municipal county
17 shall be governed by a council of ~~fifteen~~ eleven members who
18 shall be elected by districts. The council members shall be
19 elected on a nonpartisan ballot. The area involved in the merger
20 or consolidation shall be divided into ~~fifteen~~ eleven council
21 districts of compact and contiguous territory. Such districts shall
22 be numbered consecutively from one to ~~fifteen~~ eleven. One council
23 member shall be elected from each district. ~~The division shall~~
24 ~~be made by the county board members of each county involved,~~
25 ~~by January 31 of the year in which the council members are to~~

1 ~~be elected.~~ The initial division, prior to the creation of the
2 municipal county, shall be made as provided in subdivision (6) (c)
3 of section 13-2801 and incorporated into the plan provided for in
4 such section. Each municipal county council member shall be elected
5 to a four-year term, except that at the first general election
6 following the formation, the members elected from even-numbered
7 districts shall be elected to four-year terms and members elected
8 from odd-numbered districts shall be elected to two-year terms and
9 to four-year terms thereafter. The determination of even-numbered
10 and odd-numbered districts shall be made by a random process
11 established by the commission created in subsection (6) of section
12 13-2801 and the districts shall be so identified in the plan
13 provided for in such section. A majority of the council members
14 shall constitute a quorum for the purpose of transacting business.
15 The council shall annually elect a chairperson from among its
16 members. The Following formation of the municipal county and the
17 first election provided for in this section, the council shall be
18 responsible for redrawing the council district boundaries pursuant
19 to section 32-553.

20 (c) Initial elections of the council members and the
21 executive officer, if applicable, shall be completed by May 15 of
22 the year the municipal county is created.

23 (2) If Except when the proposed creation of a municipal
24 county includes a merger or consolidation of a city of the
25 metropolitan class, if the plan to create the municipal county

1 provides for an executive officer to operate the executive
2 functions of the municipal county, the executive officer shall
3 be elected to a four-year term beginning with the first general
4 election following the formation of the municipal county. Whenever
5 the proposed creation of a municipal county involves the merger
6 or consolidation of a county or counties and a city of the
7 metropolitan class, the municipal county mayor shall be elected
8 initially for a three-year term beginning with the first general
9 election following the formation of the municipal county, and
10 thereafter to four-year terms.

11 (3) The resolution proposing creation of the municipal
12 county may retain, as an elected position, any elected county
13 office in any county to be consolidated into the municipal county.
14 If such elected officials are to be retained, the officials in
15 such offices at the time the municipal county is created may be
16 retained or, if more than one such elected official are in office
17 at the time the municipal county is created, the officials shall be
18 elected together with the council members and executive officer of
19 the municipal county.

20 Sec. 5. Section 13-2804, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 13-2804 ~~(1)~~ A (1)(a) Except as provided in subdivision
23 (b) of this subsection, a municipal county has the powers and
24 duties of a county and shall fulfill the same role as other
25 counties and county officials of the municipal county as would be

1 applicable to a county of the same population as the municipal
2 county. Any reference in law to counties shall be deemed to refer
3 to a municipal county. A municipal county has the powers and
4 duties of cities and villages as would be applicable to the largest
5 municipality consolidated into the municipal county. Any reference
6 in law to cities, villages, or municipalities shall be deemed to
7 apply also to a municipal county.

8 (b) With respect to a municipal county formed by a
9 merger or consolidation of a county or counties and a city
10 of the metropolitan class, the municipal county shall have the
11 same powers and duties of the county prior to the merger or
12 consolidation, and, in addition, shall have the power and duties of
13 a city of the metropolitan class, including any home rule charter
14 authority pursuant to Article XI, section 5, of the Constitution
15 of Nebraska. Without limiting the foregoing, the municipal county
16 council shall have the power to eliminate any elected offices
17 within the municipal county except the office of mayor of the
18 municipal county. Any reference in law to counties shall be deemed
19 to refer and apply to the newly formed municipal county, and any
20 reference in law to a city of the metropolitan class also shall
21 be deemed to refer and apply to the newly formed municipal county.
22 In the event of a conflict between the laws applicable to counties
23 and those applicable to cities of the metropolitan class, the laws
24 applicable to a city of the metropolitan class, including any home
25 rule charter authority pursuant to Article XI, section 5, of the

