

LEGISLATIVE BILL 613

Approved by the Governor June 13, 1995

Introduced by McKenzie, 34, Witek, 31, Pedersen, 39, at the request of the Governor

AN ACT relating to revenue and taxation; to amend sections 79-3814 and 79-3816, Reissue Revised Statutes of Nebraska, section 77-3437, Revised Statutes Supplement, 1994, and section 77-3439, Revised Statutes Supplement, 1994, as amended by section 1, Legislative Bill 49, Ninety-fourth Legislature, First Session, 1995; to change property tax limitations for political subdivisions; to change budget limitation provisions for school districts; to eliminate a termination date for property tax limitations; to repeal the original sections; to outright repeal section 77-3441, Revised Statutes Supplement, 1994; and to declare an emergency.

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

Section 1. Section 77-3437, Revised Statutes Supplement, 1994, is amended to read:

77-3437. For purposes of sections 77-3437 to 77-3440:

(1) Accessibility barrier shall mean anything which impedes entry into, exit from, or use of any building or facility by all people;

(2) Accessibility barrier elimination, only for purposes of subsection (3) of section 77-3439, shall include, but not be limited to, inspection for and removal of accessibility barriers, maintenance to reduce, lessen, put an end to, diminish, control, dispose of, or eliminate accessibility barriers, related restoration or modification of facilities or property, any related architectural and engineering services, and any other action to reduce or eliminate accessibility barriers in the public buildings or on the public grounds under the control of the governing body of the municipality or county;

(3) Accessibility barrier elimination project costs, only for purposes of subsection (3) of section 77-3439, shall include, but not be limited to, inspection, maintenance, accounting, emergency services, consultation, or any other action to reduce or eliminate accessibility barriers;

(4) Adopted budget statement shall have the definition found in section 13-503;

(5) Fiscal year shall have the definition found in section 13-503;

(6) Governing body shall have the definition found in section 13-503, except that governing body shall not include a school board or board of education of a school district;

(7) Growth shall mean any property tax revenue received from (a) real property as the result of new construction, additions to existing buildings, and any improvements to real property which increase the value of such property, (b) ~~except for tax year 1992,~~ personal property valuation over the prior year, except that for tax year 1995, the prior year's valuation shall not include the taxable value of depreciable livestock, and (c) motor vehicle valuation over the prior year. Growth shall not include any increased property tax revenue received due (i) to a change in valuation of a class or a subclass of property or (ii) to revaluations of individual properties; and

(8) Property taxes shall mean all revenue budgeted to be received from the levy of taxes on property and from the motor vehicle tax, including receipts from reimbursements under sections 77-27,138.01 and 77-3523, but shall not include (a) property taxes budgeted to be collected for retirement of bonded indebtedness or for projects and practices in accordance with section 2-3229 and necessary works incident to such projects and practices, (b) revenue received as a result of growth in the current year or growth in the previous year if such growth was not excluded from the property taxes budgeted the prior fiscal year, or (c) property taxes levied by the county board in a ministerial capacity on behalf of other authorities, boards, commissions, districts, entities, and political subdivisions.

Sec. 2. Section 77-3439, Revised Statutes Supplement, 1994, as amended by section 1, Legislative Bill 49, Ninety-fourth Legislature, First Session, 1995, is amended to read:

77-3439. (1) A governing body may increase the anticipated aggregate receipts from property taxes more than the amount permitted by section 77-3438 by the percentage change in the Consumer Price Index - All Urban Consumers, published by the United States Department of Labor, Bureau of

Labor Statistics, for the previous calendar year, up to a maximum of ~~five~~ four percent. The increase shall be approved upon the affirmative vote of a majority of the governing body. If such increase is less than ~~five~~ four percent more than the amount permitted by section 77-3438, a governing body may increase the anticipated aggregate receipts from property taxes by an additional amount equal to the difference between the increase approved for the percentage change in the Consumer Price Index - All Urban Consumers and ~~five~~ four percent more than the amount permitted by section 77-3438 upon an affirmative vote of at least seventy-five percent of the governing body. Such vote shall be taken at a public meeting of the governing body following a special public hearing called for the purpose of receiving testimony on such proposed increase.

