

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 148

FINAL READING

Introduced by Groene, 42.

Read first time January 11, 2019

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to state and local government; to amend
- 2 section 13-506, Revised Statutes Cumulative Supplement, 2018, and
- 3 sections 13-503 and 84-1411, Revised Statutes Supplement, 2019; to
- 4 redefine a term; to change provisions relating to public hearings on
- 5 proposed budget statements and notice of meetings of public bodies;
- 6 and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-503, Revised Statutes Supplement, 2019, is
2 amended to read:

3 13-503 For purposes of the Nebraska Budget Act, unless the context
4 otherwise requires:

5 (1) Governing body means the governing body of any county
6 agricultural society, elected county fair board, joint airport authority
7 formed under the Joint Airport Authorities Act, city or county airport
8 authority, bridge commission created pursuant to section 39-868, cemetery
9 district, city, village, municipal county, community college, community
10 redevelopment authority, county, drainage or levee district, educational
11 service unit, rural or suburban fire protection district, historical
12 society, hospital district, irrigation district, learning community,
13 natural resources district, nonprofit county historical association or
14 society for which a tax is levied under subsection (1) of section
15 23-355.01, public building commission, railroad transportation safety
16 district, reclamation district, road improvement district, rural water
17 district, school district, sanitary and improvement district, township,
18 offstreet parking district, transit authority, regional metropolitan
19 transit authority, metropolitan utilities district, Educational Service
20 Unit Coordinating Council, ~~and~~ political subdivision with the authority
21 to have a property tax request, with the authority to levy a toll, or
22 that receives state aid, and joint entity created pursuant to the
23 Interlocal Cooperation Act that receives tax funds generated under
24 section 2-3226.05;

25 (2) Levying board means any governing body which has the power or
26 duty to levy a tax;

27 (3) Fiscal year means the twelve-month period used by each governing
28 body in determining and carrying on its financial and taxing affairs;

29 (4) Tax means any general or special tax levied against persons,
30 property, or business for public purposes as provided by law but shall
31 not include any special assessment;

1 (5) Auditor means the Auditor of Public Accounts;

2 (6) Cash reserve means funds required for the period before revenue
3 would become available for expenditure but shall not include funds held
4 in any special reserve fund;

5 (7) Public funds means all money, including nontax money, used in
6 the operation and functions of governing bodies. For purposes of a
7 county, city, or village which has a lottery established under the
8 Nebraska County and City Lottery Act, only those net proceeds which are
9 actually received by the county, city, or village from a licensed lottery
10 operator shall be considered public funds, and public funds shall not
11 include amounts awarded as prizes;

12 (8) Adopted budget statement means a proposed budget statement which
13 has been adopted or amended and adopted as provided in section 13-506.
14 Such term shall include additions, if any, to an adopted budget statement
15 made by a revised budget which has been adopted as provided in section
16 13-511;

17 (9) Special reserve fund means any special fund set aside by the
18 governing body for a particular purpose and not available for expenditure
19 for any other purpose. Funds created for (a) the retirement of bonded
20 indebtedness, (b) the funding of employee pension plans, (c) the purposes
21 of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes
22 of the Local Option Municipal Economic Development Act, (e) voter-
23 approved sinking funds, or (f) statutorily authorized sinking funds shall
24 be considered special reserve funds;

25 (10) Biennial period means the two fiscal years comprising a
26 biennium commencing in odd-numbered or even-numbered years used by a
27 city, village, or natural resources district in determining and carrying
28 on its financial and taxing affairs; and

29 (11) Biennial budget means (a) a budget by a city of the primary or
30 metropolitan class that adopts a charter provision providing for a
31 biennial period to determine and carry on the city's financial and taxing

1 affairs, (b) a budget by a city of the first or second class or village
2 that provides for a biennial period to determine and carry on the city's
3 or village's financial and taxing affairs, or (c) a budget by a natural
4 resources district that provides for a biennial period to determine and
5 carry on the natural resources district's financial and taxing affairs.

