

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 283
Final Reading

Introduced by Haar, 21.

Read first time January 12, 2011

Committee: Education

A BILL

1 FOR AN ACT relating to schools; to amend section 79-10,110, Revised
2 Statutes Cumulative Supplement, 2010; to provide for a
3 tax levy and bond authority relating to energy efficiency
4 projects as prescribed; and to repeal the original
5 section.

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

1 Section 1. Section 79-10,110, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 79-10,110 (1) After making a determination that an actual
4 or potential environmental hazard or accessibility barrier exists,
5 that a life safety code violation exists, or that expenditures are
6 needed for indoor air quality, ~~or~~ mold abatement and prevention, or
7 an energy efficiency project within the school buildings or grounds
8 under its control, a school board may make and deliver to the county
9 clerk of such county in which any part of the school district is
10 situated, not later than the date provided in section 13-508, an
11 itemized estimate of the amounts necessary to be expended for the
12 abatement of such environmental hazard, for accessibility barrier
13 elimination, ~~or~~ for modifications for life safety code violations,
14 indoor air quality, or mold abatement and prevention, or for an
15 energy efficiency project in such school buildings or grounds. The
16 board shall designate the particular environmental hazard abatement
17 project, accessibility barrier elimination project, ~~or~~ modification
18 for life safety code violations, indoor air quality, or mold
19 abatement and prevention, or energy efficiency project for which the
20 tax levy provided for by this section will be expended, the period of
21 years, which shall not exceed ten years, for which the tax will be
22 levied for such project, and the amount of the levy for each year of
23 the period.

24 (2) After a public hearing, a school board may undertake
25 any qualified capital purpose in any qualified zone academy under its

1 control and may levy a tax as provided in this section to repay a
2 qualified zone academy bond issued for such undertaking. The board
3 shall designate: (a) The particular qualified capital purpose for
4 which the qualified zone academy bond was issued and for which the
5 tax levy provided for by this section will be expended; (b) the
6 period of years for which the tax will be levied to repay such
7 qualified zone academy bond, not exceeding the maximum term for such
8 qualified zone academy bond established pursuant to federal law or,
9 for any such bond issued prior to May 20, 2009, fifteen years; and
10 (c) the amount of the levy for each year of the period. The hearing
11 required by this subsection shall be held only after notice of such
12 hearing has been published for three consecutive weeks prior to the
13 hearing in a legal newspaper published or of general circulation in
14 the school district.

15 (3) After a public hearing, a school board may undertake
16 construction of a new public school facility or the acquisition of
17 land on which such a facility is to be constructed or any expansion,
18 rehabilitation, modernization, renovation, or repair of any existing
19 school facilities under its control and may levy a tax to repay any
20 American Recovery and Reinvestment Act of 2009 bond. The board shall
21 designate: (a) The particular project or projects for which the bond
22 will be issued and for which the tax levy provided by this section
23 will be expended; (b) the period of years for which the tax will be
24 levied to repay such bond, not exceeding the maximum term established
25 pursuant to federal law for the type of bond as permitted by the

1 federal American Recovery and Reinvestment Act of 2009 or, if no such
2 term is established, thirty years; and (c) the amount of the levy for
3 each year of such period. Prior to the public hearing, the school
4 board shall prepare an itemized estimate of the amounts necessary to
5 be expended for the project or projects. The hearing required by this
6 subsection shall be held only after notice of such hearing has been
7 published for three consecutive weeks prior to the hearing in a legal
8 newspaper published or of general circulation in the school district.
9 The bond to be issued under this subsection may consist of any type
10 or form of bond permitted by the federal American Recovery and
11 Reinvestment Act of 2009 except qualified zone academy bonds, the use
12 of which is authorized pursuant to subsection (2) of this section.

