

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 312

Introduced by Lowe, 37.

Read first time January 11, 2023

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to political subdivisions; to amend sections
2 13-522 and 19-2907, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to withholding money due to noncompliance with
4 budget limits and annual audits for certain political subdivisions;
5 and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-522, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 13-522 (1) The Auditor of Public Accounts shall prepare budget
4 documents to be submitted by governmental units which calculate the
5 restricted funds authority for each governmental unit. Each governmental
6 unit shall submit its calculated restricted funds authority with its
7 budget documents at the time the budgets are due to the Auditor of Public
8 Accounts. If the Auditor of Public Accounts determines from the budget
9 documents that a governmental unit is not complying with the budget
10 limits provided in sections 13-518 to 13-522, he or she shall notify the
11 governing body of his or her determination and notify the State Treasurer
12 of the noncompliance.

13 (2)(a) Upon receiving notice from the Auditor of Public Accounts,
14 the ~~The~~ State Treasurer shall then suspend distribution of state aid
15 allocated to the governmental unit until such sections are complied with.
16 The funds shall be held for six months until the governmental unit
17 complies, and if the governmental unit complies within the six-month
18 period, it shall receive the suspended funds, but after six months, if
19 the governmental unit fails to comply, the suspended funds shall be
20 forfeited and shall be redistributed to other recipients of the state aid
21 in the county where such noncompliant governmental unit is located or
22 returned to the Highway Allocation Fund if there is no eligible recipient
23 or, in the case of a homestead exemption reimbursement, returned to the
24 General Fund.

25 (b) The governmental unit shall continue to forfeit state aid until
26 the governmental unit reaches compliance and the State Treasurer has
27 received notification of such compliance from the Auditor of Public
28 Accounts. All state aid that was forfeited shall remain forfeited and
29 redistributed according to subdivision (a) of this subsection.

30 (3) If any governmental unit fails to reach compliance within twelve
31 months from the time of the order and notice of delinquency given by the

1 Auditor of Public Accounts to the State Treasurer, such governmental unit
2 shall be ineligible for future distributions of state aid. Upon reaching
3 compliance, the governmental unit shall be eligible for future
4 distributions of state aid.

5 Sec. 2. Section 19-2907, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 19-2907 Should any municipality fail or refuse to cause an annual
8 audit to be made of all of its functions, activities, and transactions
9 for the fiscal year within a period of six months following the close of
10 such fiscal year, then and in such event, any resident taxpayer may make
11 a written demand on the city council or village board of trustees of such
12 municipality to commence such annual audit within thirty days, and if
13 such demand is ignored, a mandamus action may be instituted by any
14 taxpayer or taxpayers residing in such municipality against the municipal
15 authorities of such municipality requiring the municipality to proceed
16 forthwith to cause such audit to be made, and if such action is decided
17 in favor of the taxpayer or taxpayers instituting the same, the municipal
18 authorities of such municipality shall be personally, and jointly and
19 severally, liable for the costs of such action, including a reasonable
20 attorney's fee to be allowed by the court for the attorney employed by
21 the taxpayer or taxpayers and who prosecuted the action. Upon a failure,
22 refusal, or neglect to cause such annual audit to be made as required by
23 sections 19-2903 and 19-2904, and a failure to file a copy thereof with
24 the Auditor of Public Accounts as required by section 19-2905, the
25 Auditor of Public Accounts shall, after due notice and a hearing to show
26 cause by such city or village, notify the State Treasurer of such failure
27 to file a copy with the Auditor of Public Accounts. The State Treasurer
28 shall, upon receipt of such notice, withhold distribution of all money to
29 which such city or village may be entitled under the provisions of
30 sections 39-2511 to 39-2520, until such annual audit shall have been made
31 and have been filed with the Auditor of Public Accounts. If such annual

1 audit is not filed within a period of six months from the time of the
2 order and notice of delinquency given by the Auditor of Public Accounts
3 to the State Treasurer, the amount so withheld shall be distributed to
4 the other cities and villages in the county where such delinquent city is
5 located. Upon compliance with the law requiring annual audits, the
6 delinquent city or village shall again become entitled to distribution of
7 all money to which it is entitled from the State Treasurer beginning with
8 the date of such compliance. If any city or village fails to reach
9 compliance after twelve months from the time of the order and notice of
10 delinquency given by the Auditor of Public Accounts to the State
11 Treasurer, the city or village shall no longer be entitled to the
12 distribution of money under sections 39-2511 to 39-2520. Upon reaching
13 compliance, the city or village shall become entitled to future
14 distributions of money under sections 39-2511 to 39-2520.

15 Sec. 3. Original sections 13-522 and 19-2907, Reissue Revised
16 Statutes of Nebraska, are repealed.