

LEGISLATIVE BILL 292

Approved by the Governor April 16, 2003

Introduced by Revenue Committee: Landis, 46, Chairperson; Baker, 44;
Connealy, 16; Hartnett, 45; Janssen, 15; Raikes, 25;
Redfield, 12

AN ACT relating to revenue and taxation; to amend sections 18-1743, 77-1707, and 81-1174, Reissue Revised Statutes of Nebraska, and sections 60-3006, 77-101, 77-112, 77-115, 77-126, 77-129, 77-202.02, 77-202.11, 77-1311, 77-1502, 77-1706, 77-5004, and 79-1082, Revised Statutes Supplement, 2002; to change provisions relating to building permits and motor vehicle taxes; to define and redefine terms; to change notice requirements and eliminate reporting requirements; to change provisions relating to receipts issued by county treasurers; to change provisions relating to the Tax Equalization and Review Commission; to change school tax levy provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 18-1743, Reissue Revised Statutes of Nebraska, is amended to read:

18-1743. Any city or village which requires that a building permit be issued for the erection, alteration, or repair of any building within its jurisdiction shall, if the improvement is one thousand two thousand five hundred dollars or more, issue a duplicate of such permit to the county assessor.

Sec. 2. Section 60-3006, Revised Statutes Supplement, 2002, is amended to read:

60-3006. (1) A veteran of the United States Armed Forces who qualifies for an exemption from the motor vehicle tax under subdivision (2) of section 60-3002 shall apply for the exemption to the county treasurer or designated county official pursuant to section 23-186 not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. A renewal application shall be made annually not sooner than the first day of the last month of the registration period or later than the last day of the registration period. The county treasurer or designated county official shall approve or deny the application and notify the applicant of his or her decision within twenty days after the filing of the application. An applicant may appeal the denial of an application to the county board of equalization within twenty days after the date the notice was mailed.

(2) An organization which qualifies for an exemption from the motor vehicle tax under subdivision (6) of section 60-3002 shall apply for the exemption to the county treasurer or designated county official not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. For a newly acquired motor vehicle, an application for exemption must be made within thirty days after the purchase date. A renewal application shall be made annually not sooner than the first day of the last month of the registration period or later than the last day of the registration period. The county treasurer or designated county official shall examine the application and recommend either exempt or nonexempt status to the county board of equalization within twenty days after receipt of the application. The county board of equalization, after a hearing on ten days' notice to the applicant and after considering the recommendation of the county treasurer or designated county official and any other information it may obtain, shall approve or deny the exemption on the basis of law and of rules and regulations adopted and promulgated by the Property Tax Administrator. The county board of equalization shall certify its decision to the applicant, ~~and the county treasurer or designated county official, and the Property Tax Administrator~~ within ten days after the hearing. The decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission.

Sec. 3. Section 77-101, Revised Statutes Supplement, 2002, is amended to read:

77-101. For purposes of Chapter 77 and any statutes dealing with taxation, unless the context otherwise requires, the definitions found in sections 77-102 to 77-130 and section 8 of this act shall be used.

Sec. 4. Section 77-112, Revised Statutes Supplement, 2002, is amended to read:

77-112. Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach, (2) income approach, and (3) cost approach. Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property, the analysis shall include a consideration of the full description of the physical characteristics of the real property and an identification of the property rights being valued.

Sec. 5. Section 77-115, Revised Statutes Supplement, 2002, is amended to read:

77-115. County assessor includes an elected or appointed county assessor or a county clerk who is an ex officio county assessor. In counties in which the state has assumed the assessment function, the Property Tax Administrator or his or her designee performs the duties of the county assessor.

Sec. 6. Section 77-126, Revised Statutes Supplement, 2002, is amended to read:

77-126. Assessment means the act of listing the description of all real property and taxable tangible personal property, determining its taxability, determining its taxable ~~or assessed~~ value, and placing it on the assessment roll.

Sec. 7. Section 77-129, Revised Statutes Supplement, 2002, is amended to read:

77-129. Assessment roll means a complete and verified list of all real property and the taxable tangible personal property in a county and the associated assessments as defined in section 77-126. The assessment roll is described in section 77-1303.

Sec. 8. Taxable value shall be as described in section 77-201 and shall have the same meaning as assessed value.

Sec. 9. Section 77-202.02, Revised Statutes Supplement, 2002, is amended to read:

77-202.02. The county board of equalization, between February 1 and June 1 after a hearing on ten days' notice to the applicant and the publication of notice as provided in section 77-202.01, and after considering the recommendation of the county assessor and any other information it may obtain from public testimony, shall grant or withhold tax exemption for the real property or tangible personal property on the basis of law and of regulations promulgated by the Property Tax Administrator. The board shall certify its decision to the applicant, and the county assessor, ~~and the Property Tax Administrator~~ within ten days thereafter.

