

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 63

FINAL READING

Introduced by Groene, 42.

Read first time January 10, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to rural and suburban fire protection
2 districts; to amend sections 35-506, 35-509, 35-1204, 35-1206,
3 35-1207, and 77-3442, Reissue Revised Statutes of Nebraska; to
4 change provisions relating to payments to board members, tax levies,
5 and filings with the State Treasurer; to change the Mutual Finance
6 Assistance Act as prescribed; to repeal the original sections; and
7 to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 35-506, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 35-506 (1) After formation of a district by merger or reorganization
4 under section 35-517, at the time and place fixed by the county board for
5 public hearing as provided in section 35-514, the registered voters who
6 are residing within the boundaries of the district shall have the
7 opportunity to decide by majority vote of those present whether the
8 organization of the district shall be completed. Permanent organization
9 shall be effected by the election of a board of directors consisting of
10 five residents of the district. Such directors shall at the first regular
11 meeting after their election select from the board a president, a vice
12 president, and a secretary-treasurer who shall serve as the officers of
13 the board of directors for one year. The board shall reorganize itself
14 annually. The elected member of the board of directors receiving the
15 highest number of votes in the election shall preside over the first
16 regular meeting until the officers of such board have been selected. The
17 three members receiving the highest number of votes shall serve for a
18 term of four years and the other two members for a term of two years; and
19 this provision shall apply to directors elected at the organizational
20 meeting of the district.

21 (2) The board shall reorganize itself annually. Election of
22 directors of existing districts shall be held by the registered voters
23 present at the regular annual meeting provided for in section 35-507
24 which is held in the calendar year during which the terms of directors
25 are scheduled to expire. As the terms of these members expire, their
26 successors shall be elected for four years and hold office until their
27 successors have been elected. If the district contains more than one
28 township, each township may be represented on the board of directors
29 unless there are more than five townships within the district, and in
30 such event there shall be only five directors on the board and no
31 township shall have more than one member elected to such board of

1 directors. In case of a vacancy on account of resignation, death,
2 malfeasance, or nonfeasance of a member, the remaining members of the
3 board shall fill the vacancy for the unexpired term. The person appointed
4 to fill the vacancy shall be from the same area as the person whose
5 office is vacated, if possible, otherwise from the district at large.

6 (3) The members of the board of directors of a rural or suburban
7 fire protection district may receive up to fifty ~~twenty-five~~ dollars for
8 each meeting of the board, but not to exceed twelve meetings in any
9 calendar year, and reimbursement for any actual expenses necessarily
10 incurred as a direct result of their responsibilities and duties as
11 members of the board engaged upon the business of the district. When it
12 is necessary for any member of the board of directors to travel on
13 business of the district and to attend meetings of the district, he or
14 she shall be allowed mileage at the rate provided in section 81-1176 for
15 each mile actually and necessarily traveled.

16 Sec. 2. Section 35-509, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 35-509 (1) The board of directors shall have the power and duty to
19 determine a general fire protection and rescue policy for the district
20 and shall annually fix the amount of money for the proposed budget
21 statement as may be deemed sufficient and necessary in carrying out such
22 contemplated program for the ensuing fiscal year, including the amount of
23 principal and interest upon the indebtedness of the district for the
24 ensuing year.

25 (2)(a) For any rural or suburban fire protection district that has
26 levy authority pursuant to subsection (10) of section 77-3442, after the
27 adoption of the budget statement, the president and secretary of the
28 district shall certify the amount of tax to be levied which the district
29 requires for the adopted budget statement for the ensuing year to the
30 proper county clerk or county clerks on or before September 20 ~~August 1~~
31 of each year. The county board shall levy a tax not to exceed ten and

1 one-half cents on each one hundred dollars upon the taxable value of all
2 the taxable property in such district for the maintenance of the fire
3 protection district for the fiscal year, plus such levy as is authorized
4 to be made under subdivision (13)(a) of section 35-508, all such levies
5 being subject to subsection (10) of section 77-3442. The tax shall be
6 collected as other taxes are collected in the county, deposited with the
7 county treasurer, and placed to the credit of the rural or suburban fire
8 protection district so authorizing the same on or before the fifteenth
9 day of each month or more frequently as provided in section 77-1759 or be
10 remitted to the county treasurer of the county in which the greatest
11 portion of the valuation of the district is located as is provided for by
12 subsection (3) of this section.

