

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 733**

Introduced by Gay, 14.

Read first time January 06, 2010

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to local public health departments; to amend  
2 section 77-2704.15, Reissue Revised Statutes of Nebraska,  
3 and section 13-903, Revised Statutes Supplement, 2009; to  
4 include such departments under the Political Subdivisions  
5 Tort Claims Act and provide a sales tax exemption; and to  
6 repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 13-903, Revised Statutes Supplement,  
2 2009, is amended to read:

3           13-903 For purposes of the Political Subdivisions Tort  
4 Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610,  
5 unless the context otherwise requires:

6           (1) Political subdivision shall include villages, cities  
7 of all classes, counties, school districts, learning communities,  
8 public power districts, local public health departments as defined  
9 in section 71-1626, and all other units of local government,  
10 including entities created pursuant to the Interlocal Cooperation  
11 Act or Joint Public Agency Act. Political subdivision shall not be  
12 construed to include any contractor with a political subdivision;

13           (2) Governing body shall mean the village board of a  
14 village, the city council of a city, the board of commissioners  
15 or board of supervisors of a county, the board of directors of a  
16 public power district, the governing board or other governing body  
17 of an entity created pursuant to the Interlocal Cooperation Act or  
18 Joint Public Agency Act, and any duly elected or appointed body  
19 holding the power and authority to determine the appropriations and  
20 expenditures of any other unit of local government;

21           (3) Employee of a political subdivision shall mean any  
22 one or more officers or employees of the political subdivision or  
23 any agency of the subdivision and shall include members of the  
24 governing body, duly appointed members of boards or commissions  
25 when they are acting in their official capacity, volunteer

1 firefighters, and volunteer rescue squad personnel. Employee shall  
2 not be construed to include any contractor with a political  
3 subdivision; and

4 (4) Tort claim shall mean any claim against a political  
5 subdivision for money only on account of damage to or loss of  
6 property or on account of personal injury or death, caused by  
7 the negligent or wrongful act or omission of any employee of the  
8 political subdivision, while acting within the scope of his or her  
9 office or employment, under circumstances in which the political  
10 subdivision, if a private person, would be liable to the claimant  
11 for such damage, loss, injury, or death but shall not include any  
12 claim accruing before January 1, 1970.

13 Sec. 2. Section 77-2704.15, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 77-2704.15 (1) Sales and use taxes shall not be imposed  
16 on the gross receipts from the sale, lease, or rental of and  
17 the storage, use, or other consumption in this state of purchases  
18 by the state, including public educational institutions recognized  
19 or established under the provisions of Chapter 85, or by any  
20 county, township, city, village, rural or suburban fire protection  
21 district, city airport authority, county airport authority, joint  
22 airport authority, drainage district organized under sections  
23 31-401 to 31-450, natural resources district, elected county fair  
24 board, housing agency as defined in section 71-1575 except for  
25 purchases for any commercial operation that does not exclusively

1 benefit the residents of an affordable housing project, or joint  
2 entity or agency formed to fulfill the purposes described in the  
3 Integrated Solid Waste Management Act by any combination of two  
4 or more counties, townships, cities, or villages pursuant to the  
5 Interlocal Cooperation Act, the Integrated Solid Waste Management  
6 Act, or the Joint Public Agency Act, except for purchases for use  
7 in the business of furnishing gas, water, electricity, or heat, or  
8 by any irrigation or reclamation district, the irrigation division  
9 of any public power and irrigation district, ~~or~~ public schools or  
10 learning communities established under Chapter 79, or any local  
11 public health department as defined in section 71-1626.

12 (2) The appointment of purchasing agents shall be  
13 recognized for the purpose of altering the status of the  
14 construction contractor as the ultimate consumer of building  
15 materials which are physically annexed to the structure and which  
16 subsequently belong to the state or the governmental unit. The  
17 appointment of purchasing agents shall be in writing and occur  
18 prior to having any building materials annexed to real estate in  
19 the construction, improvement, or repair. The contractor who has  
20 been appointed as a purchasing agent may apply for a refund of or  
21 use as a credit against a future use tax liability the tax paid  
22 on inventory items annexed to real estate in the construction,  
23 improvement, or repair of a project for the state or a governmental  
24 unit.

25 (3) Any governmental unit listed in subsection (1) of

1 this section, except the state, which enters into a contract  
2 of construction, improvement, or repair upon property annexed to  
3 real estate without first issuing a purchasing agent authorization  
4 to a contractor or repairperson prior to the building materials  
5 being annexed to real estate in the project may apply to the Tax  
6 Commissioner for a refund of any sales and use tax paid by the  
7 contractor or repairperson on the building materials physically  
8 annexed to real estate in the construction, improvement, or repair.

9           Sec. 3. Original section 77-2704.15, Reissue Revised  
10 Statutes of Nebraska, and section 13-903, Revised Statutes  
11 Supplement, 2009, are repealed.