

LEGISLATIVE BILL 1362

Approved by the Governor April 15, 1996

Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson;
Preister, 5; Robak, 22; Robinson, 16

AN ACT relating to political subdivisions; to amend sections 31-727.03 and 31-755, Reissue Revised Statutes of Nebraska, section 13-506, Revised Statutes Supplement, 1994, and sections 13-504, 13-508, 31-739, 77-1613.01, and 77-1701, Revised Statutes Supplement, 1995; to change provisions relating to budgets, levies, and tax statements; to harmonize provisions; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 13-504, Revised Statutes Supplement, 1995, is amended to read:

13-504. (1) Each governing body shall prepare in writing and file with its secretary or clerk, in the year of its organization and each year thereafter, not later than the first day of August of each year on forms prescribed and furnished by the auditor following consultation with representatives of such governing bodies or as otherwise authorized by state law, a proposed budget statement containing the following information, except as provided by state law:

(a) For the immediate two prior fiscal years, the revenue from all sources, other than revenue received from taxation, allocated to each of the several funds and separately stated as to each such source, and for each fund: The unencumbered cash balance of such fund at the beginning and end of the year; the amount received by taxation allocated to each fund; and the amount of actual expenditure for each fund;

(b) For the current fiscal year, actual and estimated revenue from all sources, allocated to each of the several funds and separately stated as to each such source, and for each fund: The actual unencumbered cash balance available for such fund at the beginning of the year; the amount received from taxation allocated to each fund; and the amount of actual and estimated expenditure, whichever is applicable. Such statement shall contain the cash reserve for each such fund for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed fifty percent of the total budget adopted for such fund exclusive of capital outlay items;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, other than revenue to be received from taxation, separately stated as to each such source, to be allocated to each of the several funds, and for each fund: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;

~~(d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (i) for the purpose of paying the principal or interest on bonds issued by the governing body and (ii) for all other purposes;~~

~~(e) A uniform summary of the proposed budget statement which shall include a separate total for each fund, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the governing body; and~~

~~(f) For municipalities, a list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the city council or village board as provided in the Municipal Proprietary Function Act.~~

(2) Any governing body required by a final order of a court, the State Board of Equalization and Assessment, the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken to reimburse property taxes to a taxpayer may certify to the county clerk of the county in which any part of the political subdivision is situated, not later than September 10, an itemized estimate of the amount necessary to be expended to reimburse the property taxes. Such

amounts shall be levied by the county board of equalization. The taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and, when collected, shall be paid to the treasurer of the political subdivision and used to cover the reimbursement of the property taxes.

Any governing body which submits an itemized estimate shall establish a property tax reimbursement fund. Taxes collected pursuant to this section shall be credited to such fund to cover the reimbursement of the property taxes.

The authority conferred by this section shall apply only to reimbursements made during fiscal years 1993-94 through 1999-2000.

(3) The actual or estimated unencumbered cash balance of each fund required to be included in the budget statement by this section shall include deposits and investments of the political subdivision as well as any funds held by the county treasurer for the political subdivision and shall be accurately stated on the proposed budget statement.

(4) The political subdivision shall correct any material errors in the budget statement detected by the auditor or by other sources.

Sec. 2. Section 13-506, Revised Statutes Supplement, 1994, is amended to read:

13-506. Each governing body, after the filing of the proposed budget statement with its secretary or clerk, shall each year conduct a public hearing on such proposed budget statement and the itemized estimate for reimbursement of property taxes pursuant to subsection (2) of section 13-504. Notice of place and time of such hearing, together with a summary of the proposed budget statement and the itemized estimate for reimbursement of property taxes pursuant to subsection (2) of section 13-504, shall be published at least five days prior to the date set for hearing, in a newspaper of general circulation within the governing body's jurisdiction or by direct mailing of the notice to each resident within the community. When the total operating budget, including the amount necessary for reimbursement of property taxes, not including reserves, does not exceed ten thousand dollars per year, the proposed budget summary may be posted at the governing body's principal headquarters. After such hearing, the proposed budget statement, including the amount necessary for reimbursement of property taxes, shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from taxation shall be certified to the levying board after the proposed budget statement, including the amount necessary for reimbursement of property taxes, is adopted, or is amended and adopted as amended, and if the levying board represents more than one county, a member or a representative of the governing board shall appear and present its budget at the hearing of each county in which is located a major area of the county affected by its budget. The certification of the amount to be received from taxation shall specify separately (1) the amount to be applied to the payment of principal or interest on bonds issued by the governing body and (2) the amount to be received for all other purposes. If the adopted budget statement, including the amount necessary for reimbursement of property taxes, reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