1 Constitution of Nebraska, shall govern.

2 (2) On the date of creation of a municipal county,
3 all ordinances, bylaws, acts, motions, rules, resolutions, and
4 proclamations enacted by the governing body of each county or
5 municipality involved shall continue in full force and effect,
6 with respect to the counties and municipalities consolidated
7 into the municipal county, until amended, repealed, or otherwise
8 superseded by the council of the municipal county- All or as
9 otherwise provided in an applicable home rule charter. Unless
10 otherwise provided in the plan adopted pursuant to section
11 13-2801, all obligations, leases, and contracts of the counties
12 or municipalities consolidated into the municipal county, except
13 for bonded indebtedness, shall become obligations, leases, and
14 contracts of the municipal county. In the event any utility,
15 lease, franchise, or service area agreement has been entered into
16 by or is applicable to a county or municipality involved, the
17 utility, lease, franchise, or service area agreement shall be
18 unaffected by the creation of the municipal county and unchanged
19 by the elimination of the municipal or county boundaries. In
20 the event any service area or territory in which powers of
21 a political subdivision could be exercised or boundaries of a
22 political subdivision were previously defined by reference, in
23 whole or in part, to the boundaries of a participating municipality
24 or county, the boundaries of such service area or territory or
25 political subdivision, and the exercise of the powers of the

1 political subdivision, shall be unaffected by the creation of a
2 municipal county and unchanged by the elimination of the municipal
3 or county boundaries. The boundaries and exercise of powers of
4 school districts shall be unaffected by the creation of any
5 municipal county.

6 Sec. 6. Section 13-2805, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 13-2805 (1) A municipal county may adopt ordinances⁷ and
9 any such ordinances ~~shall~~ may be drafted to supersede those of any
10 municipality or county consolidated into the municipal county.

11 (2) All ordinances shall be passed pursuant to such rules
12 and regulations as the council may provide, and all such ordinances
13 may be proved by the certificate of the council. When printed or
14 published in book or pamphlet form and purporting to be published
15 by authority of the municipal county, such ordinances shall be read
16 and received in evidence in all courts and places without further
17 proof. The passage, approval, and publication or posting of an
18 ordinance shall be sufficiently proved by a certificate from the
19 council showing that the ordinance was passed and approved and when
20 and in what newspaper the ordinance was published or when, by whom,
21 and where the ordinance was posted. When ordinances are published
22 in book or pamphlet form, purporting to be published by authority
23 of the council, the same need not be otherwise published, and the
24 book or pamphlet shall be received as evidence of the passage and
25 legal publication of the ordinances, as of the dates mentioned in

1 the book or pamphlet, in all courts without further proof.

2 Sec. 7. Section 13-2806, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 13-2806 (1) All ordinances and resolutions or orders for
5 the appropriation or payment of money shall require for their
6 passage or adoption the concurrence of a majority of all members of
7 the council.

8 (2) Ordinances of a general or permanent nature shall be
9 read by title on three different days unless ~~three-fourths of the~~
10 ~~members vote to suspend this requirement.~~ otherwise authorized by
11 an applicable home rule charter.

12 (3) Ordinances shall contain no subject which is not
13 clearly expressed in the title, and, except as provided in section
14 19-915, no ordinance or section thereof shall be revised or amended
15 unless the new ordinance contains the entire ordinance or section
16 as revised or amended and the ordinance or section so amended is
17 repealed, except that for an ordinance revising all the ordinances
18 of the municipal county the only title necessary shall be: "An
19 ordinance of the municipal county of, revising all the
20 ordinances of the municipal county." Under such title, all the
21 ordinances may be revised in sections and chapters or otherwise,
22 may be corrected, added to, and any part suppressed, and may be
23 repealed with or without a saving clause as to the whole or any
24 part without other title.