13 (4) The board may designate more than one project under
14 subsection (1) of this section, more than one qualified capital
15 purpose under subsection (2) of this section, or more than one
16 American Recovery and Reinvestment Act of 2009 purpose under
17 subsection (3) of this section and levy a tax pursuant to this
18 section for each such project, qualified capital purpose, or American
19 Recovery and Reinvestment Act of 2009 purpose, concurrently or
20 consecutively, as the case may be, if the aggregate levy in each year
21 and the duration of each such levy will not exceed the limitations
22 specified in this section. Each levy for a project, a qualified
23 capital purpose, or an American Recovery and Reinvestment Act of 2009
24 purpose which is authorized by this section may be imposed for such
25 duration as the board specifies, notwithstanding the contemporaneous

1 existence or subsequent imposition of any other levy for another
2 project, qualified capital purpose, or American Recovery and
3 Reinvestment Act of 2009 purpose imposed pursuant to this section and
4 notwithstanding the subsequent issuance by the district of bonded
5 indebtedness payable from its general fund levy.

6 (5) The county clerk shall levy such taxes, not to exceed
7 five and one-fifth cents per one hundred dollars of taxable valuation
8 for Class II, III, IV, V, and VI districts, and not to exceed the
9 limits set for Class I districts in section 79-10,124, on the taxable
10 property of the district necessary to (a) cover the environmental
11 hazard abatement or accessibility barrier elimination project costs,
12 ~~or~~ costs for modification for life safety code violations, indoor air
13 quality, or mold abatement and prevention, or energy efficiency
14 project costs itemized by the board pursuant to subsection (1) of
15 this section and (b) repay any qualified zone academy bonds or
16 American Recovery and Reinvestment Act of 2009 bonds pursuant to
17 subsection (2) or (3) of this section. Such taxes shall be collected
18 by the county treasurer at the same time and in the same manner as
19 county taxes are collected and when collected shall be paid to the
20 treasurer of the district and used to cover the project costs.

21 (6) If such board operates grades nine through twelve as
22 part of an affiliated school system, it shall designate the fraction
23 of the project or undertaking to be conducted for the benefit of
24 grades nine through twelve. Such fraction shall be raised by a levy
25 placed upon all of the taxable value of all taxable property in the

1 affiliated school system pursuant to subsection (2) of section
2 79-1075. The balance of the project or undertaking to be conducted
3 for the benefit of grades kindergarten through eight shall be raised
4 by a levy placed upon all of the taxable value of all taxable
5 property in the district which is governed by such board. The
6 combined rate for both levies in the high school district, to be
7 determined by such board, shall not exceed five and one-fifth cents
8 on each one hundred dollars of taxable value.

9 (7) Each board which submits an itemized estimate shall
10 establish an environmental hazard abatement and accessibility barrier
11 elimination project account, a life safety code modification project
12 account, an indoor air quality project account, ~~or~~ a mold abatement
13 and prevention project account, or an energy efficiency project
14 account, each board which undertakes a qualified capital purpose
15 shall establish a qualified capital purpose undertaking account,
16 within the qualified capital purpose undertaking fund, and each board
17 which undertakes an American Recovery and Reinvestment Act of 2009
18 purpose shall establish an American Recovery and Reinvestment Act of
19 2009 purpose undertaking account. Taxes collected pursuant to this
20 section shall be credited to the appropriate account to cover the
21 project or undertaking costs. Such estimates may be presented to the
22 county clerk and taxes levied accordingly.

23 (8) For purposes of this section:

24 (a) Abatement includes, but is not limited to, any
25 inspection and testing regarding environmental hazards, any

1 maintenance to reduce, lessen, put an end to, diminish, moderate,
2 decrease, control, dispose of, or eliminate environmental hazards,
3 any removal or encapsulation of environmentally hazardous material or
4 property, any restoration or replacement of material or property, any
5 related architectural and engineering services, and any other action
6 to reduce or eliminate environmental hazards in the school buildings
7 or on the school grounds under the board's control, except that
8 abatement does not include the encapsulation of any material
9 containing more than one percent friable asbestos;

10 (b) Accessibility barrier means anything which impedes
11 entry into, exit from, or use of any building or facility by all
12 people;