Sec. 3. Section 13-508, Revised Statutes Supplement, 1995, is amended to read:

13-508. After publication and hearing thereon and within the time prescribed by law, each governing body shall file with and certify to the levying board on or before September 20 of each year and file with the auditor a copy of the adopted statement of the amount for reimbursement of property taxes pursuant to subsection (2) of section 13-504 and the adopted budget statement which complies with sections 77-3438 to 77-3440 or 79-3814 to 79-3821, together with the amount of the tax to be levied, setting out separately (1) the amount to be levied for the payment of principal or interest on bonds issued by the governing body and (2) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. The governing body shall certify the amount of tax to be levied by the levying board, which levy shall not exceed the maximum levy prescribed by state law. The governing body, in certifying the amount to be so levied, may make allowance for delinquent taxes not exceeding five percent of the amount to be levied plus the actual percentage of delinquent taxes for the preceding tax year and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this

section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year which is still pending. Except for such allowances, a governing body shall not certify, nor a levying board levy, an amount of tax greater than the amount determined under section 13-505. Each governing body empowered to levy or certify a levy shall use the final adjusted values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

Sec. 4. Section 31-727.03, Reissue Revised Statutes of Nebraska, is amended to read:

31-727.03. On or before December 31 of each year, the clerk of each sanitary and improvement district shall file with the register of deeds or, if none, the county clerk of the county or counties in which the sanitary and improvement district is located a statement updated each December 31 containing the following information:

(1) The names of the members of the current board of trustees of the district;

(2) The names of the current attorney, accountant, and fiscal agent of the district;

(3) The warrant and the bond principal indebtedness of the district as of the preceding June 30. Such statement shall contain an acknowledgment that the warrant and indebtedness are reflective of such date; and

(4) The current bond tax levy and the current operating levy of the district, as described in section 31-739, as of December 31.

For any late filing of the statement, the sanitary and improvement district shall be assessed a late fee of ten dollars per day, not to exceed a total of three hundred dollars for each late filing.

The real estate broker or salesperson or, if none, the owner shall distribute the most recent statement filed in accordance with this section to any prospective purchaser of any real estate located within a sanitary and improvement district. The statement shall be distributed on or before the date on which the purchaser becomes obligated to purchase such real estate. The exclusive remedy for failure to provide such statements shall be an action for damages, and any such failure shall not affect title to the real estate or the validity of the conveyance.

Sec. 5. Section 31-739, Revised Statutes Supplement, 1995, is amended to read:

31-739. (1) The district may borrow money for corporate purposes and issue its general obligation bonds therefor and shall annually levy a tax on the taxable value of the taxable property in the district sufficient to pay the interest and principal on the bonds. Such levy shall be known as the bond tax levy of the district. The district shall also annually levy a tax on the taxable value of the taxable property in the district and for the purpose of creating a sinking fund for the maintenance and repairing of any sewer or water system or electric lines and conduits in the district, for the payment of any hydrant rentals, for the maintenance and repairing of any sidewalks, public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances in the district, for the cost of operating any street lighting system for the public streets and highways within the district, for the cost of building, acquiring, maintaining, and operating public parks, playgrounds, and recreational facilities, or, when permitted by section 31-727, for contracting with other sanitary and improvement districts for building, acquiring, maintaining, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, or for the cost of any other services for which the district has contracted- The district shall also be required to levy a tax or to make up any deficiencies caused by the nonpayment of any special assessments. Such levy shall be known as the operating levy of the district. On or before September 20 of each year, the clerk of the board shall certify the tax to the county clerk of the counties in which such district is located in order that the tax may be extended upon the county tax list. Nothing contained in this section shall authorize any district which has been annexed by a city or village to levy any taxes within or upon the annexed area after the effective date of the annexation if the effective date of the annexation is prior to such levy certification date of the district for the year in which such annexation occurs.

(2) The county treasurer of the county in which the greater portion of the area of the district is located shall be ex officio treasurer of the sanitary and improvement district and shall be responsible for all funds of the district coming into his or her hands. He or she shall collect all taxes

and special assessments levied by the district and deposit the same in a bond sinking fund for the payment of principal and interest on any bonds outstanding.

