

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1112

Introduced by Christensen, 44.

Read first time January 22, 2014

Committee:

A BILL

1 FOR AN ACT relating to natural resources districts; to amend section
2 2-3226.05, Reissue Revised Statutes of Nebraska; to
3 terminate and authorize occupation taxes; and to repeal
4 the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-3226.05, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-3226.05 ~~(1)~~ A-(1)(a) Until January 1, 2015, a district
4 with an integrated management plan as described in subsection (1) of
5 section 2-3226.01 may levy an occupation tax upon the activity of
6 irrigation of agricultural lands within such district on an annual
7 basis, not to exceed ten dollars per irrigated acre, the proceeds of
8 which may be used for ~~(a)-(i)~~ repaying principal and interest on any
9 bonds or refunding bonds issued pursuant to section 2-3226.01 for one
10 or more projects under section 2-3226.04, ~~(b)-(ii)~~ the repayment of
11 financial assistance received by the district pursuant to section
12 2-3226.07, or ~~(c)-(iii)~~ payment of all or any part of the costs and
13 expenses of one or more qualified projects described in section
14 2-3226.04. If such district has more than one river basin as
15 described in section 2-1504 within its jurisdiction, such district
16 shall confine such occupation tax authorized in this ~~section~~
17 subdivision to the geographic area affected by an integrated
18 management plan adopted in accordance with section 46-715.

19 (b) A district with jurisdiction that includes part of a
20 river basin for which the district has, in accordance with section
21 46-715, adopted an integrated management plan which references
22 section 2-3226.04 and explicitly states its intent to utilize
23 qualified projects described in section 2-3226.04 may levy an
24 occupation tax upon the activity of irrigation of agricultural lands
25 within such district on an annual basis as provided in this

1 subdivision. The proceeds of the tax may be used for the purposes
2 listed in subdivision (1)(a) of this section. The tax shall be
3 calculated and imposed as follows:

4 (i) The district shall determine the amount of revenue
5 needed to be raised from the tax for the project for the applicable
6 fiscal year. This amount shall not exceed an average of ten dollars
7 per certified irrigated acre;

8 (ii) The district shall determine the total acre-feet of
9 ground water irrigation usage in the district during the current
10 calendar year and obtain the total acre-feet of surface water
11 irrigation usage in the district during the current calendar year
12 from the department to calculate the total acre-feet irrigation usage
13 in the district;

14 (iii) The district shall determine the per acre-foot
15 revenue need by dividing the amount determined in subdivision (1)(b)
16 (i) of this section by the amount determined in subdivision (1)(b)
17 (ii) of this section; and

18 (iv) The district shall calculate the tax for each record
19 owner of irrigated agricultural land based upon each record owner's
20 acre-feet usage of surface water and ground water irrigation during
21 the current calendar year by multiplying such usage by the per acre-
22 foot revenue needed.

23 Each irrigation district and direct surface water
24 irrigator shall report surface water irrigation usage within a
25 natural resources district levying an occupation tax under this

1 subdivision to the department, and the department shall report such
2 surface water irrigation usage within the natural resources district
3 as necessary to carry out the district's powers and duties under this
4 section.

5 (2)(a) Acres classified by the county assessor as
6 irrigated shall be subject to such district's occupation tax unless
7 on or before March 1 in each year the record owner certifies to the
8 district the nonirrigation status of such acres.

9 (b) A district may exempt from the occupation tax acres
10 that are enrolled in local, state, or federal temporary irrigation
11 retirement programs that prohibit the application of irrigation water
12 in the year for which the tax is levied.

13 (c) Except as provided in subdivisions (2)(a) and (b) of
14 this section, a district is prohibited from providing an exemption
15 from, or allowing a request for a local refund of, an occupation tax
16 on irrigated acres regardless of the irrigation source while the
17 record owner maintains irrigated status on such acres in the year for
18 which the tax is levied.

19 (d) Notwithstanding subdivisions (2)(b) and (c) of this
20 section, the record owner may present evidence of the nonirrigation
21 status of the acres subject to the tax within twelve months after the
22 date the tax was levied and the district may refund amounts collected
23 upon such acres if an occupation tax was not levied by the district
24 the previous year and the district had not adopted an integrated
25 management plan as described in subsection (1) of section 2-3226.01

1 by March 1 in the current year. Subdivision (2)(d) of this section
2 terminates on October 1, 2012.

3 (3) Any such occupation tax shall remain in effect so
4 long as the natural resources district has bonds outstanding which
5 have been issued stating such occupation tax as an available source
6 for payment and for the purpose of paying all or any part of the
7 costs and expenses of one or more projects authorized pursuant to
8 section 2-3226.04.

9 (4) Such occupation taxes shall be certified to,
10 collected by, and accounted for by the county treasurer ~~at the same~~
11 ~~time and~~ in the same manner as general real estate taxes, and such
12 occupation taxes shall be and remain a perpetual lien against such
13 real estate until paid. ~~Such~~ The occupation tax levied pursuant to
14 subdivision (1)(b) of this section shall be collected during the
15 second calendar year following the year of levy. The occupation taxes
16 shall become delinquent at the same time and in the same manner as
17 general real property taxes. The county treasurer shall publish and
18 post a list of delinquent occupation taxes with the list of real
19 property subject to sale for delinquent property taxes provided for
20 in section 77-1804. In addition, the list shall be provided to
21 natural resources districts which levied the delinquent occupation
22 taxes. The list shall include the record owner's name, the parcel
23 identification number, and the amount of delinquent occupation tax.
24 For services rendered in the collection of the occupation tax, the
25 county treasurer shall receive the fee provided for collection of

1 general natural resources district money under section 33-114.

2 (5) Such lien shall be inferior only to general taxes
3 levied by political subdivisions of the state. When such occupation
4 taxes have become delinquent and the real property on which the
5 irrigation took place has not been offered at any tax sale, the
6 district may proceed in district court in the county in which the
7 real estate is situated to foreclose in its own name the lien in the
8 same manner and with like effect as a foreclosure of a real estate
9 mortgage, except that sections 77-1903 to 77-1917 shall govern when
10 applicable.

11 Sec. 2. Original section 2-3226.05, Reissue Revised
12 Statutes of Nebraska, is repealed.