13 (b) For any rural or suburban fire protection district that does not
14 have levy authority pursuant to subsection (10) of section 77-3442, after
15 the adoption of the budget statement, the president and secretary of the
16 district shall request ~~certify~~ the amount of tax to be levied which the
17 district requires for the adopted budget statement for the ensuing year
18 to the proper county clerk or county clerks on or before August 1 of each
19 year pursuant to subsection (3) of section 77-3443. The county board
20 shall levy a tax not to exceed ten and one-half cents on each one hundred
21 dollars upon the taxable value of all the taxable property in such
22 district for the maintenance of the fire protection district for the
23 fiscal year, plus such levy as is authorized to be made under subdivision
24 (13)(b) of section 35-508, all such levies being subject to section
25 77-3443. The tax shall be collected as other taxes are collected in the
26 county, deposited with the county treasurer, and placed to the credit of
27 the rural or suburban fire protection district so authorizing the same on
28 or before the fifteenth day of each month or more frequently as provided
29 in section 77-1759 or be remitted to the county treasurer of the county
30 in which the greatest portion of the valuation of the district is located
31 as is provided for by subsection (3) of this section. For purposes of

1 section 77-3443, the county board of the county in which the greatest
2 portion of the valuation of the district is located shall approve the
3 levy.

4 (3) All such taxes collected or received for the district by the
5 treasurer of any other county than the one in which the greatest portion
6 of the valuation of the district is located shall be remitted to the
7 treasurer of the county in which the greatest portion of the valuation of
8 the district is located at least quarterly. All such taxes collected or
9 received shall be placed to the credit of such district in the treasury
10 of the county in which the greatest portion of the valuation of the
11 district is located.

12 (4) In no case shall the amount of tax levy exceed the amount of
13 funds to be received from taxation according to the adopted budget
14 statement of the district.

15 Sec. 3. Section 35-1204, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 35-1204 (1) A mutual finance organization may be created by
18 agreement among its members pursuant to the Interlocal Cooperation Act or
19 the Joint Public Agency Act. The agreement shall: ~~contain a provision~~
20 ~~which requires~~

21 (a) Have a duration of at least three years;

22 (b) Require that all members of the mutual finance organization to
23 levy the same agreed-upon property tax rate within their boundaries for
24 one out of every three tax years covered by the agreement; and

25 (c) Require that all members of the mutual finance organization levy
26 no more than such agreed-upon property tax rate for the remaining tax
27 years covered by the agreement.

28 (2) The property tax rates described in subsection (1) of this
29 section shall be levied for the purpose of jointly funding the operations
30 of all members of the mutual finance organization. All such property tax
31 rates , ~~except that the agreed-upon property tax rate shall exclude~~

1 levies for bonded indebtedness and lease-purchase contracts in existence
2 on July 1, 1998.

3 Sec. 4. Section 35-1206, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 35-1206 (1) Rural and suburban fire protection districts or mutual
6 finance organizations which qualify for assistance under section 35-1205
7 shall receive ten dollars times the assumed population of the fire
8 protection district or mutual finance organization as calculated in
9 subsection (3) of such section plus the population of any city of the
10 first class that is part of the district or mutual finance organization,
11 not to exceed three hundred thousand dollars for any one district or
12 mutual finance organization. If the district or mutual finance
13 organization is located in more than one county and meets the threshold
14 for qualification in subsection (1) or (2) of section 35-1205 in one of
15 such counties, the district or mutual finance organization shall receive
16 assistance under this section for all of its assumed population,
17 including that which is assumed population in counties for which the
18 threshold is not reached by the district or mutual finance organization.