13 (c) Accessibility barrier elimination includes, but is
14 not limited to, inspection for and removal of accessibility barriers,
15 maintenance to reduce, lessen, put an end to, diminish, control,
16 dispose of, or eliminate accessibility barriers, related restoration
17 or replacement of facilities or property, any related architectural
18 and engineering services, and any other action to eliminate
19 accessibility barriers in the school buildings or grounds under the
20 board's control;

21 (d) American Recovery and Reinvestment Act of 2009 bond
22 means any type or form of bond permitted by the federal American
23 Recovery and Reinvestment Act of 2009, as such act or bond may be
24 amended and supplemented, including the federal Hiring Incentives to
25 Restore Employment Act, as amended and supplemented, for use by

1 schools, except qualified zone academy bonds;

2 (e) American Recovery and Reinvestment Act of 2009
3 purpose means any construction of a new public school facility or the
4 acquisition of land on which such a facility is to be constructed or
5 any expansion, rehabilitation, modernization, renovation, or repair
6 of any existing school facilities financed in whole or in part with
7 an American Recovery and Reinvestment Act of 2009 bond;

8 (f) Energy efficiency project includes any inspection and
9 testing regarding energy usage, any maintenance to reduce, lessen,
10 diminish, moderate, decrease, or control energy usage, any
11 restoration or replacement of material or related architectural and
12 engineering services, and any other action to reduce energy usage in
13 new or existing school buildings or on school grounds under the
14 control of a school board;

15 ~~(f)~~-(g) Environmental hazard means any contamination of
16 the air, water, or land surface or subsurface caused by any substance
17 adversely affecting human health or safety if such substance has been
18 declared hazardous by a federal or state statute, rule, or
19 regulation;

20 ~~(g)~~-(h) Modification for indoor air quality includes, but
21 is not limited to, any inspection and testing regarding indoor air
22 quality, any maintenance to reduce, lessen, put an end to, diminish,
23 moderate, decrease, control, dispose of, or eliminate indoor air
24 quality problems, any restoration or replacement of material or
25 related architectural and engineering services, and any other action

1 to reduce or eliminate indoor air quality problems or to enhance air
2 quality conditions in new or existing school buildings or on school
3 grounds under the control of a school board;

4 ~~(h)~~—(i) Modification for life safety code violation
5 includes, but is not limited to, any inspection and testing regarding
6 life safety codes, any maintenance to reduce, lessen, put an end to,
7 diminish, moderate, decrease, control, dispose of, or eliminate life
8 safety hazards, any restoration or replacement of material or
9 property, any related architectural and engineering services, and any
10 other action to reduce or eliminate life safety hazards in new or
11 existing school buildings or on school grounds under the control of a
12 school board;

13 ~~(i)~~—(j) Modification for mold abatement and prevention
14 includes, but is not limited to, any inspection and testing regarding
15 mold abatement and prevention, any maintenance to reduce, lessen, put
16 an end to, diminish, moderate, decrease, control, dispose of, or
17 eliminate mold problems, any restoration or replacement of material
18 or related architectural and engineering services, and any other
19 action to reduce or eliminate mold problems or to enhance air quality
20 conditions in new or existing school buildings or on school grounds
21 under the control of a school board;

22 ~~(j)~~—(k) Qualified capital purpose means (i)
23 rehabilitating or repairing the public school facility in which the
24 qualified zone academy is established or (ii) providing equipment for
25 use at such qualified zone academy;

1 ~~(k)~~(l) Qualified zone academy has the meaning found in
2 (i) 26 U.S.C. 1397E(d)(4), as such section existed on October 3,
3 2008, for qualified zone academy bonds issued on or before such date,
4 and (ii) 26 U.S.C. 54E(d)(1), as such section existed on October 4,
5 2008, for qualified zone academy bonds issued on or after such date;

6 ~~(l)~~(m) Qualified zone academy allocation means the
7 allocation of the qualified zone academy bond limitation by the State
8 Department of Education to the qualified zone academies pursuant to
9 (i) 26 U.S.C. 1397E(e)(2), as such section existed on October 3,
10 2008, for allocations relating to qualified zone academy bonds issued
11 on or before such date, and (ii) 26 U.S.C. 54E(c)(2), as such section
12 existed on October 4, 2008, for allocations relating to qualified
13 zone academy bonds issued on or after such date; and

