

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 825

Introduced by Brewer, 43.

Read first time January 04, 2018

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to state and local government; to amend
- 2 section 77-1601.02, Reissue Revised Statutes of Nebraska, and
- 3 sections 13-518, 13-519, and 13-520, Revised Statutes Supplement,
- 4 2017; to change provisions relating to budget limitations and
- 5 procedures and property tax request public hearing notice
- 6 requirements as prescribed; to harmonize provisions; and to repeal
- 7 the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-518, Revised Statutes Supplement, 2017, is
2 amended to read:

3 13-518 For purposes of sections 13-518 to 13-522:

4 (1) Allowable growth means (a) for governmental units other than
5 community colleges, the percentage increase in taxable valuation in
6 excess of the base limitation established under section 77-3446, if any,
7 due to improvements to real property as a result of new construction,
8 additions to existing buildings, any improvements to real property which
9 increase the value of such property, and any increase in valuation due to
10 annexation and any personal property valuation over the prior year and
11 (b) for community colleges, the percentage increase in excess of the base
12 limitation, if any, in full-time equivalent students from the second year
13 to the first year preceding the year for which the budget is being
14 determined;

15 (2) Capital improvements means (a) acquisition of real property or
16 (b) acquisition, construction, or extension of any improvements on real
17 property;

18 (3) Governing body has the same meaning as in section 13-503;

19 (4) Governmental unit means every political subdivision which has
20 authority to levy a property tax or authority to request levy authority
21 under section 77-3443 except sanitary and improvement districts which
22 have been in existence for five years or less and school districts;

23 ~~(5) Qualified sinking fund means a fund or funds maintained~~
24 ~~separately from the general fund to pay for acquisition or replacement of~~
25 ~~tangible personal property with a useful life of five years or more which~~
26 ~~is to be undertaken in the future but is to be paid for in part or in~~
27 ~~total in advance using periodic payments into the fund. The term includes~~
28 ~~sinking funds under subdivision (13) of section 35-508 for firefighting~~
29 ~~and rescue equipment or apparatus;~~

30 (5) ~~(6)~~ Restricted funds means (a) property tax, excluding any
31 amounts refunded to taxpayers, (b) payments in lieu of property taxes,

1 (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f)
2 transfers of surpluses from any user fee, permit fee, or regulatory fee
3 if the fee surplus is transferred to fund a service or function not
4 directly related to the fee and the costs of the activity funded from the
5 fee, (g) any funds excluded from restricted funds for the prior year
6 because they were budgeted for capital improvements but which were not
7 spent and are not expected to be spent for capital improvements, (h) the
8 tax provided in sections 77-27,223 to 77-27,227 beginning in the second
9 fiscal year in which the county will receive a full year of receipts, and
10 (i) any excess tax collections returned to the county under section
11 77-1776. Funds received pursuant to the nameplate capacity tax levied
12 under section 77-6203 for the first five years after a renewable energy
13 generation facility has been commissioned are nonrestricted funds; and

14 ~~(6)~~ (7) State aid means:

15 (a) For all governmental units, state aid paid pursuant to sections
16 60-3,202 and 77-3523 and reimbursement provided pursuant to section
17 77-1239;

18 (b) For municipalities, state aid to municipalities paid pursuant to
19 sections 18-2605, 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and
20 insurance premium tax paid to municipalities;

21 (c) For counties, state aid to counties paid pursuant to sections
22 60-3,184 to 60-3,190, insurance premium tax paid to counties, and
23 reimbursements to counties from funds appropriated pursuant to section
24 29-3933;

25 (d) For community colleges, (i) for fiscal years 2010-11, 2011-12,
26 and 2012-13, state aid to community colleges paid pursuant to section
27 90-517 and (ii) for fiscal year 2013-14 and each fiscal year thereafter,
28 state aid to community colleges paid pursuant to the Community College
29 Aid Act;

30 (e) For educational service units, state aid appropriated under
31 sections 79-1241.01 and 79-1241.03; and

1 (f) For local public health departments as defined in section
2 71-1626, state aid as distributed under section 71-1628.08.

3 Sec. 2. Section 13-519, Revised Statutes Supplement, 2017, is
4 amended to read:

5 13-519 (1)(a) Subject to subdivisions (1)(b) and (c) of this
6 section, for all fiscal years beginning on or after July 1, 1998, no
7 governmental unit shall adopt a budget containing a total of budgeted
8 restricted funds more than the last prior year's total of budgeted
9 restricted funds plus allowable growth plus the basic allowable growth
10 percentage of the base limitation established under section 77-3446. For
11 the second fiscal year in which a county will receive a full year of
12 receipts from the tax imposed in sections 77-27,223 to 77-27,227, the
13 prior year's total of restricted funds shall be the prior year's total of
14 restricted funds plus the total receipts from the tax imposed in sections
15 77-27,223 to 77-27,227 in the prior year. If a governmental unit
16 transfers the financial responsibility of providing a service financed in
17 whole or in part with restricted funds to another governmental unit or
18 the state, the amount of restricted funds associated with providing the
19 service shall be subtracted from the last prior year's total of budgeted
20 restricted funds for the previous provider and may be added to the last
21 prior year's total of restricted funds for the new provider. For
22 governmental units that have consolidated, the calculations made under
23 this section for consolidating units shall be made based on the combined
24 total of restricted funds, population, or full-time equivalent students
25 of each governmental unit.

26 (b) For all fiscal years beginning on or after July 1, 2008,
27 educational service units may exceed the limitations of subdivision (1)
28 (a) of this section to the extent that one hundred ten percent of the
29 needs for the educational service unit calculated pursuant to section
30 79-1241.03 exceeds the budgeted restricted funds allowed pursuant to
31 subdivision (1)(a) of this section.