19 (2) If a mutual finance organization qualifies for assistance under
20 this section and one or more rural or suburban fire protection districts
21 or cities or villages fail to levy a tax rate that complies with
22 subsection (1) of section 35-1204, ~~equal to the other districts or cities~~
23 ~~or villages~~ as required under the mutual finance organization agreement,
24 the mutual finance organization shall be disqualified for assistance in
25 the following year and each subsequent year until the year following any
26 year for which all districts and cities and villages in the mutual
27 finance organization levy a the same tax rate that complies with
28 subsection (1) of section 35-1204, as required by a mutual finance
29 organization agreement.

30 Sec. 5. Section 35-1207, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 35-1207 (1) Any rural or suburban fire protection district or mutual
2 finance organization seeking funds pursuant to the Mutual Finance
3 Assistance Act shall submit an application and any forms required by the
4 State Treasurer. Such application and forms shall be submitted for
5 ~~funding~~ to the State Treasurer by July 1. The State Treasurer shall
6 develop the application which requires calculations showing assumed
7 population eligibility under section 35-1205 and the distribution amount
8 under section 35-1206. If the applicant is a mutual finance organization,
9 it shall attach to its first application a copy of the agreement pursuant
10 to section 35-1204 and attach to any subsequent application a copy of an
11 amended agreement or an affidavit stating that the previously submitted
12 agreement is still accurate and effective. Any mutual finance
13 organization making application pursuant to this section shall include
14 with the application additional financial information regarding the
15 manner in which any funds received by the mutual finance organization
16 based upon the prior year's application pursuant to the act have been
17 expended or distributed by that mutual finance organization. The State
18 Treasurer shall provide electronic copies of such reports on mutual
19 finance organization expenditures and distributions to the Clerk of the
20 Legislature by December 1 of each year in which any reports are filed.

21 (2) The State Treasurer shall review all applications for
22 eligibility for funds under the act and approve any application which is
23 accurate and demonstrates that the applicant is eligible for funds. On or
24 before August 15, the State Treasurer shall notify the applicant of
25 approval or denial of the application and certify the amount of funds for
26 which an approved applicant is eligible. The decision of the State
27 Treasurer may be appealed as provided in the Administrative Procedure
28 Act.

29 (3) Except as provided in subsection (4) of this section, funds
30 shall be disbursed by the State Treasurer in two payments which are as
31 nearly equal as possible, to be paid on or before November 1 and May 1.

1 If the Mutual Finance Assistance Fund is insufficient to make all
2 payments to all applicants in the amounts provided in section 35-1206,
3 the State Treasurer shall prorate payments to approved applicants. Funds
4 remaining in the Mutual Finance Assistance Fund on June 1 shall be
5 transferred to the General Fund before July 1.

6 (4) No funds shall be disbursed to an eligible mutual finance
7 organization until it has provided to the State Treasurer the financial
8 information regarding the manner in which it has expended or distributed
9 prior disbursements made pursuant to the Mutual Finance Assistance Act as
10 provided in subsection (1) ~~(2)~~ of this section.

11 Sec. 6. Section 77-3442, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-3442 (1) Property tax levies for the support of local governments
14 for fiscal years beginning on or after July 1, 1998, shall be limited to
15 the amounts set forth in this section except as provided in section
16 77-3444.

17 (2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this
18 section, school districts and multiple-district school systems may levy a
19 maximum levy of one dollar and five cents per one hundred dollars of
20 taxable valuation of property subject to the levy.

21 (b) For each fiscal year prior to fiscal year 2017-18, learning
22 communities may levy a maximum levy for the general fund budgets of
23 member school districts of ninety-five cents per one hundred dollars of
24 taxable valuation of property subject to the levy. The proceeds from the
25 levy pursuant to this subdivision shall be distributed pursuant to
26 section 79-1073.

27 (c) Except as provided in subdivision (2)(e) of this section, for
28 each fiscal year prior to fiscal year 2017-18, school districts that are
29 members of learning communities may levy for purposes of such districts'
30 general fund budget and special building funds a maximum combined levy of
31 the difference of one dollar and five cents on each one hundred dollars

1 of taxable property subject to the levy minus the learning community levy
2 pursuant to subdivision (2)(b) of this section for such learning
3 community.