25 Sec. 8. Section 13-2808, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 13-2808 A Except when the municipal county is created
3 from the merger or consolidation of one or more counties with a
4 city of the metropolitan class, a municipal county may levy up to
5 one dollar per one hundred dollars of taxable value, not including
6 bonded indebtedness. From the levy authority of the municipal
7 county, the municipal county may allocate to miscellaneous
8 political subdivisions as provided in section 77-3443. In no event
9 shall the levies of the municipal county and any miscellaneous
10 political subdivisions allocated levy authority by the municipal
11 county total more than one dollar per one hundred dollars of
12 taxable value on any one parcel in the municipal county, except
13 for bonded indebtedness approved according to law, lease-purchase
14 agreements approved prior to July 1, 1998, and judgments obtained
15 against the municipal county or one of its predecessors which
16 obligate the municipal county to pay the judgments to the extent
17 not paid by liability insurance and except as provided in section
18 77-3444.

19 Sec. 9. (1) For purposes of sections 13-2801 to 13-2819
20 and section 9 of this act, when a municipal county is created from
21 the merger or consolidation of one or more counties and a city of
22 the metropolitan class:

23 (a) General tax and service district means the area
24 encompassed within the boundaries of the city of the metropolitan
25 class at the time of creation of the municipal county and the areas

1 within the county outside such boundaries, including the areas
2 within the boundaries of any municipalities that are not merged or
3 consolidated into the new municipal county; and

4 (b) Urban tax and service district means the area
5 encompassed within the boundaries of the city of the metropolitan
6 class at the time of creation of the municipal county and any
7 expansion of such area by action of the municipal county council or
8 any annexation.

9 (2) There shall be established in any municipal county
10 created from the merger or consolidation of one or more counties
11 and a city of the metropolitan class a general tax and service
12 district and an urban tax and service district. The county clerk
13 shall create and maintain a map depicting the boundaries of
14 each such district within the municipal county. The municipal
15 county may levy within the general tax and service district up
16 to forty-five cents per one hundred dollars of taxable value,
17 not including bonded indebtedness, and may levy within the urban
18 tax and service district an additional levy of up to forty-five
19 cents per one hundred dollars of taxable value, not including
20 bonded indebtedness. From the levy authority of the general
21 tax and service district, the municipal county may allocate
22 to miscellaneous political subdivisions as provided in section
23 77-3443. In no event shall the levies of the general tax and
24 service district and urban tax and service district combined total
25 more than ninety cents per one hundred dollars of taxable value

1 on any one parcel in the municipal county, except for bonded
2 indebtedness approved according to law, lease-purchase agreements
3 approved prior to July 1, 1998, and judgments obtained against
4 the municipal county or one of its predecessors which obligate the
5 municipal county to pay the judgments to the extent not paid by
6 liability insurance and except as provided in section 77-3444.

7 Sec. 10. Section 13-2809, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 13-2809 (1) ~~An area within the boundaries of~~ Except as
10 provided in subsection (2) of this section, a municipality which
11 remains within the boundaries of a municipal county and is not
12 consolidated into the municipal county at the time of the formation
13 of the municipal county ~~shall not be considered to be part of the~~
14 ~~municipal county for any purpose.~~ Such a municipality shall not
15 be annexed by the municipal county, and such a municipality shall
16 not annex any territory, for at least four years after the date of
17 creation of the municipal county. Such a municipality shall retain:

18 (a) The authority to levy property taxes, not to exceed
19 ninety cents per one hundred dollars of taxable value except as
20 provided in sections 77-3442 and 77-3444; and