1 (c) For fiscal year 2017-18, the last prior year's total of
2 restricted funds for counties shall be the last prior year's total of
3 restricted funds less the last prior year's restricted funds budgeted by
4 counties under sections 39-2501 to 39-2520, plus the last prior year's
5 amount of restricted funds budgeted by counties under sections 39-2501 to
6 39-2520 to be used for capital improvements.

7 (2) A governmental unit may exceed the limit provided in subdivision
8 (1)(a) of this section for a fiscal year by up to an additional one
9 percent upon the affirmative vote of at least seventy-five percent of the
10 governing body.

11 (3) A governmental unit may exceed the applicable allowable growth
12 percentage otherwise prescribed in this section by an amount approved by
13 a majority of legal voters voting on the issue at a special election
14 called for such purpose upon the recommendation of the governing body or
15 upon the receipt by the county clerk or election commissioner of a
16 petition requesting an election signed by at least five percent of the
17 legal voters of the governmental unit. The recommendation of the
18 governing body or the petition of the legal voters shall include the
19 amount and percentage by which the governing body would increase its
20 budgeted restricted funds for the ensuing year over and above the current
21 year's budgeted restricted funds. The county clerk or election
22 commissioner shall call for a special election on the issue within thirty
23 days after the receipt of such governing body recommendation or legal
24 voter petition. The election shall be held pursuant to the Election Act,
25 and all costs shall be paid by the governing body. The issue may be
26 approved on the same question as a vote to exceed the levy limits
27 provided in section 77-3444.

28 (4) In lieu of the election procedures in subsection (3) of this
29 section, any governmental unit may, for a period of one year, exceed the
30 allowable growth percentage otherwise prescribed in this section by an
31 amount approved by a majority of legal voters voting at a meeting of the

1 residents of the governmental unit, called after notice is published in a
2 newspaper of general circulation in the governmental unit at least twenty
3 days prior to the meeting. At least ten percent of the registered voters
4 residing in the governmental unit shall constitute a quorum for purposes
5 of taking action to exceed the allowable growth percentage. If a majority
6 of the registered voters present at the meeting vote in favor of
7 exceeding the allowable growth percentage, a copy of the record of that
8 action shall be forwarded to the Auditor of Public Accounts along with
9 the budget documents. The issue to exceed the allowable growth percentage
10 may be approved at the same meeting as a vote to exceed the limits or
11 final levy allocation provided in section 77-3444.

12 Sec. 3. Section 13-520, Revised Statutes Supplement, 2017, is
13 amended to read:

14 13-520 The limitations in section 13-519 shall not apply to (1)
15 restricted funds budgeted for capital improvements, (2) ~~restricted funds~~
16 ~~expended from a qualified sinking fund for acquisition or replacement of~~
17 ~~tangible personal property with a useful life of five years or more, (3)~~
18 ~~restricted funds pledged to retire bonds as defined in subdivision (1) of~~
19 ~~section 10-134 and approved according to law, (3) restricted funds bonded~~
20 ~~indebtedness,~~ used by a public airport to retire interest-free loans from
21 the Division of Aeronautics of the Department of Transportation in lieu
22 of bonded indebtedness at a lower cost to the public airport, ~~or used to~~
23 ~~pay other financial instruments that are approved and agreed to before~~
24 ~~July 1, 1999, in the same manner as bonds by a governing body created~~
25 ~~under section 35-501,~~ (4) restricted funds budgeted in support of a
26 service which is the subject of an agreement or a modification of an
27 existing agreement whether operated by one of the parties to the
28 agreement or by an independent joint entity or joint public agency, (5)
29 restricted funds budgeted to pay for repairs to infrastructure damaged by
30 a natural disaster which is declared a disaster emergency pursuant to the
31 Emergency Management Act, (6) restricted funds budgeted to pay for

1 judgments, except judgments or orders from the Commission of Industrial
2 Relations, obtained against a governmental unit which require or obligate
3 a governmental unit to pay such judgment, to the extent such judgment is
4 not paid by liability insurance coverage of a governmental unit, or (7)
5 the dollar amount by which restricted funds budgeted by a natural
6 resources district to administer and implement ground water management
7 activities and integrated management activities under the Nebraska Ground
8 Water 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. 4. Section 77-1601.02, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-1601.02 (1) The property tax request for the prior year shall be
14 the property tax request for the current year for purposes of the levy
15 set by the county board of equalization in section 77-1601 unless the
16 governing body of the county, municipality, school district, learning
17 community, sanitary and improvement district, natural resources district,
18 educational service unit, or community college passes by a majority vote
19 a resolution or ordinance setting the tax request at a different amount.
20 Such resolution or ordinance shall only be passed after a special public
21 hearing called for such purpose is held and after notice is published in
22 a newspaper of general circulation in the area of the political
23 subdivision at least four calendar ~~five~~ days prior to the hearing. For
24 purposes of such notice, the four calendar days shall include the day of
25 publication but not the day of hearing. The hearing notice shall contain
26 the following information: The dollar amount of the prior year's tax
27 request and the property tax rate that was necessary to fund that tax
28 request; the property tax rate that would be necessary to fund last
29 year's tax request if applied to the current year's valuation; and the
30 proposed dollar amount of the tax request for the current year and the
31 property tax rate that will be necessary to fund that tax request. Any

1 resolution setting a tax request under this section shall be certified
2 and forwarded to the county clerk on or before October 13 of the year for
3 which the tax request is to apply.

4 (2) Any levy which is not in compliance with this section and
5 section 77-1601 shall be construed as an unauthorized levy under section
6 77-1606.

7 Sec. 5. Original section 77-1601.02, Reissue Revised Statutes of
8 Nebraska, and sections 13-518, 13-519, and 13-520, Revised Statutes
9 Supplement, 2017, are repealed.