

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 517

Introduced by Erdman, 47

Read first time January 17, 2007

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities of the first class; to provide for
2 the consolidation of one or more cities of the first
3 class; and to provide powers and duties.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Any two or more adjacent cities of the first
2 class in the state may (1) consolidate, (2) consolidate one or
3 more elected or appointed city offices, other than the mayor and
4 city council, or (3) provide for the joint performance of any
5 common function or service, by complying with the requirements and
6 procedures specified in sections 2 to 16 of this act.

7 Sec. 2. (1) The city councils of any two or more adjacent
8 cities of the first class may enter into a consolidation agreement
9 for the (a) consolidation of such cities, (b) consolidation of one
10 or more elected or appointed city offices, other than the mayor
11 and city council, or (c) joint performance of any common function
12 or service. A consolidation agreement shall not be considered
13 an interlocal cooperation agreement pursuant to the Interlocal
14 Cooperation Act.

15 (2) The consolidation agreement shall include (a) the
16 names of the cities which propose to consolidate, (b) the name or
17 names under which the cities would consolidate, (c) the manner of
18 financing and allocating all costs associated with the agreement,
19 (d) the property, real and personal, belonging to each city and the
20 fair value thereof in current money of the United States, (e) the
21 indebtedness, bonded and otherwise, of each city and the repayment
22 of the indebtedness after consolidation, (f) if the cities have
23 different forms of organization and government, the proposed form
24 of organization and government of the consolidated city, and (g)
25 any other terms of the agreement.

1 (3) If the consolidation agreement provides for the joint
2 performance of any common function or service or the consolidation
3 of one or more city offices, the agreement shall also include (a)
4 a description of the function or service which will be performed
5 jointly or the office which will be consolidated, (b) the duration
6 of the agreement, (c) the method for establishing and allocating
7 salaries of holders of consolidated offices, (d) the method for
8 adopting budgets and appropriating money for the joint function,
9 service, or office, (e) the allocation of assets and liabilities
10 pursuant to the agreement, (f) the procedure for amendment of
11 the agreement, (g) the method of withdrawing from the agreement
12 in accordance with section 16 of this act and the distribution
13 of assets upon withdrawal, and (h) the method of dissolving the
14 agreement and the distribution of assets or liabilities upon
15 dissolution.

16 (4) Each city council may appoint an advisory committee
17 composed of three persons to assist the council in the preparation
18 of such agreement.

19 Sec. 3. The city council of each city proposing to enter
20 into a consolidation agreement shall hold a public hearing on the
21 agreement and shall give notice of the hearing by publication in
22 a newspaper of general circulation in the city once each week for
23 three consecutive weeks prior to the hearing. Final publication
24 shall be within seven calendar days prior to the hearing. The
25 notice shall describe the contents of the agreement and specify

1 that a copy of the agreement may be obtained at no charge at the
2 city clerk's office.

3 Sec. 4. The city council of each city proposing to
4 enter into a consolidation agreement shall adopt the consolidation
5 agreement by a majority vote of the council on the joint or
6 concurrent resolution.

7 Sec. 5. If the consolidation agreement provides for
8 the consolidation of cities or for the consolidation of one or
9 more city offices, the city council of each city shall submit
10 the consolidation agreement for approval by the registered voters
11 at the next general election or a special election pursuant to
12 sections 8 and 9 of this act.

13 Sec. 6. (1) If the consolidation agreement provides for
14 the joint performance of any common function or service, the city
15 council of each city may submit the consolidation agreement for
16 approval by the registered voters at the next general election or a
17 special election pursuant to sections 8 and 9 of this act.

18 (2) If a consolidation agreement is adopted by resolution
19 for the joint performance of any common function or service, the
20 agreement becomes effective on the date specified in the agreement.

21 Sec. 7. (1) If the city council has not taken the
22 initiative to enter into a consolidation agreement under section
23 2 of this act, the registered voters of the city may require the
24 council to proceed by filing with the city clerk a petition, signed
25 by registered voters of the city equal in number to ten percent

1 of the total vote cast for Governor at the last general election,
2 directing the council to develop a consolidation agreement pursuant
3 to section 2 of this act with the city or cities named in the
4 petition.

5 (2) The city council shall attempt to develop an
6 agreement under section 2 of this act with the city or cities
7 named in the petition within six months after the filing date of
8 the petition. Failure by the city council to make a good faith
9 effort to develop an agreement pursuant to the petition constitutes
10 willful neglect of duty for which the members of the council may
11 be removed from office. If after good faith attempts to develop an
12 agreement the city council is unable to perfect an agreement within
13 six months after the filing date of the petition, the petition is
14 no longer valid.

15 Sec. 8. When a consolidation agreement is submitted to
16 the voters for approval, the city council of each city entering
17 into a consolidation agreement shall cause a description of the
18 proposed consolidation agreement to be published in its city prior
19 to the election at least once a week for three consecutive weeks
20 in one or more newspapers of general circulation in the city. Final
21 publication in each city shall be within seven calendar days prior
22 to the election pursuant to section 9 of this act. Each council
23 shall make a copy of the agreement available for inspection at the
24 city clerk's office. A person may obtain a copy of the agreement at
25 no charge upon request at the city clerk's office.