21 (b) All the other powers and duties applicable to a
22 municipality of the same population with the same form of
23 government in effect on the date of creation of the municipal
24 county, including, but not limited to, its zoning jurisdiction and
25 the authority to impose a tax as provided in the Local Option

1 Revenue Act.

2 (2) Whenever the creation of a municipal county involves
3 the merger or consolidation of a county or counties and a city of
4 the metropolitan class, any other municipality located within the
5 existing county that is not consolidated into the municipal county
6 may be annexed by the new municipal county in accordance with the
7 laws applicable to cities of the metropolitan class as long as the
8 boundaries of the municipal county's urban tax and service district
9 created pursuant to section 9 of this act are adjacent to the
10 boundaries of such municipality. If it is not annexed by the new
11 municipal county, such a municipality shall retain:

12 (a) The authority to levy property taxes within its
13 boundaries, not to exceed fifty cents per one hundred dollars of
14 taxable value except as provided in sections 77-3442 and 77-3444;
15 and

16 (b) All the other powers and duties applicable to a
17 municipality of the same population with the same form of
18 government in effect on the date of creation of the municipal
19 county, except that the municipality shall not annex any territory
20 after the date of creation of the municipal county that is within
21 the municipal county's urban tax and service district created
22 pursuant to section 9 of this act.

23 ~~(2)~~ (3) In order to provide economical and efficient
24 services, a municipality within the boundaries of a municipal
25 county may annex adjacent territory within the municipal county

1 if the municipal county consents. ~~Consent shall be granted if the~~
2 ~~services will be provided by the municipality within the annexed~~
3 ~~territory at less cost than similar services provided by the~~
4 ~~municipal county.~~

5 ~~(3)~~ (4) All fire protection districts subject to
6 municipal county levy authority under section 77-3443 which are
7 within the boundaries of a municipal county shall continue to exist
8 after formation of the municipal county.

9 Sec. 11. Section 13-2810, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 13-2810 (1) The powers granted by sections 13-2801 to
12 13-2809 and section 9 of this act shall not be exercised unless
13 and until the question has been submitted at a primary, general,
14 or special election held within the county or counties involved and
15 in which registered voters within the boundaries of the proposed
16 municipal county are entitled to vote on such question. The ballot
17 question may combine the issues of creation of the municipal
18 county, the merger of the county or counties and its offices,
19 the merger of each municipality proposed to be merged, and the
20 authorization of a local sales and use tax under section 13-2813.

21 (2) The officials of each county and each municipality
22 seeking to form the municipal county shall order the submission of
23 the question for creation by submitting a certified copy of the
24 resolution calling for creation to the election commissioner or
25 county clerk. The question may include any terms or conditions set

1 forth in the resolution, such as the timing of the consolidation
2 implementation, the number and method of election of council
3 members, and any proposed name for the municipal county, and shall
4 specifically state any offices to be eliminated.

5 (3) The election commissioner or county clerk shall give
6 notice of the submission of the question not more than thirty days
7 nor less than ten days before the election by publication one time
8 in one or more newspapers published in or of general circulation
9 within the boundaries of the proposed municipal county in which
10 the question is to be submitted. This notice is in addition to any
11 other notice required under the Election Act.

12 (4) (a) The vote shall be tabulated separately for (i) all
13 those voting on the question, (ii) those voting who reside in each
14 county and any municipality which would be merged or consolidated
15 into the proposed municipal county, and (iii) those voting who
16 reside in each ~~county~~ the proposed municipal county but outside any
17 municipality, ~~and (iv) those voting who reside in each county but~~
18 ~~outside any municipality or any sanitary and improvement district.~~

19 (b) If a majority of those voting on the question, the
20 proposed merger or consolidation is not approved by a majority of
21 those voting who reside in at least one county to be consolidated,
22 a majority of those voting who reside in at least one municipality
23 which is in one county voting in favor of consolidation, each
24 municipality proposed to be merged or consolidated into a municipal
25 county or by a majority of those voting who reside in areas in