For applications accepted after approval of a waiver pursuant to section 77-202.01, the county board of equalization shall hear and certify its decision on or before August 15.

Sec. 10. Section 77-202.11, Revised Statutes Supplement, 2002, is amended to read:

77-202.11. (1) Leased public property, other than property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202, shall be taxed or exempted from taxation as if the property was owned by the leaseholder. The value of the property shall be determined as provided under section 77-201.

(2) ~~By January 31, 2001, the state and each governmental subdivision shall provide to the appropriate county assessor a copy of each lease in effect on January 1 of that year for property owned by the state or governmental subdivision. In years after 2001~~ On or before January 31 each year, the state and each governmental subdivision shall provide to the appropriate county assessor each new lease or preexisting lease which has been materially changed which went into effect during the previous year and a listing of previously reported leases that are still in effect.

(3) Taxes on property assessed to the lessee shall be due and payable in the same manner as other property taxes and shall be a first lien upon the personal property of the person to whom assessed until paid and shall be collected in the same manner as personal property taxes as provided in sections 77-1711 to 77-1724. The state or its governmental subdivisions shall not be obligated to pay the taxes upon failure of the lessee to pay. Notice of delinquent taxes shall be timely sent to the lessee and to the state or the governmental subdivision. No lien or attachment shall be attached to the property of the state or the governmental subdivisions for failure of the

lessee to pay the taxes due.

(4) The state or any governmental subdivision may, if it chooses to do so in its discretion, provide the appropriate county assessor a description of the property rather than a copy of the lease; request that the assessor notify it of the amount of tax which would be assessed to the leaseholder; voluntarily pay that tax; and collect that tax from the leaseholder as part of the rent.

(5) Except as provided in Article VIII, section 11, of the Constitution of Nebraska, no in lieu of tax payments provided for in any other section of law shall be made with respect to any leased public property to which this section applies.

Sec. 11. Section 77-1311, Revised Statutes Supplement, 2002, is amended to read:

77-1311. The county assessor shall have general supervision over and direction of the assessment of all property in his or her county. In addition to the other duties provided by law, the county assessor shall:

(1) Annually revise the real property assessment for the correction of errors and, when properties have been assessed as entities and afterward part or parts transferred to other parties, set off and apportion to each its just and equitable portion of the valuation;

(2) Obey all rules and regulations made under Chapter 77 and the instructions and orders sent out by the Property Tax Administrator and the Tax Equalization and Review Commission;

(3) Examine the records in the office of the register of deeds and county clerk for the purpose of ascertaining whether mortgages on real property and security interests on personal property, producing mineral leases, title notes, contracts, and bills of sale, intended to operate as a lien in the county, have been fully and correctly listed and add to the assessment roll any which have been omitted, belonging to residents of his or her county, and not otherwise assessed, upon notice to the owner thereof or his or her agents;

(4) Examine the records in the office of the county judge and ascertain whether the property belonging to minors, persons with mental retardation or a mental disorder, and estates of deceased persons has been fully and correctly listed and add to or change any such assessments so that the same shall be fully assessed;

(5) Examine the records in the office of the clerk of the district court to ascertain whether any judgments or liens thereon filed, belonging to residents of his or her county and not otherwise assessed, have been omitted from the assessment rolls and, in case of any such omission, add the same to the assessment roll after notice to the owner;

(6) ~~Make up~~ Prepare the assessment roll as ~~provided~~ defined in section 77-129 and described in section 77-1303;

(7) Provide access to the public to property record cards and allow facsimiles to be reproduced at cost to the requesting individual; and

(8) Submit a plan of assessment to the county board of equalization and the Department of Property Assessment and Taxation on or before September 1, 2001, and every five years thereafter. The county assessor shall update the plan each year between the adoption of each five-year plan. The plan and any update shall examine the level, quality, and uniformity of assessment in the county and may utilize a progress report developed by the department and presented to the county assessor on or before July 31. The progress report is to be based on reports and statistics developed by class and subclass of real property for each county. The plan of assessment shall address issues of level, quality, and uniformity of assessment, including those outlined in the progress report, and shall propose actions to be taken for the following years to assure uniform and proportionate assessments that are within the statutory and administrative guidelines for the level and quality of assessment.

Sec. 12. Section 77-1502, Revised Statutes Supplement, 2002, is amended to read:

77-1502. The county board of equalization shall hold a session of not less than three days, for the purpose of reviewing and deciding the written protests filed pursuant to this section, commencing on June 1 of each year and ending on July 25. Protests shall be filed in triplicate with the board. Protests for real property shall be filed after the assessor's completion of the real property assessment roll as required by section 77-1315 and on or before June 30. Protests for tangible personal property shall be filed on or before the last date for filing the form required by section 77-1229.

