

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 522

FINAL READING

Introduced by Urban Affairs Committee: Friend, 10, Chairperson;
Coash, 27; Lathrop, 12; McGill, 26; Rogert, 16;
White, 8.

Read first time January 21, 2009

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to volunteer fire and rescue departments;
2 to amend section 35-901, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to the use of
4 funds, fees, and charges; and to repeal the original
5 section.

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

1 Section 1. Section 35-901, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 35-901 (1) For purposes of this section, volunteer
4 department shall mean volunteer fire department or volunteer
5 first-aid, rescue, or emergency squad or volunteer fire company
6 serving any city, village, county, township, or rural or suburban
7 fire protection district.

8 (2) Except as provided in subsection (4) of this section,
9 each volunteer department may establish a volunteer department
10 trust fund. All general donations or contributions, bequests, or
11 annuities made to the volunteer department and all money raised by
12 or for the volunteer department shall be deposited in the trust
13 fund. The trust fund shall be under the control of the volunteer
14 department, and the volunteer department may make expenditures
15 from the trust fund as it deems necessary. The treasurer of the
16 volunteer department shall be the custodian of the trust fund.

17 (3) The trust fund shall not be considered public funds
18 or funds of any city, village, county, township, or rural or
19 suburban fire protection district for any purpose, including the
20 Nebraska Budget Act, nor shall any city, village, county, township,
21 or rural or suburban fire protection district incur any liability
22 solely by reason of any expenditure from such fund except liability
23 for property when any city, village, county, township, or rural
24 or suburban fire protection district receives title to property
25 acquired with money from such fund.

1 (4) (a) If the total amount of expenditures and receipts
2 in the trust fund exceeds one hundred thousand dollars in
3 any twelve-month period, the volunteer department shall inform
4 any city, village, county, township, or rural or suburban fire
5 protection district receiving service from the department and such
6 entity may examine or cause to be examined all books, accounts,
7 vouchers, records, and expenditures with regard to the trust fund.

8 (b) Funds, fees, or charges solicited, collected, or
9 received by a volunteer department that are (i) in consequence
10 of the performance of fire or rescue services by the volunteer
11 department at a given place and time, (ii) accomplished through the
12 use by the volunteer department of equipment owned by the taxing
13 authority supporting such department and provided to the volunteer
14 department for that purpose, and (iii) paid by or on behalf of
15 the recipient of those services shall not be deposited in a trust
16 fund authorized by this section. Such funds are public funds of the
17 taxing authority supporting the volunteer department and are deemed
18 to have been collected by the volunteer department as the agent of
19 the taxing authority and are held by the department on its behalf.
20 If such funds are in the possession of a volunteer department,
21 the taxing authority shall cause all the books, accounts, records,
22 vouchers, expenditures, and statements regarding such funds to be
23 examined and independently audited at the expense of the taxing
24 authority by a qualified professional auditor or the Auditor of
25 Public Accounts for the immediately preceding five years.

1 (5) Nothing in this section shall be construed or deemed
2 to permit a violation of the Nebraska Liquor Control Act.

3 (6) All expenditures of public funds as defined in the
4 Nebraska Budget Act for support of a volunteer department or its
5 purposes shall be submitted as claims, approved by the taxing
6 authority supporting such department or its purposes, and published
7 as required by law. All such claims shall be properly itemized for
8 proposed expenditure or reimbursement for costs already incurred
9 and paid except as may be otherwise permitted pursuant to section
10 35-106.

11 (7) All money raised pursuant to the Nebraska Bingo Act,
12 the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
13 Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be
14 subject to such acts with respect to the deposit and expenditure of
15 such money.

16 (8) No volunteer department shall solicit, charge, or
17 collect any funds, fees, or charges as described in subdivision
18 (4)(b) of this section without the express authorization of the
19 taxing authority supporting the department by vote of a majority
20 of the members of the governing body of such taxing authority.
21 Such authorization shall not extend beyond a twelve-month period
22 but may be renewed at the discretion of the taxing authority in
23 the same manner in which it was initially granted. Upon collection
24 or receipt, such funds, fees, or charges shall be remitted to
25 the designated officer of the taxing authority for deposit to the

1 account of the taxing authority.

2 (9) Funds, fees, or charges as described in subdivision
3 (4) (b) of this section which are in the possession of the taxing
4 authority shall be expended by such taxing authority solely (a) for
5 the support of the emergency response activities of the volunteer
6 department which gave rise to those funds, fees, or charges, (b)
7 for charges directly related to the collection of those funds,
8 fees, or charges, or (c) The taxing authority may appropriate and
9 ~~expend some or all of such funds~~ for the support of a service award
10 benefit program adopted and conducted pursuant to the Volunteer
11 Emergency Responders Recruitment and Retention Act.

12 Sec. 2. Original section 35-901, Reissue Revised Statutes
13 of Nebraska, is repealed.