6 Sec. 2. Section 13-506, Revised Statutes Cumulative Supplement,
7 2018, is amended to read:

8 13-506 (1) Each governing body shall each year or biennial period
9 conduct a public hearing on its proposed budget statement. Such hearing
10 shall be held separately from any regularly scheduled meeting of the
11 governing body and shall not be limited by time. Notice of place and time
12 of such hearing, together with a summary of the proposed budget
13 statement, shall be published at least four calendar days prior to the
14 date set for hearing in a newspaper of general circulation within the
15 governing body's jurisdiction. For purposes of such notice, the four
16 calendar days shall include the day of publication but not the day of
17 hearing. When the total operating budget, not including reserves, does
18 not exceed ten thousand dollars per year or twenty thousand dollars per
19 biennial period, the proposed budget summary may be posted at the
20 governing body's principal headquarters. At such hearing, the governing
21 body shall make at least three copies of the proposed budget statement
22 available to the public and shall make a presentation outlining key
23 provisions of the proposed budget statement, including, but not limited
24 to, a comparison with the prior year's budget. Any member of the public
25 desiring to speak on the proposed budget statement shall be allowed to
26 address the governing body at the hearing and shall be given a reasonable
27 amount of time to do so. After such hearing, the proposed budget
28 statement shall be adopted, or amended and adopted as amended, and a
29 written record shall be kept of such hearing. The amount to be received
30 from personal and real property taxation shall be certified to the
31 levying board after the proposed budget statement is adopted or is

1 amended and adopted as amended. If the levying board represents more than
2 one county, a member or a representative of the governing board shall,
3 upon the written request of any represented county, appear and present
4 its budget at the hearing of the requesting county. The certification of
5 the amount to be received from personal and real property taxation shall
6 specify separately (a) the amount to be applied to the payment of
7 principal or interest on bonds issued by the governing body and (b) the
8 amount to be received for all other purposes. If the adopted budget
9 statement reflects a change from that shown in the published proposed
10 budget statement, a summary of such changes shall be published within
11 twenty calendar days after its adoption in the manner provided in this
12 section, but without provision for hearing, setting forth the items
13 changed and the reasons for such changes.

14 (2) Upon approval by the governing body, the budget shall be filed
15 with the auditor. The auditor may review the budget for errors in
16 mathematics, improper accounting, and noncompliance with the Nebraska
17 Budget Act or sections 13-518 to 13-522. If the auditor detects such
18 errors, he or she shall immediately notify the governing body of such
19 errors. The governing body shall correct any such error as provided in
20 section 13-511. Warrants for the payment of expenditures provided in the
21 budget adopted under this section shall be valid notwithstanding any
22 errors or noncompliance for which the auditor has notified the governing
23 body.

24 Sec. 3. Section 84-1411, Revised Statutes Supplement, 2019, is
25 amended to read:

26 84-1411 (1)(a) ~~(1)~~ Each public body shall give reasonable advance
27 publicized notice of the time and place of each meeting as provided in
28 this subsection ~~by a method designated by each public body and recorded~~
29 ~~in its minutes~~. Such notice shall be transmitted to all members of the
30 public body and to the public.

31 (b)(i) Except as provided in subdivision (1)(b)(ii) of this section,

1 in the case of a public body described in subdivision (1)(a)(i) of
2 section 84-1409 or such body's advisory committee, such notice shall be
3 published in a newspaper of general circulation within the public body's
4 jurisdiction and, if available, on such newspaper's web site.

5 (ii) In the case of the governing body of a city of the second class
6 or village or such body's advisory committee, such notice shall be
7 published by:

8 (A) Publication in a newspaper of general circulation within the
9 public body's jurisdiction and, if available, on such newspaper's web
10 site; or

11 (B) Posting written notice in three conspicuous public places in
12 such city or village. Such notice shall be posted in the same three
13 places for each meeting.

14 (iii) In the case of a public body not described in subdivision (1)
15 (b)(i) or (ii) of this section, such notice shall be given by a method
16 designated by the public body.

17 (c) In addition to a method of notice required by subdivision (1)(b)
18 (i) or (ii) of this section, such notice may also be provided by any
19 other appropriate method designated by such public body or such advisory
20 committee.