(2) In addition to the increase permitted by subsection (1) of this section, (a) a Community College Board of Governors may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for accessibility barrier elimination project costs and for abatement of environmental hazards as such terms are defined in section 79-4,207 and (b) the board of an educational service unit may increase the anticipated aggregate receipts from property taxes for purposes of section 79-2225. Such increase shall be upon an affirmative vote of a majority of the board taken at a public meeting of the board following (i) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (ii) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(3) In addition to the increase permitted by subsection (1) of this section, a public building commission created under sections 13-1301 to 13-1312, municipality, or county may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for accessibility barrier elimination project costs upon an affirmative vote of a majority of the governing body or of the board of commissioners. Such vote shall be taken at a public meeting of the governing body or board of commissioners following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(4) In addition to the increase permitted by subsection (1) of this section, a public building commission created under sections 13-1301 to 13-1312, municipality, or county may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Nebraska Disaster and Civil Defense Act of 1973 not reimbursed by state or federal emergency funds upon an affirmative vote of a majority of the governing body or of the board of commissioners. Such vote shall be taken at a public meeting of the governing body or board of commissioners following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(5) In addition to the increase permitted by subsection (1) of this section, a municipality, county, or community college may increase the anticipated aggregate receipts from by the amount necessary to comply with a final order, judgment, ruling, or award of the Commission on Industrial Relations upon an affirmative vote of a majority of the governing body. Such vote shall be taken at a public meeting of the governing body following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(6) The governing body, board of commissioners, board of governors, or board of an educational service unit shall give at least seven calendar days' notice of a public hearing called under this section and shall publish such notice at least once in a newspaper of general circulation in the political subdivision.

(7) Any governing body that chooses not to increase its anticipated aggregate receipts from property taxes to its authorized level for the fiscal year may carry forward unused authority. In such case, the governing body shall calculate the amount of unused anticipated aggregate receipts from property taxes which shall be carried forward to future fiscal years so a governing body may increase its anticipated aggregate receipts from property taxes in future fiscal years by the amount of such total unused anticipated aggregate receipts from property taxes in addition to the amount allowable for

the specific fiscal year. The calculation of unused anticipated aggregate receipts shall be included in the budget documents submitted to the Auditor of Public Accounts.

Sec. 3. Section 79-3814, Reissue Revised Statutes of Nebraska, is amended to read:

79-3814. (1) Except as provided in subsection (2) of this section, ~~beginning with budgets adapted for school year 1990-91,~~ no district shall increase its general fund budget of expenditures more than the applicable allowable growth percentage. The Legislature shall annually establish an allowable growth range which shall be expressed as basic allowable growth rates plus a specified number of percentage points. The Legislature shall set the basic allowable growth rates based on projections of available state revenue and the cost of living and cost of education from nationally accepted cost indexes which shall be provided by the Nebraska Economic Forecasting Advisory Board, the Legislative Fiscal Analyst, the Department of Revenue, and the State Department of Education.

(2) Notwithstanding any of the provisions of subsection (1) of this section and sections 79-3815 to 79-3821, ~~for budgets adopted for school fiscal years 1991-92 through 1994-95,~~ the general fund budget of expenditures of each district shall not exceed the general fund budget of expenditures adopted for the immediately preceding school fiscal year unless a district, pursuant to the procedures and requirements specified in subsection (1) of section 79-3820, by an affirmative vote of seventy-five percent of the school board, votes to exceed such limitation, in which case the budget limitations and all other provisions of subsection (1) of this section and sections 79-3815 to 79-3821 shall apply.

Sec. 4. Section 79-3816, Reissue Revised Statutes of Nebraska, is amended to read:

79-3816. The basic allowable growth rate for general fund expenditures other than expenditures for special education shall be ~~four~~ three percent and the allowable growth range shall be from ~~four~~ three percent to ~~six~~ five and one-half percent. The budget authority for special education shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority shall be used only for special education expenditures.

Sec. 5. Original sections 79-3814 and 79-3816, Reissue Revised Statutes of Nebraska, section 77-3437, Revised Statutes Supplement, 1994, and section 77-3439, Revised Statutes Supplement, 1994, as amended by section 1, Legislative Bill 49, Ninety-fourth Legislature, First Session, 1995, are repealed.

Sec. 6. The following section is outright repealed: Section 77-3441, Revised Statutes Supplement, 1994.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.