(3) The trustees or administrator of the district may authorize the clerk or appoint an independent agent to collect service charges and all items other than taxes, connection charges, special assessments, and funds from sale of bonds and warrants, but all funds so collected shall, at least once each month, be remitted to the treasurer to be held in a fund, separate from the general fund or construction fund of the district, which shall be known as the Service Fee Fund, which fund is hereby created. The trustees or administrator may direct the district's treasurer to disburse funds held in the Service Fee Fund to maintain and operate any service for which the funds have been collected or to deposit such funds into the general fund of the district.

(4) The treasurer of the district shall not be responsible for such funds until they are received by him or her. The treasurer shall disburse the funds of the district only on warrants authorized by the trustees or the administrator and signed by the chairperson and clerk or the administrator.

Sec. 6. Section 31-755, Reissue Revised Statutes of Nebraska, is amended to read:

31-755. For the purpose of paying the cost of the improvements herein provided for, the board of trustees or the administrator, after such improvements have been completed and accepted, shall have the power to issue negotiable bonds of any such district, to be called sanitary and improvement district bonds, payable in not to exceed thirty years. Each issue of general obligation bonds shall mature or be subject to mandatory redemption so that the first principal repayment is made not more than five years after the date of issuance and so that at least twenty percent of the district's bonds then outstanding shall be repaid within ten years after the date of issuance. Such bonds shall bear interest payable annually or semiannually. Such bonds may either be sold by the district or delivered to the contractor in payment for the work but in either case for not less than their par value. For the purpose of making partial payments as the work progresses, warrants may be issued by the board of trustees or the administrator upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not to exceed ninety-five percent of the cost thereof. Warrants issued prior to July 10, 1976, for capital outlays of the district shall become due and payable twelve months after April 21, 1982, and warrants issued on or after July 10, 1976, for capital outlays of the district shall become due and payable not later than five years from the date of issuance, except that such warrants need not be retired on such date or within such five-year period and shall not be in default if the district court of the county determines, upon application to it by the district, that the district does not have the funds to retire such warrants and either (1) the district is unable to sell its bonds in amount sufficient to retire such warrants or (2) an unreasonably high tax levy, as compared to the levy on other similar property in the county, would be required in order to cover the debt service requirements on bonds issued to retire such warrants. Such application may be filed either before or within ninety days after the due date of the warrants, and no warrant for which an extension application has been made to the district court and a hearing date set by the court shall be in default while such application is pending before the court. Notice of the filing of such application and the time and place of the hearing thereon shall be published in a newspaper of general circulation in the county the same day each week three consecutive weeks. Within five days after the first publication of such notice, the district shall cause to be mailed, by United States certified mail, a copy of such notice to each holder of warrants covered by the application whose name and post office address are known to the district. Prior to the hearing, proof of such mailing shall be made by affidavit of a trustee of the district or the administrator or the district's attorney that such mailing was made and further that the district, its trustees or administrator, and its attorney, after diligent investigation and inquiry, were unable to ascertain and do not know the name and post office address of any holder of such warrants other than those to whom notice has been mailed in writing or who have waived notice in writing or entered an appearance in the proceeding. Upon making such determination, the district court may make such orders concerning retirement of the warrants as it determines proper under the circumstances of the district including ordering an increase in the tax levy of the district to provide funds for warrant redemption, except that no court-ordered tax levy for redemption of warrants shall cause the total tax levy of the district to be unreasonably high as compared with the tax levy of other similar property in the county. Such warrants shall draw interest, at

