

LEGISLATIVE BILL 218

Approved by the Governor May 29, 2009

Introduced by Cornett, 45; Heidemann, 1.

FOR AN ACT relating to state aid; to amend sections 13-518, 47-120, 71-5326, 77-27,136, 77-27,139, 81-15,158, 83-380, and 83-4,133, Reissue Revised Statutes of Nebraska, and sections 77-27,137.01 and 77-27,137.02, Revised Statutes Cumulative Supplement, 2008; to change and eliminate provisions relating to aid to various political subdivisions; to change and eliminate provisions relating to jail reimbursement; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 47-119, 47-119.01, 47-121, 47-121.01, 77-27,137, and 77-3618, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 13-518, Reissue Revised Statutes of Nebraska, is amended to read:

13-518 For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, (i) for fiscal years prior to fiscal year 2003-04 and after fiscal year 2004-05 until fiscal year 2007-08, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined, (ii) for fiscal year 2003-04 and fiscal year 2004-05, the percentage increase in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined, and (iii) for fiscal year 2007-08 and each fiscal year thereafter, community college areas may exceed the base limitation to equal base revenue need calculated pursuant to section 85-2223;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-3,202 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3,190, 77-27,136, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections

39-2501 to 39-2520, ~~47-119.01~~, and 60-3,184 to 60-3,190, ~~77-27,136~~, and 77-3618, and section 7 of this act, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, state aid to community colleges paid under the Community College Foundation and Equalization Aid Act;

(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136;

(f) For educational service units, state aid appropriated under section 79-1241; and

(g) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Sec. 2. Section 47-120, Reissue Revised Statutes of Nebraska, is amended to read:

47-120 The county board or county board of corrections serving pursuant to Chapter 23, article 28, shall provide proper quarters and adequate equipment for the preparation and serving of all meals furnished to all prisoners confined in the county jail. The county sheriff or the county board of corrections shall have full charge and control of such services and the county board shall provide for all washing, fuel, lights, and clothing for prisoners, ~~subject to reimbursement for state prisoners from the state pursuant to section 47-119.01~~, and subject to the right of the county to be paid by the city or federal government for city or federal prisoners at actual cost to the county. Supplies of every nature entering into the furnishing of meals, washing, fuel, lights, and clothing to the prisoners confined in the county jail shall be purchased and provided under the direction of the county sheriff or the county board of corrections. Payment for all purchases shall only be made by the county board on the original invoices submitted by the sheriff or the county board of corrections of goods, supplies, and services, setting forth (1) that the invoice correctly describes the goods as to quality and quantity, (2) that the same have been received and are in the custody of the affiant, (3) that they have been or will be devoted exclusively to the purposes authorized in this section, and (4) that the price charged is reasonable and just. Nothing in this section shall be construed to restrict the sheriff or the county board of corrections in employing necessary personnel and from otherwise carrying out the duties required in the operation of the jail.

Sec. 3. Section 71-5326, Reissue Revised Statutes of Nebraska, is amended to read:

71-5326 If a municipality, county, or natural resources district fails to make any payment pursuant to a loan within sixty days of the date due, such payment shall be deducted from the amount of aid to municipalities, counties, or natural resources ~~district~~ districts to which the municipality, county, or natural resources district is entitled under sections 77-27,136 to 77-27,137.02 or section 7 of this act. Such amount shall be paid directly to the fund from which the loan was made.

Sec. 4. Section 77-27,136, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,136 The Legislature shall appropriate ~~seventeen million nine hundred thousand dollars of all~~ may appropriate funds collected by a general sales tax and income tax for aid to incorporated municipalities, ~~thirteen million five hundred thousand dollars for aid to counties~~, and seven hundred thousand dollars for aid to counties, and natural resources districts.

Sec. 5. Section 77-27,137.01, Revised Statutes Cumulative Supplement, 2008, is amended to read:

77-27,137.01 ~~(1)~~ The appropriation provided for made pursuant to the authority in section 77-27,136 for aid to incorporated municipalities shall be allocated by the Tax Commissioner to the various incorporated municipalities. The Tax Commissioner shall determine the amount to be distributed to the incorporated municipalities and certify such amounts by voucher to the Director of Administrative Services. Each amount shall be distributed in seven as nearly as possible equal monthly payments on the last business day of each month beginning in December. The State Treasurer shall, on the business day preceding the last business day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, on the last business day of each month, draw warrants against funds appropriated. Except as provided in subsection (2) of this section, the The Tax Commissioner shall compute the amount due the incorporated municipalities on the ratio of the population of the particular incorporated municipality to the total population of all incorporated municipalities in the state as determined by the most recent federal census figures certified by the Tax Commissioner as

provided in section 77-3,119, which amounts shall be placed in the general fund of such municipalities.