Attached to each copy of the protest shall be a statement of the reason or reasons why the requested change in assessment should be made or the protest shall be automatically dismissed.

The board shall prepare a separate report on each protest, and such report shall include a description of the property described in the protest, the recommendation of the county assessor with respect to the action proposed or taken, the names of witnesses whose testimony was heard in connection with the protest, a summary of their testimony, and a statement by the board of the basis upon which its action was taken. Such report shall identify by name the members of the board favoring the action taken, and be signed by the chairperson of the board. ~~and contain a certification that a copy thereof is being mailed to the Property Tax Administrator.~~ One copy of the report shall be given to the officer charged with the duty of preparing the tax list, and such officer shall have no authority to make a change in the values prepared and submitted by the county assessor until such report is in his or her possession, completed, signed, and certified in the manner specified in this section. If he or she deems it incomplete, he or she shall return the same to the board for proper preparation and execution.

Within seven days after a final decision by the county board of equalization on any protest filed with the board, the county clerk shall notify the protester of the action taken by the board.

Sec. 13. Section 77-1706, Revised Statutes Supplement, 2002, is amended to read:

77-1706. All receipts issued by the county treasurer for taxes paid to him or her shall be numbered consecutively, ~~commencing with the number one on the first sheet issued for the taxes for any one year.~~ The county treasurer shall not receipt for more than one year's taxes on the same property in one tax receipt but shall keep a separate and distinct series of numbers of receipts issued for the taxes of each year for which the taxes have been levied and assessed. The original and duplicate of these receipts shall be attached together as one, and each duplicate of each original receipt shall bear the same number as the original and shall be issued in duplicate. The original shall be presented to the taxpayer upon payment, and the duplicate shall be retained by the county treasurer.

Sec. 14. Section 77-1707, Reissue Revised Statutes of Nebraska, is amended to read:

77-1707. ~~The county clerk shall, on the delivery of the receipts, charge the county treasurer with the number of receipts delivered, and the county treasurer shall immediately examine the number of receipts and report to the county clerk any irregularity found therein.~~ The county treasurer shall receipt to the county clerk therefor, and shall be held strictly accountable for all receipts, including receipts found missing at regular settlement, and also for all detached receipts, the duplicates of which do not show the entry of taxes paid. All irregularities in the issuance of receipts that render them worthless must be shown on the face of the original, which must in no case be detached from the duplicate.

Sec. 15. Section 77-5004, Revised Statutes Supplement, 2002, is amended to read:

77-5004. (1) Each commissioner shall be a qualified voter and resident of the state and, for each commissioner representing a congressional district, a resident of the district he or she represents.

(2) Each commissioner shall devote his or her full time and efforts to the discharge of his or her duties and shall not hold any other office under the laws of this state, any city or county in this state, or the United States Government while serving on the commission. Each commissioner shall possess:

(a) Appropriate knowledge of terms commonly used in or related to real property appraisal and of the writing of appraisal reports;

(b) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, and real property appraisal mathematics;

(c) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and evaluating of data involved in the valuation of real property, including complex industrial properties and mass appraisal techniques;

(d) Knowledge of the law relating to taxation, civil and administrative procedure, due process, and evidence in Nebraska;

(e) At least thirty hours of successfully completed class hours in courses of study, approved by the Real Estate Appraiser Board, which relate to appraisal and which include a fifteen-hour course in the Uniform Standards of Professional Appraisal Practice. If a commissioner has not received such training prior to his or her appointment, such training shall be completed within one year after appointment; and

(f) Such other qualifications and skills as reasonably may be requisite for the effective and reliable performance of the commission's duties.

(3) One commissioner shall possess any certification or training required to become a licensed real estate appraiser as set forth in section 76-2230.

(4) Prior to January 1, 2002, the chairperson, and on and after January 1, 2002, at least two commissioners, shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court.

(5) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsistent with his or her duties as a commissioner or employee. A person is not eligible for appointment and may not hold the office of commissioner or be appointed by the commission to or hold any office or position under the commission if he or she holds any official office or position.

(6)(a) Each commissioner who meets the requirements of subsection (4) of this section on or after January 1, 2002, shall annually attend a seminar or class of at least two days' duration that is:

(i) Sponsored by a recognized assessment or appraisal organization, in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; appraisal of other hard to assess properties; and mass appraisal, residential or agricultural appraisal, or assessment administration; or

(ii) Pertaining to management, law, civil or administrative procedure, or other knowledge or skill necessary for performing the duties of the office.