14 ~~(m)~~(n) Qualified zone academy bond has the meaning found
15 in (i) 26 U.S.C. 1397E(d)(1), as such section existed on October 3,
16 2008, for such bonds issued on or before such date, and (ii) 26
17 U.S.C. 54E(a), as such section existed on and after October 4, 2008,
18 for such bonds issued on or after such date, as such section or bonds
19 may be amended or supplemented.

20 (9) Accessibility barrier elimination project costs
21 includes, but is not limited to, inspection, maintenance, accounting,
22 emergency services, consultation, or any other action to reduce or
23 eliminate accessibility barriers.

24 (10) For the purpose of paying amounts necessary for the
25 abatement of environmental hazards, for accessibility barrier

1 elimination, ~~or~~for modifications for life safety code violations,
2 indoor air quality, or mold abatement and prevention, for an energy
3 efficiency project, or for an American Recovery and Reinvestment Act
4 of 2009 purpose, the board may borrow money, establish a sinking
5 fund, and issue bonds and other evidences of indebtedness of the
6 district, which bonds and other evidences of indebtedness shall be
7 secured by and payable from an irrevocable pledge by the district of
8 amounts received in respect of the tax levy provided for by this
9 section and any other funds of the district available therefor. Bonds
10 and other evidences of indebtedness issued by a district pursuant to
11 this subsection shall not constitute a general obligation of the
12 district or be payable from any portion of its general fund levy.

13 (11) The total principal amount of bonds for
14 modifications to correct life safety code violations, for indoor air
15 quality problems, for mold abatement and prevention, for an energy
16 efficiency project, or for an American Recovery and Reinvestment Act
17 of 2009 purpose which may be issued pursuant to this section shall
18 not exceed the total amount specified in the itemized estimate
19 described in subsections (1) and (3) of this section.

20 (12) The total principal amount of qualified zone academy
21 bonds which may be issued pursuant to this section for qualified
22 capital purposes with respect to a qualified zone academy shall not
23 exceed the qualified zone academy allocation granted to the board by
24 the department. The total amount that may be financed by qualified
25 zone academy bonds pursuant to this section for qualified purposes

1 with respect to a qualified zone academy shall not exceed seven and
2 one-half million dollars statewide in a single year. In any year that
3 the Nebraska qualified zone academy allocations exceed seven and one-
4 half million dollars for qualified capital purposes to be financed
5 with qualified zone academy bonds issued pursuant to this section,
6 (a) the department shall reduce such allocations proportionally such
7 that the statewide total for such allocations equals seven and one-
8 half million dollars and (b) the difference between the Nebraska
9 allocation and seven and one-half million dollars shall be available
10 to qualified zone academies for requests that will be financed with
11 qualified zone academy bonds issued without the benefit of this
12 section.

13 Nothing in this section directs the State Department of
14 Education to give any preference to allocation requests that will be
15 financed with qualified zone academy bonds issued pursuant to this
16 section.

17 (13) The State Department of Education shall establish
18 procedures for allocating bond authority to school boards as may be
19 necessary pursuant to an American Recovery and Reinvestment Act of
20 2009 bond.

21 (14) Before a school board approves an energy efficiency
22 project to be funded pursuant to this section, such school board
23 shall generate an Energy Star efficiency rating on any school
24 building involved in the proposed energy efficiency project using the
25 United States Environmental Protection Agency's free online tool,

1 Portfolio Manager. If the energy efficiency project is approved and
2 funded pursuant to this section, such school board shall also
3 maintain an up-to-date Energy Star efficiency rating using Portfolio
4 Manager on such school building during the term of any bonds issued
5 for such energy efficiency project.

6 Sec. 2. Original section 79-10,110, Revised Statutes
7 Cumulative Supplement, 2010, is repealed.