such rate as fixed by the board of trustees or the administrator and endorsed on the warrants, from the date of presentation for payment and shall be redeemed and paid from the proceeds of special assessments or from the sale of the bonds issued and sold as provided in this section or from any other funds available for that purpose. Bonds to redeem such warrants shall be issued as soon as economically feasible, and to the extent warrants are not redeemed from bond proceeds or other funds available for such purpose, the district shall make a tax levy to provide a sinking fund for warrant redemption, except that such obligation shall not require a total tax levy by the district which shall be unreasonably high as compared with the tax levy on other similar property in the county. The board of trustees or the administrator shall after August 26, 1983, pay to the contractor interest at the rate specified in section 39-1349, as such rate may from time to time be adjusted by the Legislature, on the amounts due on partial and final payments, beginning thirty days after the certification of the amounts due by the engineer in charge and approval by the board of trustees or the administrator and running until the date that the warrant is tendered to the contractor. Warrants issued for operation and maintenance expenses of the district shall become due and payable not later than three years from the date of issuance. The district shall agree to pay annual or semiannual interest on all capital outlay warrants issued by the district and shall issue warrants to pay such interest or shall issue its warrants in return for cash to pay such interest. Interest on capital outlay warrants shall be represented by coupons payable to bearer attached to each warrant, but coupons shall not be issued for interest accruing after the due date of such warrant. All coupons shall show on their face the number of the warrant to which they appertain and that the coupon shall not be valid for payment of any interest after the warrant has been called for redemption or redeemed. Warrant interest coupons not paid when due for lack of funds shall be registered, bear interest, and be paid the same as is provided in section 10-209 for bond coupons. Warrants issued to pay interest on capital outlay warrants shall become due and payable in the same time as capital outlay warrants. The district may, if determined appropriate by the board of trustees or the administrator, pay fees to fiscal agents in connection with the placement and registration of ownership of warrants issued by the district. The board of trustees or the administrator shall levy special assessments on all lots, parcels, or pieces of real estate benefited by the improvement to the extent of the benefits to such property. The special assessments when collected shall be set aside and constitute a sinking fund for the payment of the interest and principal of such bonds. In addition to the special assessments provided for in this section, there shall be levied annually a tax upon the taxable value of all the taxable property in such district which, together with such sinking fund derived from special assessments, shall be sufficient to meet payments of interest and principal on all bonds as such become due. Such tax levy shall be known as the sanitary and improvement district bond tax levy and shall be payable annually in money.

Sec. 7. Section 77-1613.01, Revised Statutes Supplement, 1995, is amended to read:

77-1613.01. The county official who prepares the tax list of each county shall certify to the Property Tax Administrator, on or before December 1 of each year, the total taxable valuation, the respective levies, the total amount of all general taxes, county, municipal, school, and local, and, for statistical purposes, any other information deemed necessary by the Property Tax Administrator for the current year on forms prescribed and furnished by the Property Tax Administrator. The certification shall include for each political subdivision a statement of the amount of taxes sought and the levy made for (1) the payment of principal or interest on bonds issued by the political subdivision and (2) all other purposes.

Sec. 8. Section 77-1701, Revised Statutes Supplement, 1995, is amended to read:

77-1701. (1) The county treasurer shall be ex officio county collector of all taxes levied within the county. The county board shall direct that a statement of the amount of taxes due and a notice that special assessments are due be mailed or otherwise delivered to the last-known address of the person, firm, association, or corporation against whom such taxes or special assessments are assessed or to the lending institution or other party responsible for paying such taxes or special assessments. Such statement shall clearly indicate, for each political subdivision, the levy rate and the amount of taxes due as the result of principal or interest payments on bonds issued by the political subdivision and shall show such rate and amount separate from any other levy. Failure to receive such statement or notice shall not relieve the taxpayer from any liability to pay such taxes or special assessments and any interest or penalties accrued thereon. In any county in

which a city of the metropolitan class is located, all statements of taxes shall also include notice that special assessments for cutting weeds, removing litter, and demolishing buildings are due.

(2) Notice that special assessments are due shall not be required for special assessments levied by sanitary and improvement districts organized under Chapter 31, article 7, except that such notice may be provided by the county at the discretion of the county board or by the sanitary and improvement district with the approval of the county board.

(3) A statement of the amount of taxes due and a notice that special assessments are due shall not be required to be mailed or otherwise delivered pursuant to subsection (1) of this section if the total amount of the taxes and special assessments due is less than two dollars. Failure to receive the statement or notice shall not relieve the taxpayer from any liability to pay the taxes or special assessments but shall relieve the taxpayer from any liability for interest or penalties. Taxes and special assessments of less than two dollars shall be added to the amount of taxes and special assessments due in subsequent years and shall not be considered delinquent until the total amount is two dollars or more.

Sec. 9. Sections 8 and 10 of this act become operative on September 15, 1997. The other sections of this act become operative on their effective date.

Sec. 10. Original section 77-1701, Revised Statutes Supplement, 1995, is repealed.

Sec. 11. Original sections 31-727.03 and 31-755, Reissue Revised Statutes of Nebraska, section 13-506, Revised Statutes Supplement, 1994, and sections 13-504, 13-508, 31-739, and 77-1613.01, Revised Statutes Supplement, 1995, are repealed.