(b) Each commissioner who does not meet the requirements of subsection (4) of this section on or after January 1, 2002, shall within two years after his or her appointment attend at least thirty hours of instruction that constitutes training for judges or administrative law judges.

(7) The commissioners shall be considered employees of the state for purposes of sections 81-1301 to 81-1391 and 84-1601 to 84-1615.

(8) The commissioners shall be reimbursed as prescribed in sections 81-1174 to 81-1177 for their actual and necessary expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act. ~~Mileage expenses incurred while traveling in the line of duty to and from a commissioner's primary residence to the commission office as well as living expenses for any commissioner whose residence is located more than eighty miles from the commission office shall be reimbursed by the state if:~~

~~(a) The commission has adopted and promulgated rules and regulations establishing guidelines for allowable reimbursement of mileage and living expenses, except that the reimbursement rate for mileage shall not exceed the rate established by the Department of Administrative Services pursuant to section 81-1176;~~

~~(b) The commissioner complies with the request procedures for reimbursement set forth in such guidelines; and~~

~~(c) The total amounts authorized for reimbursement of such mileage and living expenses in any fiscal year shall not cause the total expenses to exceed the total funds appropriated to the program established for commissioners' expenses.~~

Sec. 16. Section 79-1082, Revised Statutes Supplement, 2002, is amended to read:

79-1082. The aggregate school tax for a Class V school district, ~~exclusive of~~ including the levy for the site and building fund as authorized by section 79-10,126, shall be subject to the limits provided in section 77-3442.

Sec. 17. Section 81-1174, Reissue Revised Statutes of Nebraska, is amended to read:

81-1174. Whenever any state officer, employee, or member of any commission, council, committee, or board of the state is entitled to be reimbursed for actual expenses incurred by him or her in the line of duty, he or she shall be required to present a request for payment or reimbursement each month to the Director of Administrative Services. Each request shall be fully itemized, including when, where, and why the expense was incurred and the actual amount involved. When reimbursement is requested for mileage by automobile, air travel by commercial carrier, air travel in airplanes chartered by the department or agency, or air travel by personally rented airplane, the points between which such travel occurred, the times of arrival and departure, and the necessity and purpose of such travel shall be shown on such request. When reimbursement is requested for mileage by automobile, the license number, the owner of the automobile used, and the rate per mile being requested shall also be shown on each request. The Accounting Administrator

may require less supporting detail for requests covered in this section but shall not impose reporting requirements which exceed those listed unless specifically authorized by other provisions of law. No request shall be submitted by an individual for an expense when such expense has been paid by the agency or department concerned. When reimbursement for expenses incurred in air travel by privately owned airplane is requested, the cost of operating the airplane at rates per mile as established by the Department of Administrative Services shall be shown on such request. Travel by privately owned airplane or personally rented airplane shall only be authorized when it is more economical than surface transportation or will result in a substantial savings of expense or productive time. The statement of expenses shall be duly verified and supported by receipts for all of such expenditures, except meals and immaterial items identified by the director, for which reimbursement is requested. No charge for mileage shall be allowed when such mileage accrues while using an automobile owned by the State of Nebraska. No personal maintenance expenses shall be allowed to any state officer, employee, or member of any commission, council, committee, or board of the state when such expenses are incurred in the city or town in which the residence or primary work location of such individual is located, except that individuals required to attend official functions, conferences, or hearings within such location, not to include normal day-to-day operations of the department, agency, commission, council, committee, or board, may be paid or reimbursed in accordance with policies established by the Director of Administrative Services, and except as provided for commissioners of the Tax Equalization and Review Commission pursuant to section 77-5004. The approval to attend a function, conference, or hearing shall be obtained from the director of the department, agency, commission, council, committee, or board prior to an individual's attendance at such function, conference, or hearing. Nothing in this section shall be construed to prohibit the furnishing of coffee, tea, and any similar beverage by the Legislature or the Legislative Council to its employees or guests.

Sec. 18. Sections 15, 17 to 19, and 21 of this act become operative on July 1, 2003. The other sections of this act become operative three calendar months after adjournment of this legislative session.

Sec. 19. Original section 81-1174, Reissue Revised Statutes of Nebraska, and section 77-5004, Revised Statutes Supplement, 2002, are repealed.

Sec. 20. Original sections 18-1743 and 77-1707, Reissue Revised Statutes of Nebraska, and sections 60-3006, 77-101, 77-112, 77-115, 77-126, 77-129, 77-202.02, 77-202.11, 77-1311, 77-1502, 77-1706, and 79-1082, Revised Statutes Supplement, 2002, are repealed.

Sec. 21. Since an emergency exists, this act takes effect when passed and approved according to law.