21 (d) Each public body shall record the methods and dates of such
22 notice in its minutes.

23 (e) Such notice shall contain an agenda of subjects known at the
24 time of the publicized notice or a statement that the agenda, which shall
25 be kept continually current, shall be readily available for public
26 inspection at the principal office of the public body during normal
27 business hours. Agenda items shall be sufficiently descriptive to give
28 the public reasonable notice of the matters to be considered at the
29 meeting. Except for items of an emergency nature, the agenda shall not be
30 altered later than (i) ~~(a)~~ twenty-four hours before the scheduled
31 commencement of the meeting or (ii) ~~(b)~~ forty-eight hours before the

1 scheduled commencement of a meeting of a city council or village board
2 scheduled outside the corporate limits of the municipality. The public
3 body shall have the right to modify the agenda to include items of an
4 emergency nature only at such public meeting.

5 (2) A meeting of a state agency, state board, state commission,
6 state council, or state committee, of an advisory committee of any such
7 state entity, of an organization created under the Interlocal Cooperation
8 Act, the Joint Public Agency Act, or the Municipal Cooperative Financing
9 Act, of the governing body of a public power district having a chartered
10 territory of more than one county in this state, of the governing body of
11 a public power and irrigation district having a chartered territory of
12 more than one county in this state, of a board of an educational service
13 unit, of the Educational Service Unit Coordinating Council, of the
14 governing body of a risk management pool or its advisory committees
15 organized in accordance with the Intergovernmental Risk Management Act,
16 or of a community college board of governors may be held by means of
17 videoconferencing or, in the case of the Judicial Resources Commission in
18 those cases specified in section 24-1204, by telephone conference, if:

19 (a) Reasonable advance publicized notice is given as provided in
20 subsection (1) of this section;

21 (b) Reasonable arrangements are made to accommodate the public's
22 right to attend, hear, and speak at the meeting, including seating,
23 recordation by audio or visual recording devices, and a reasonable
24 opportunity for input such as public comment or questions to at least the
25 same extent as would be provided if videoconferencing or telephone
26 conferencing was not used;

27 (c) At least one copy of all documents being considered is available
28 to the public at each site of the videoconference or telephone
29 conference;

30 (d) At least one member of the state entity, advisory committee,
31 board, council, or governing body is present at each site of the

1 videoconference or telephone conference, except that a member of an
2 organization created under the Interlocal Cooperation Act that sells
3 electricity or natural gas at wholesale on a multistate basis, an
4 organization created under the Municipal Cooperative Financing Act, or a
5 governing body of a risk management pool or an advisory committee of such
6 organization or pool may designate a nonvoting designee, who shall not be
7 included as part of the quorum, to be present at any site; and

8 (e)(i) Except as provided in subdivision (2)(e)(ii) of this section,
9 no more than one-half of the state entity's, advisory committee's,
10 board's, council's, or governing body's meetings in a calendar year are
11 held by videoconference or telephone conference; or

12 (ii) In the case of an organization created under the Interlocal
13 Cooperation Act that sells electricity or natural gas at wholesale on a
14 multistate basis or an organization created under the Municipal
15 Cooperative Financing Act, such organization holds at least one meeting
16 each calendar year that is not by videoconferencing or telephone
17 conferencing.

18 Videoconferencing, telephone conferencing, or conferencing by other
19 electronic communication shall not be used to circumvent any of the
20 public government purposes established in the Open Meetings Act.

21 (3) A meeting of a board of an educational service unit, of the
22 Educational Service Unit Coordinating Council, of the governing body of
23 an entity formed under the Interlocal Cooperation Act, the Joint Public
24 Agency Act, or the Municipal Cooperative Financing Act, of the governing
25 body of a risk management pool or its advisory committees organized in
26 accordance with the Intergovernmental Risk Management Act, of a community
27 college board of governors, of the governing body of a public power
28 district, of the governing body of a public power and irrigation
29 district, or of the Nebraska Brand Committee may be held by telephone
30 conference call if:

31 (a) The territory represented by the educational service unit,

1 member educational service units, community college board of governors,
2 public power district, public power and irrigation district, Nebraska
3 Brand Committee, or member public agencies of the entity or pool covers
4 more than one county;