~~(2) For fiscal years 2003-04 through 2008-09, the allocation of state aid provided for in subsection (1) of this section shall be calculated based on the amount appropriated plus an additional five hundred twenty thousand dollars, and the amount of state aid calculated for a city of the primary class shall be reduced by the amount received by the city of the primary class under the Municipal Infrastructure Redevelopment Fund Act for fiscal years 2003-04 through 2008-09. Beginning with fiscal year 2009-10, the amount of aid to municipalities appropriated shall be increased by five hundred twenty thousand dollars.~~

Sec. 6. Section 77-27,137.02, Revised Statutes Cumulative Supplement, 2008, is amended to read:

77-27,137.02 The appropriation ~~provided for~~ made pursuant to the authority in section 77-27,136 for aid to natural resources districts shall be distributed to the various natural resources districts of the state on the basis of the ratio of the total amount of property taxes levied by the particular natural resources district to the total amount of property taxes levied by all natural resources districts within the state based on amounts stated in the most recent certificate of taxes levied statement and schedules submitted by each county to the Tax Commissioner pursuant to section 77-1613.01. The Tax Commissioner shall determine the amount to be distributed to the various natural resources districts and certify such amounts by voucher to the Director of Administrative Services. Each amount shall be distributed in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning December 1, 1982, and each December thereafter. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, upon receipt of such notification and vouchers, draw warrants against funds appropriated. The proceeds of the payments received by the various natural resources districts shall be credited to the general fund of the district.

Sec. 7. The Legislature shall appropriate funds as aid to counties in an amount equal to a percentage of the total real and personal property valuation of all counties, such percent to be not less than .0075 percent nor more than .0125 percent.

Of the appropriation, each county shall receive thirty thousand dollars and the remaining amount shall be distributed to each county on the basis of the ratio of the total real and personal property valuation in the county to the total real and personal property valuation in the state.

The Tax Commissioner shall determine the amount to be distributed to the various counties under this section and certify such amounts to the Director of Administrative Services on or before July 1 of each year. Each amount shall be distributed in nine as nearly as possible equal monthly payments on the last business day of each month beginning in September.

Sec. 8. Section 77-27,139, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,139 Each political subdivision receiving funds as provided by sections 77-27,136 to 77-27,137.02 and section 7 of this act shall take into consideration the amount it will receive under such sections during its fiscal year in determining its tax levy for that fiscal year.

Sec. 9. Section 81-15,158, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,158 If a municipality or county fails to make any payment pursuant to a loan within sixty days of the date due, such payment shall be deducted from the amount of aid to municipalities or counties to which the municipality or county is entitled under sections 77-27,136 to 77-27,137.01 or section 7 of this act. Such amount shall be paid directly to the Wastewater Treatment Facilities Construction Loan Fund.

Sec. 10. Section 83-380, Reissue Revised Statutes of Nebraska, is amended to read:

83-380 Within thirty days after June 30, 1971, and each year thereafter, the department shall certify to the Director of Administrative Services all amounts not previously certified due to each state institution from the several counties having patients chargeable thereto. The Director of Administrative Services shall thereupon notify the county clerk of each county of the amount each county owes. The county board shall add to its next levy an amount sufficient to raise the amount certified as due. The county shall pay the amount certified into the state treasury on or before the next June 1 following such certification.

From any county which fails to pay the total amount certified as due

annually by the next June 1 following certification, there shall be withheld by the State Treasurer from the next allocation to such county due under the provisions of ~~section 77-27,137,~~ section 7 of this act an amount sufficient to equal the amount unpaid from such county which amount shall be deducted from the county's portion and not the municipalities' under section 77-27,137.01. The State Treasurer shall credit the amount withheld the same as if the county had paid it when due as above provided.

Sec. 11. Section 83-4,133, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,133 If the governing body of the juvenile detention facility or criminal detention facility fails to initiate corrective action within six months after the receipt of such inspection report, fails to correct the disclosed conditions, or fails to close the criminal detention facility or juvenile detention facility or the objectionable portion thereof, the Jail Standards Board shall advise the Department of Correctional Services that ~~the criminal detention facility does not qualify for reimbursement for state prisoners under section 47-119.01 and at the same time or at a later date may petition the district court within the judicial district in which such facility is located to close the facility. Such petition shall include the inspection report regarding such facility. The local governing body shall then have thirty days to respond to such petition and shall serve a copy of the response on the Jail Standards Board by certified mail, return receipt requested. Thereafter, a hearing shall be held on the petition before the district court, and an order shall be rendered by such court which either:~~

(1) Dismisses the petition of the Jail Standards Board;

(2) Directs that corrective action be initiated in some form by the local governing body of the facility in question; or

(3) Directs that the facility be closed. An appeal from the decision of the district court may be taken to the Court of Appeals.

~~If the Jail Standards Board petitions to have the facility closed, the local governing body may challenge the no reimbursement for state prisoners determination in that action, and if there is no petition to close the facility, the local governing body may challenge the no reimbursement for state prisoners determination by filing an action in district court.~~

Sec. 12. This act becomes operative on July 1, 2011.

Sec. 13. Original sections 13-518, 47-120, 71-5326, 77-27,136, 77-27,139, 81-15,158, 83-380, and 83-4,133, Reissue Revised Statutes of Nebraska, and sections 77-27,137.01 and 77-27,137.02, Revised Statutes Cumulative Supplement, 2008, are repealed.

Sec. 14. The following sections are outright repealed: Sections 47-119, 47-119.01, 47-121, 47-121.01, 77-27,137, and 77-3618, Reissue Revised Statutes of Nebraska.