1 of the county or counties to be consolidated which are outside
2 any the boundaries of such municipality to be consolidated, and
3 a majority of those voting who reside in each county but outside
4 any municipality or any sanitary and improvement district vote in
5 favor of consolidation, the municipal county shall be deemed to
6 be created for each county and municipality which had a majority
7 of those voting in favor of consolidation according to the terms
8 of the resolution. If no date of creation is provided in the
9 resolution, the municipal county shall be deemed to be created on
10 the following July 1. Any county in which a majority of those
11 voting approve the consolidation shall be deemed to be abolished,
12 and any municipality in such county which was proposed to be
13 consolidated and in which a majority of those voting who reside in
14 such municipality approve the consolidation shall be deemed to be
15 abolished. or municipalities, the proposed merger or consolidation
16 shall be rejected.

17 (c) The municipal county shall not be created (i) if
18 a majority of those voting on the question are opposed, (ii)
19 if a majority of those voting who reside in every county to be
20 consolidated are opposed, (iii) if a majority of those voting who
21 reside in every municipality to be consolidated which is in a
22 county which approved are opposed, (iv) if a majority of those
23 voting who reside in areas in a county which approved which are
24 outside any municipality are opposed, or (v) if a majority of
25 those voting who reside in a county which approved but outside

1 ~~any municipality or sanitary and improvement district are opposed.~~
2 The proposal to form the municipal county shall be approved if
3 (i) a majority of those voting who reside in each municipality
4 proposed to be merged or consolidated into the municipal county and
5 (ii) a majority of those voting who reside in areas of the county
6 or counties to be merged or consolidated which are outside the
7 boundaries of such municipality or municipalities vote to approve
8 the merger or consolidation.

9 (5) ~~If a~~ Any municipality within the boundaries of a
10 municipal county ~~is not a part of~~ that has not been merged or
11 consolidated into the municipal county ~~either because the governing~~
12 ~~body of the municipality did not approve the resolution seeking~~
13 ~~inclusion or because the voters of the municipality disapproved~~
14 ~~the consolidation,~~ the municipality may later seek inclusion merger
15 or consolidation into an existing municipal county by passing a
16 resolution seeking ~~inclusion~~ and approval by those voting at a
17 primary, general, or special election within the municipality.
18 The officials of the municipality shall deliver a certified copy
19 of the resolution to the appropriate officer of the municipal
20 county proposing ~~inclusion.~~ merger or consolidation. If a majority
21 of those voting in the municipality approve ~~inclusion~~ merger or
22 consolidation and a majority of the elected council members of
23 the municipal county vote to approve ~~inclusion of~~ the merger or
24 consolidation with such municipality, the municipality shall be
25 merged or consolidated into the municipal county. If a majority

1 of those voting in the municipality disapprove or a majority of
2 the elected council members of the municipal county do not vote
3 to approve ~~inclusion of~~ the merger or consolidation with such
4 municipality, it shall not be merged or consolidated.

5 (6) Any election under this section shall be conducted in
6 accordance with the procedures provided in the Election Act.

7 Sec. 12. Section 13-2813, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 13-2813 (1) A municipal county by ordinance of its
10 council may impose a sales and use tax of one-half percent, one
11 percent, or one and one-half percent upon the same transactions
12 within the entire municipal county on which the state is authorized
13 to impose a tax pursuant to the Nebraska Revenue Act of 1967, as
14 amended from time to time.

15 (2) A municipal county shall not impose a new sales and
16 use tax, increase the tax, or extend the territory of an existing
17 sales and use tax until an election is held and a majority of ~~the~~
18 ~~registered voters as provided in section 13-2810~~ those voting on
19 the question have approved the tax, increase, or extension. The
20 ballot issue proposing approval of a new sales and use tax or the
21 increase or territorial extension of an existing sales and use tax
22 may be combined with the issue proposing creation of a municipal
23 county.