5 (b) Reasonable advance publicized notice is given as provided in
6 subsection (1) of this section which identifies each telephone conference
7 location at which there will be present: (i) A member of the educational
8 service unit board, council, community college board of governors,
9 governing body of a public power district, governing body of a public
10 power and irrigation district, Nebraska Brand Committee, or entity's or
11 pool's governing body; or (ii) A nonvoting designee designated under
12 subdivision (3)(f) of this section;

13 (c) All telephone conference meeting sites identified in the notice
14 are located within public buildings used by members of the educational
15 service unit board, council, community college board of governors,
16 governing body of the public power district, governing body of the public
17 power and irrigation district, Nebraska Brand Committee, or entity or
18 pool or at a place which will accommodate the anticipated audience;

19 (d) Reasonable arrangements are made to accommodate the public's
20 right to attend, hear, and speak at the meeting, including seating,
21 recordation by audio recording devices, and a reasonable opportunity for
22 input such as public comment or questions to at least the same extent as
23 would be provided if a telephone conference call was not used;

24 (e) At least one copy of all documents being considered is available
25 to the public at each site of the telephone conference call;

26 (f) At least one member of the educational service unit board,
27 council, community college board of governors, governing body of the
28 public power district, governing body of the public power and irrigation
29 district, Nebraska Brand Committee, or governing body of the entity or
30 pool is present at each site of the telephone conference call identified
31 in the public notice, except that a member of an organization created

1 under the Interlocal Cooperation Act that sells electricity or natural
2 gas at wholesale on a multistate basis, an organization created under the
3 Municipal Cooperative Financing Act, or a governing body of a risk
4 management pool or an advisory committee of such organization or pool may
5 designate a nonvoting designee, who shall not be included as part of the
6 quorum, to be present at any site;

7 (g) The telephone conference call lasts no more than five hours; and

8 (h) No more than one-half of the board's, council's, governing
9 body's, committee's, entity's, or pool's meetings in a calendar year are
10 held by telephone conference call, except that:

11 (i) The governing body of a risk management pool that meets at least
12 quarterly and the advisory committees of the governing body may each hold
13 more than one-half of its meetings by telephone conference call if the
14 governing body's quarterly meetings are not held by telephone conference
15 call or videoconferencing; and

16 (ii) An organization created under the Interlocal Cooperation Act
17 that sells electricity or natural gas at wholesale on a multistate basis
18 or an organization created under the Municipal Cooperative Financing Act
19 may hold more than one-half of its meetings by telephone conference call
20 if the organization holds at least one meeting each calendar year that is
21 not by videoconferencing or telephone conference call.

22 Nothing in this subsection shall prevent the participation of
23 consultants, members of the press, and other nonmembers of the governing
24 body at sites not identified in the public notice. Telephone conference
25 calls, emails, faxes, or other electronic communication shall not be used
26 to circumvent any of the public government purposes established in the
27 Open Meetings Act.

28 (4) The secretary or other designee of each public body shall
29 maintain a list of the news media requesting notification of meetings and
30 shall make reasonable efforts to provide advance notification to them of
31 the time and place of each meeting and the subjects to be discussed at

1 that meeting.

2 (5) When it is necessary to hold an emergency meeting without
3 reasonable advance public notice, the nature of the emergency shall be
4 stated in the minutes and any formal action taken in such meeting shall
5 pertain only to the emergency. Such emergency meetings may be held by
6 means of electronic or telecommunication equipment. The provisions of
7 subsection (4) of this section shall be complied with in conducting
8 emergency meetings. Complete minutes of such emergency meetings
9 specifying the nature of the emergency and any formal action taken at the
10 meeting shall be made available to the public by no later than the end of
11 the next regular business day.

12 (6) A public body may allow a member of the public or any other
13 witness other than a member of the public body to appear before the
14 public body by means of video or telecommunications equipment.

15 Sec. 4. Original section 13-506, Revised Statutes Cumulative
16 Supplement, 2018, and sections 13-503 and 84-1411, Revised Statutes
17 Supplement, 2019, are repealed.