4 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
5 of this section are (i) amounts levied to pay for current and future sums
6 agreed to be paid by a school district to certificated employees in
7 exchange for a voluntary termination of employment occurring prior to
8 September 1, 2017, (ii) amounts levied by a school district otherwise at
9 the maximum levy pursuant to subdivision (2)(a) of this section to pay
10 for current and future qualified voluntary termination incentives for
11 certificated teachers pursuant to subsection (3) of section 79-8,142 that
12 are not otherwise included in an exclusion pursuant to subdivision (2)(d)
13 of this section, (iii) amounts levied by a school district otherwise at
14 the maximum levy pursuant to subdivision (2)(a) of this section to pay
15 for seventy-five percent of the current and future sums agreed to be paid
16 to certificated employees in exchange for a voluntary termination of
17 employment occurring between September 1, 2017, and August 31, 2018, as a
18 result of a collective-bargaining agreement in force and effect on
19 September 1, 2017, that are not otherwise included in an exclusion
20 pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a
21 school district otherwise at the maximum levy pursuant to subdivision (2)
22 (a) of this section to pay for fifty percent of the current and future
23 sums agreed to be paid to certificated employees in exchange for a
24 voluntary termination of employment occurring between September 1, 2018,
25 and August 31, 2019, as a result of a collective-bargaining agreement in
26 force and effect on September 1, 2017, that are not otherwise included in
27 an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts
28 levied by a school district otherwise at the maximum levy pursuant to
29 subdivision (2)(a) of this section to pay for twenty-five percent of the
30 current and future sums agreed to be paid to certificated employees in
31 exchange for a voluntary termination of employment occurring between

1 September 1, 2019, and August 31, 2020, as a result of a collective-
2 bargaining agreement in force and effect on September 1, 2017, that are
3 not otherwise included in an exclusion pursuant to subdivision (2)(d) of
4 this section, (vi) amounts levied in compliance with sections 79-10,110
5 and 79-10,110.02, and (vii) amounts levied to pay for special building
6 funds and sinking funds established for projects commenced prior to April
7 1, 1996, for construction, expansion, or alteration of school district
8 buildings. For purposes of this subsection, commenced means any action
9 taken by the school board on the record which commits the board to expend
10 district funds in planning, constructing, or carrying out the project.

11 (e) Federal aid school districts may exceed the maximum levy
12 prescribed by subdivision (2)(a) or (2)(c) of this section only to the
13 extent necessary to qualify to receive federal aid pursuant to Title VIII
14 of Public Law 103-382, as such title existed on September 1, 2001. For
15 purposes of this subdivision, federal aid school district means any
16 school district which receives ten percent or more of the revenue for its
17 general fund budget from federal government sources pursuant to Title
18 VIII of Public Law 103-382, as such title existed on September 1, 2001.

19 (f) For each fiscal year, learning communities may levy a maximum
20 levy of one-half cent on each one hundred dollars of taxable property
21 subject to the levy for elementary learning center facility leases, for
22 remodeling of leased elementary learning center facilities, and for up to
23 fifty percent of the estimated cost for focus school or program capital
24 projects approved by the learning community coordinating council pursuant
25 to section 79-2111.

26 (g) For each fiscal year, learning communities may levy a maximum
27 levy of one and one-half cents on each one hundred dollars of taxable
28 property subject to the levy for early childhood education programs for
29 children in poverty, for elementary learning center employees, for
30 contracts with other entities or individuals who are not employees of the
31 learning community for elementary learning center programs and services,

1 and for pilot projects, except that no more than ten percent of such levy
2 may be used for elementary learning center employees.

3 (3) For each fiscal year, community college areas may levy the
4 levies provided in subdivisions (2)(a) through (c) of section 85-1517, in
5 accordance with the provisions of such subdivisions. A community college
6 area may exceed the levy provided in subdivision (2)(b) of section
7 85-1517 by the amount necessary to retire general obligation bonds
8 assumed by the community college area or issued pursuant to section
9 85-1515 according to the terms of such bonds or for any obligation
10 pursuant to section 85-1535 entered into prior to January 1, 1997.