24 Sec. 13. Section 13-2814, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

1 13-2814 (1) All sales and use taxes adopted under section
2 13-2813 shall be administered and regulated in accordance with the
3 Nebraska Revenue Act of 1967, as amended from time to time. The
4 Tax Commissioner shall administer all sales and use taxes adopted
5 under section 13-2813. The Tax Commissioner may prescribe forms and
6 adopt and promulgate rules and regulations in conformity with the
7 Nebraska Revenue Act of 1967, as amended, for the making of returns
8 and for the ascertainment, assessment, and collection of taxes. The
9 council shall furnish a certified copy of the adopting or repealing
10 resolution to the Tax Commissioner in accordance with such rules
11 and regulations. The tax shall begin the first day of the next
12 calendar quarter following receipt by the Tax Commissioner of the
13 certified copy of the adopted resolution if the certified copy of
14 the adopted resolution is received sixty days prior to the start of
15 the next calendar quarter.

16 (2) For resolutions containing a termination date, the
17 termination date is the first day of a calendar quarter. The
18 council shall furnish a certified statement to the Tax Commissioner
19 no more than one hundred twenty days and at least sixty days
20 before the termination date stating that the termination date in
21 the resolution is still valid. If the certified statement is not
22 furnished within the prescribed time, the tax shall remain in
23 effect and the Tax Commissioner shall continue to collect the tax
24 until the first day of the calendar quarter which is at least sixty
25 days after receipt of the certified statement notwithstanding the

1 ~~termination date stated in the resolution.~~

2 ~~(3)~~ (2) In the rental or lease of automobiles, trucks,
3 trailers, semitrailers, and truck-tractors as defined in the Motor
4 Vehicle Registration Act, the tax shall be collected by the lessor
5 on the rental or lease price at the tax rate in effect on the date
6 the automobile, truck, trailer, semitrailer, or truck-tractor is
7 delivered to the lessee.

8 ~~(4)~~ The Tax Commissioner shall collect the sales and use
9 tax concurrently with collection of a state tax in the same manner
10 as the state tax is collected. The Tax Commissioner shall remit
11 monthly the proceeds of the tax to the municipal county imposing
12 the tax, after deducting the amount of refunds made and three
13 percent of the remainder as an administrative fee necessary to
14 defray the cost of collecting the tax and the expenses incident
15 thereto. The Tax Commissioner shall keep full and accurate records
16 of all money received and distributed. All receipts from the three
17 percent administrative fee shall be deposited in the Municipal
18 Equalization Fund.

19 ~~(5)~~ (3) Upon any claim of illegal assessment and
20 collection, the taxpayer has the same remedies as provided for
21 claims of illegal assessment and collection of the state tax. It
22 is the intention of the Legislature that the provisions of law
23 which apply to the recovery of state taxes illegally assessed and
24 collected apply to the recovery of sales and use taxes illegally
25 assessed and collected under section 13-2813.

1 Sec. 14. Section 13-2818, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 13-2818 ~~(1)~~ Sanitary (1)(a) Except as provided in
4 subdivision (6) of this subsection, sanitary and improvement
5 districts located within a municipal county created under sections
6 13-2801 to 13-2819 and section 9 of this act, unless consolidated
7 into a municipal county in accordance with section 13-2819, shall
8 be deemed to be unconsolidated sanitary and improvement districts
9 and shall continue to exist after approval of the formation of the
10 municipal county except as provided in this section.

11 (b) When the proposed creation of a municipal county
12 includes a merger or consolidation with a city of the metropolitan
13 class, then such sanitary and improvement districts, whether
14 created before, on, or after the effective date of this act,
15 located outside of the urban tax and service district, shall remain
16 unconsolidated except as hereinafter provided.

