

LEGISLATIVE BILL 440

Approved by the Governor May 26, 2003

Introduced by Thompson, 14

AN ACT relating to revenue and taxation; to amend section 77-27,137.01, Reissue Revised Statutes of Nebraska, and sections 18-2603 and 77-2602, Revised Statutes Supplement, 2002; to redefine a term; to change allocations from cigarette tax proceeds to the Municipal Infrastructure Redevelopment Fund; to change state aid provisions for municipalities; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 18-2603, Revised Statutes Supplement, 2002, is amended to read:

18-2603. For purposes of the Municipal Infrastructure Redevelopment Fund Act:

(1) Bond means any evidence of indebtedness, including, but not limited to, bonds, notes including notes issued pending long-term financing arrangements, warrants, debentures, obligations under a loan agreement or a lease-purchase agreement, or any similar instrument or obligation;

(2) Fund means the Municipal Infrastructure Redevelopment Fund;

(3) Infrastructure project means any of the following projects, or any combination thereof, to be owned or operated by a municipality: Solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operations and activities of municipal government and to provide services to the residents of the municipality; convention and tourism facilities; redevelopment projects as defined in section 18-2103; and mass transit and other transportation systems, including parking facilities and excluding public highways and bridges and municipal roads, streets, and bridges;

(4) Municipal allocation amount means, for each municipality, the amount derived by multiplying the amount to be allocated by the fraction determined by dividing the total population of the municipality by the total population of the state living in municipalities, each as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119; and

(5) Municipality means any city of any class or any village in the state, except that for fiscal years 2003-04 and 2004-05, municipality means only cities of the primary class.

Sec. 2. Section 77-2602, Revised Statutes Supplement, 2002, is amended to read:

77-2602. (1) Every person engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, sixty-four cents per package until October 1, 2004, and thirty-four cents per package commencing October 1, 2004; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Commencing July 1, 1994, and continuing until July 1, 2009, the State Treasurer shall place the equivalent of twenty-one cents of such tax less three million dollars each fiscal year of proceeds of such tax in the General Fund. Commencing July 1, 2009, the State Treasurer shall place the equivalent of twenty-one cents of such tax in the General Fund. The State Treasurer shall reduce the amount placed in the General Fund under this subsection by the amount prescribed in subdivision (3)(d) of this section. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Department of Health and Human Services Finance and Support Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Third, beginning July 1, 2001, and continuing until October 1, 2002, the State Treasurer shall place the equivalent of five cents of such tax in the Building Renewal Allocation Fund. Beginning October 1, 2002, and continuing until October 1, 2004, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund. Beginning October 1, 2004, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of five cents of such tax in the Building Renewal Allocation Fund. The Legislature shall appropriate each fiscal year all sums inuring to the fund, plus interest earnings for the Task Force for Building Renewal to be used to carry out its duties and to fulfill the purposes of the Deferred Building Renewal Act. Unexpended balances existing at the end of each fiscal year shall be, and are hereby, reappropriated. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than five-sevenths of the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to five-sevenths of the FY1997-98 amount shall reduce the distribution to the General Fund;

~~(d) Fourth, until October 1, 2002, and beginning on October 1, 2004, the State Treasurer shall place the difference between the equivalent of thirteen cents of such tax and the sum of the amounts distributed pursuant to subdivisions (a) through (c) and (f) through (h) of this subsection in a special fund to be known as the Nebraska Capital Construction Fund. Beginning October 1, 2002, and continuing until October 1, 2004, the State Treasurer shall place the difference between the equivalent of forty-three cents of such tax and the sum of the amounts distributed pursuant to subdivisions (a) through (c) and (f) through (i) of this subsection in the Nebraska Capital Construction Fund;~~

~~(e) Fifth,~~ beginning July 1, 1994, and continuing until July 1, 2009 2003, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of three million dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. Commencing July 1, 2003, and continuing until July 1, 2005, the State Treasurer shall place in such fund the sum of five hundred twenty thousand dollars each fiscal year to carry out the act. Commencing July 1, 2005, and continuing until July 1, 2009, the State Treasurer shall place in such fund the sum of three million dollars each fiscal year to carry out the act. The Legislature shall appropriate the sum of five hundred twenty thousand dollars each year for fiscal years 2003-04 and 2004-05. The Legislature shall appropriate the sum of three million dollars each year for fiscal year 1994-95 2005-06 through fiscal year 2008-09;

~~(f) Sixth~~ (e) Fifth, beginning July 1, 2001, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund;

~~(g) Seventh~~ (f) Sixth, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million dollars each fiscal year in the City of the Primary Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section ~~this subsection~~ by such amount required to fulfill the one million dollars to be distributed pursuant to this subdivision;

~~(h) Eighth~~ (g) Seventh, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million five hundred thousand dollars each fiscal year in the City of the Metropolitan Class Development Fund. If necessary, the State Treasurer shall reduce the

distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section ~~this subsection~~ by such amount required to fulfill the one million five hundred thousand dollars to be distributed pursuant to this subdivision; and

~~(i) Ninth~~ (h) Eighth, beginning October 1, 2002, and continuing until October 1, 2004, the State Treasurer shall place the equivalent of twenty-eight cents of such tax in the Cash Reserve Fund.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital Construction Fund.

~~(5) (2)~~ The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Department of Health and Human Services Finance and Support Cash Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation Fund, (f) the Information Technology Infrastructure Fund, (g) the City of the Primary Class Development Fund, (h) the City of the Metropolitan Class Development Fund, and (i) the Cash Reserve Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (i) of this subsection.

Sec. 3. Section 77-27,137.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,137.01. (1) The appropriation provided for 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. ~~The~~ Except as provided in subsection (2) of this section, 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 and 2004-05, 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 and 2004-05. Beginning with fiscal year 2005-06, the amount of aid to municipalities appropriated shall be increased by five hundred twenty thousand dollars.

Sec. 4. This act becomes operative on July 1, 2003.

Sec. 5. Original section 77-27,137.01, Reissue Revised Statutes of Nebraska, and sections 18-2603 and 77-2602, Revised Statutes Supplement, 2002, are repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.