11 (4)(a) Natural resources districts may levy a maximum levy of four
12 and one-half cents per one hundred dollars of taxable valuation of
13 property subject to the levy.

14 (b) Natural resources districts shall also have the power and
15 authority to levy a tax equal to the dollar amount by which their
16 restricted funds budgeted to administer and implement ground water
17 management activities and integrated management activities under the
18 Nebraska Ground Water Management and Protection Act exceed their
19 restricted funds budgeted to administer and implement ground water
20 management activities and integrated management activities for FY2003-04,
21 not to exceed one cent on each one hundred dollars of taxable valuation
22 annually on all of the taxable property within the district.

23 (c) In addition, natural resources districts located in a river
24 basin, subbasin, or reach that has been determined to be fully
25 appropriated pursuant to section 46-714 or designated as overappropriated
26 pursuant to section 46-713 by the Department of Natural Resources shall
27 also have the power and authority to levy a tax equal to the dollar
28 amount by which their restricted funds budgeted to administer and
29 implement ground water management activities and integrated management
30 activities under the Nebraska Ground Water Management and Protection Act
31 exceed their restricted funds budgeted to administer and implement ground

1 water management activities and integrated management activities for
2 FY2005-06, not to exceed three cents on each one hundred dollars of
3 taxable valuation on all of the taxable property within the district for
4 fiscal year 2006-07 and each fiscal year thereafter through fiscal year
5 2017-18.

6 (5) Any educational service unit authorized to levy a property tax
7 pursuant to section 79-1225 may levy a maximum levy of one and one-half
8 cents per one hundred dollars of taxable valuation of property subject to
9 the levy.

10 (6)(a) Incorporated cities and villages which are not within the
11 boundaries of a municipal county may levy a maximum levy of forty-five
12 cents per one hundred dollars of taxable valuation of property subject to
13 the levy plus an additional five cents per one hundred dollars of taxable
14 valuation to provide financing for the municipality's share of revenue
15 required under an agreement or agreements executed pursuant to the
16 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum
17 levy shall include amounts levied to pay for sums to support a library
18 pursuant to section 51-201, museum pursuant to section 51-501, visiting
19 community nurse, home health nurse, or home health agency pursuant to
20 section 71-1637, or statue, memorial, or monument pursuant to section
21 80-202.

22 (b) Incorporated cities and villages which are within the boundaries
23 of a municipal county may levy a maximum levy of ninety cents per one
24 hundred dollars of taxable valuation of property subject to the levy. The
25 maximum levy shall include amounts paid to a municipal county for county
26 services, amounts levied to pay for sums to support a library pursuant to
27 section 51-201, a museum pursuant to section 51-501, a visiting community
28 nurse, home health nurse, or home health agency pursuant to section
29 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

30 (7) Sanitary and improvement districts which have been in existence
31 for more than five years may levy a maximum levy of forty cents per one

1 hundred dollars of taxable valuation of property subject to the levy, and
2 sanitary and improvement districts which have been in existence for five
3 years or less shall not have a maximum levy. Unconsolidated sanitary and
4 improvement districts which have been in existence for more than five
5 years and are located in a municipal county may levy a maximum of eighty-
6 five cents per hundred dollars of taxable valuation of property subject
7 to the levy.