17 (2) An unconsolidated sanitary and improvement district
18 shall have and retain its authority to levy property taxes, and
19 the municipal county shall have no authority to levy property taxes
20 on the lands within an unconsolidated sanitary and improvement
21 district other than for bonded indebtedness incurred by the county
22 prior to creation of the municipal county. The area of the
23 unconsolidated sanitary and improvement district shall ~~not~~ be
24 considered to be within the boundaries of the municipal county
25 except as provided by law.

1 (3) Parcels of land which are contiguous to each other
2 and are included within the municipal county, but not included
3 in an unconsolidated municipality, may be included in a sanitary
4 and improvement district with the approval of the council of the
5 municipal county.

6 (4) Each unconsolidated sanitary and improvement district
7 shall pay the municipal county for services that were previously
8 provided by the county. The amount paid shall be equal to the
9 attributable cost of county services times a ratio, the numerator
10 of which is the total valuation of all unconsolidated sanitary
11 and improvement districts that are within the boundaries of
12 the municipal county and the denominator of which is the total
13 valuation of the municipal county and all unconsolidated sanitary
14 and improvement districts and unconsolidated municipalities
15 that are within the boundaries of the municipal county, times
16 a ratio the numerator of which is the valuation of the
17 particular unconsolidated sanitary and improvement district and the
18 denominator of which is the total valuation of all unconsolidated
19 sanitary and improvement districts that are within the boundaries
20 of the municipal county, except that the amount paid shall not
21 exceed the total taxable valuation of the unconsolidated sanitary
22 and improvement district times forty-five hundredths of one
23 percent. Any disputes arising under this subsection shall be heard
24 in the district court of such municipal county.

25 ~~(5)~~ (5) (a) Unless the unconsolidated sanitary and

1 improvement district is located wholly within the extraterritorial
2 zoning jurisdiction of an unconsolidated municipality, an
3 unconsolidated sanitary and improvement district shall be deemed to
4 be within the zoning jurisdiction of the municipal county.

5 (b) Whenever the proposed creation of a municipal county
6 involves the merger or consolidation of a county or counties
7 and a city of the metropolitan class, an unconsolidated sanitary
8 and improvement district shall be deemed to be within the zoning
9 jurisdiction of the municipal county.

10 (6) Any municipal county sales and use tax that has been
11 approved under section 13-2813 shall be imposed upon transactions
12 within the entire municipal county, including all unconsolidated
13 sanitary and improvement districts.

14 Sec. 15. Section 13-2819, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 13-2819 A municipal county may by ordinance cause any
17 unconsolidated sanitary and improvement district located (1) within
18 the extraterritorial zoning jurisdiction of an unconsolidated
19 municipality with the consent of the governing body of the
20 unconsolidated municipality, or (2) within any portion of the
21 municipal county, to be consolidated, in whole or part, into
22 the municipal county, and thereafter the municipal county shall
23 succeed to the property and property rights of every kind,
24 contracts, obligations, and choses in action of every kind, held
25 by or belonging to the sanitary and improvement district, and the

1 municipal county shall be liable for and recognize, assume, and
2 carry out the valid contracts and obligations of the district. Any
3 such consolidation, in whole or in part, shall be accomplished by
4 the municipal county and the sanitary and improvement district in
5 accordance with sections 31-763 to 31-766, and other applicable
6 law, as if the municipal county were a city and the consolidation
7 were an annexation or partial annexation. Whenever the municipal
8 county involves the merger or consolidation of a county or counties
9 and a city of the metropolitan class, an unconsolidated sanitary
10 and improvement district shall be deemed consolidated, under such
11 sections and other applicable law, when the urban tax and service
12 district is extended to include such district as if the municipal
13 county were a city and the consolidation by extension of the urban
14 tax and service district were an annexation or partial annexation.

15 Sec. 16. Original sections 13-520, 13-2801, 13-2802,
16 13-2803, 13-2804, 13-2805, 13-2806, 13-2808, 13-2809, 13-2810,
17 13-2813, 13-2814, 13-2818, and 13-2819, Revised Statutes Cumulative
18 Supplement, 2006, are repealed.