8 (8) Counties may levy or authorize a maximum levy of fifty cents per
9 one hundred dollars of taxable valuation of property subject to the levy,
10 except that five cents per one hundred dollars of taxable valuation of
11 property subject to the levy may only be levied to provide financing for
12 the county's share of revenue required under an agreement or agreements
13 executed pursuant to the Interlocal Cooperation Act or the Joint Public
14 Agency Act. The maximum levy shall include amounts levied to pay for sums
15 to support a library pursuant to section 51-201 or museum pursuant to
16 section 51-501. The county may allocate up to fifteen cents of its
17 authority to other political subdivisions subject to allocation of
18 property tax authority under subsection (1) of section 77-3443 and not
19 specifically covered in this section to levy taxes as authorized by law
20 which do not collectively exceed fifteen cents per one hundred dollars of
21 taxable valuation on any parcel or item of taxable property. The county
22 may allocate to one or more other political subdivisions subject to
23 allocation of property tax authority by the county under subsection (1)
24 of section 77-3443 some or all of the county's five cents per one hundred
25 dollars of valuation authorized for support of an agreement or agreements
26 to be levied by the political subdivision for the purpose of supporting
27 that political subdivision's share of revenue required under an agreement
28 or agreements executed pursuant to the Interlocal Cooperation Act or the
29 Joint Public Agency Act. If an allocation by a county would cause another
30 county to exceed its levy authority under this section, the second county
31 may exceed the levy authority in order to levy the amount allocated.

1 (9) Municipal counties may levy or authorize a maximum levy of one
2 dollar per one hundred dollars of taxable valuation of property subject
3 to the levy. The municipal county may allocate levy authority to any
4 political subdivision or entity subject to allocation under section
5 77-3443.

6 (10) Beginning July 1, 2016, rural and suburban fire protection
7 districts may levy a maximum levy of ten and one-half cents per one
8 hundred dollars of taxable valuation of property subject to the levy if
9 (a) such district is located in a county that had a levy pursuant to
10 subsection (8) of this section in the previous year of at least forty
11 cents per one hundred dollars of taxable valuation of property subject to
12 the levy or (b) ~~such for any rural or suburban fire protection~~ district
13 ~~that~~ had a levy request pursuant to section 77-3443 in any of the three
14 previous years and the previous year, the county board of the county in
15 which the greatest portion of the valuation of such district is located
16 did not authorize any levy authority to such district in such ~~the~~
17 ~~previous~~ year.

18 (11) Property tax levies (a) for judgments, except judgments or
19 orders from the Commission of Industrial Relations, obtained against a
20 political subdivision which require or obligate a political subdivision
21 to pay such judgment, to the extent such judgment is not paid by
22 liability insurance coverage of a political subdivision, (b) for
23 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)
24 for bonds as defined in section 10-134 approved according to law and
25 secured by a levy on property except as provided in section 44-4317 for
26 bonded indebtedness issued by educational service units and school
27 districts, and (d) for payments by a public airport to retire interest-
28 free loans from the Division of Aeronautics of the Department of
29 Transportation in lieu of bonded indebtedness at a lower cost to the
30 public airport are not included in the levy limits established by this
31 section.

1 (12) The limitations on tax levies provided in this section are to
2 include all other general or special levies provided by law.
3 Notwithstanding other provisions of law, the only exceptions to the
4 limits in this section are those provided by or authorized by sections
5 77-3442 to 77-3444.

6 (13) Tax levies in excess of the limitations in this section shall
7 be considered unauthorized levies under section 77-1606 unless approved
8 under section 77-3444.

9 (14) For purposes of sections 77-3442 to 77-3444, political
10 subdivision means a political subdivision of this state and a county
11 agricultural society.

12 (15) For school districts that file a binding resolution on or
13 before May 9, 2008, with the county assessors, county clerks, and county
14 treasurers for all counties in which the school district has territory
15 pursuant to subsection (7) of section 79-458, if the combined levies,
16 except levies for bonded indebtedness approved by the voters of the
17 school district and levies for the refinancing of such bonded
18 indebtedness, are in excess of the greater of (a) one dollar and twenty
19 cents per one hundred dollars of taxable valuation of property subject to
20 the levy or (b) the maximum levy authorized by a vote pursuant to section
21 77-3444, all school district levies, except levies for bonded
22 indebtedness approved by the voters of the school district and levies for
23 the refinancing of such bonded indebtedness, shall be considered
24 unauthorized levies under section 77-1606.

25 Sec. 7. Original sections 35-506, 35-509, 35-1204, 35-1206,
26 35-1207, and 77-3442, Reissue Revised Statutes of Nebraska, are repealed.

27 Sec. 8. Since an emergency exists, this act takes effect when
28 passed and approved according to law.