1 Sec. 9. (1) When the publication of the consolidation
2 agreement in each of the cities is completed, each city council
3 shall submit the question of whether to consolidate as proposed in
4 the consolidation agreement to the registered voters at the next
5 general election or at a special election held on the same day in
6 each of the cities which are parties to the agreement.

7 (2) For the consolidation of cities, the question shall
8 be submitted to the voters in substantially the following form:

9 "Shall (name of city in which ballot will be voted)
10 consolidate with (name of other city or cities) according to the
11 consolidation agreement previously adopted in such cities? Yes No".

12 (3) For the consolidation of one or more city offices,
13 the question shall be submitted to the voters in substantially the
14 following form:

15 "Shall (name of city in which ballot will be voted) enter
16 the consolidation agreement with (name of other city or cities) for
17 the consolidation of the office of (name of office) according to
18 the consolidation agreement previously adopted in such cities? Yes
19 No".

20 (4) For the joint performance of any common function
21 or service, the question shall be submitted to the voters in
22 substantially the following form:

23 "Shall (name of city in which ballot will be voted) enter
24 the consolidation agreement with (name of other city or cities) for
25 the joint performance of (name of function or service) according to

1 the consolidation agreement previously adopted in such cities? Yes
2 No".

3 (5) The election shall be conducted in accordance with
4 the Election Act. The election commissioner or county clerk shall
5 certify the results to each city council involved in the agreement.
6 If a majority of the voters of each city voting on the question
7 vote in favor of the consolidation agreement for the consolidation
8 of cities or for the consolidation of one or more city offices,
9 the consolidation agreement shall become effective on the first
10 Thursday after the first Tuesday in January following the next
11 general election in which one or more consolidated city officers
12 are first elected, and the terms of the incumbents in the offices
13 involved in the agreement shall be deemed to end on that date. If a
14 majority of the voters of each city voting on the question vote in
15 favor of the consolidation agreement for the joint performance of
16 any common function or service, the consolidation agreement becomes
17 effective on the date specified in the consolidation agreement.

18 Sec. 10. On or before September 10 of the year preceding
19 the effective date of a consolidation agreement, the city councils
20 participating in the consolidation agreement shall adopt by joint
21 or concurrent resolution the budget for the portion of the fiscal
22 year in which the consolidation agreement will be effective. As
23 provided in the consolidation agreement, the city councils shall
24 certify to each county clerk the levies or amounts required to
25 be raised by taxation. In the year in which the general election

1 will be held to first elect consolidated city officers, each city
2 council shall, by joint or concurrent resolution and pursuant to
3 the consolidation agreement, (1) fix the salaries of all elected
4 officers, deputies of elected officers, and appointive officers
5 prior to January 15 and (2) adopt, on or before September 10,
6 the budget for the first complete fiscal year that the cities
7 are consolidated and certify to each county clerk the levies or
8 amounts required to be raised by taxation. On or before September
9 10 of each year for the duration of the consolidation agreement,
10 each city council shall adopt, by joint or concurrent resolution
11 and pursuant to the agreement, the budget for the consolidated
12 function, service, or office and shall certify to each county clerk
13 the levies or amounts required to be raised by taxation.

14 Sec. 11. On or before February 15 of the year of
15 the general election at which consolidated city officers are
16 to be elected, the city councils of each city involved in
17 the consolidation agreement shall meet and adjust jointly the
18 boundaries for the election districts for the consolidated offices.

19 Sec. 12. (1) At the next general election held after
20 the election at which consolidation is approved by the voters,
21 the consolidated city officers shall be elected. Their terms shall
22 begin on the first Thursday after the first Tuesday of January
23 after their election, and the terms of the incumbents in the
24 offices involved in the agreement shall be deemed to end on that
25 date. The term of a consolidated officer shall be set forth in the

1 consolidation agreement.

2 (2) All appointive city officers shall be appointed by
3 the person, council, or authority upon whom the power to appoint
4 such officers in other cities of the first class is conferred. The
5 terms of such officers shall commence on the first Thursday after
6 the first Tuesday of January after the first election of officers
7 for the consolidated city or cities and shall continue, unless
8 otherwise removed, until their successors have been appointed and
9 qualified.

10 Sec. 13. (1) Upon the effective date of the consolidation
11 agreement for the consolidation of cities, the cities involved
12 in the consolidation agreement shall be treated under the name
13 or names and upon the terms and conditions set forth in the
14 consolidation agreement. Except as provided in subsections (6) and
15 (7) of this section, statutory references to the names of the
16 cities as they existed prior to the consolidation agreement shall
17 be deemed to reference the name or names of the consolidated city
18 or cities as set forth in the consolidation agreement.

19 (2) All rights, privileges, and franchises of each of the
20 several cities, all real and personal property, all rights-of-way,
21 all other interests, and all debts due on whatever account, as
22 well as other things in action, belonging to each of such cities
23 shall be deemed as transferred to and vested in the consolidated
24 city or cities without further act or deed. All records, books, and
25 documents shall be transferred to and vested in the consolidated

1 city if only one city is formed, or if two or more cities are
2 formed, all books, records, and documents shall be transferred
3 pursuant to the consolidation agreement.

4 (3) The title to real property, either by deed or
5 otherwise, under the laws of this state vested in any of the
6 cities, shall not be deemed to revert or be in any way impaired by
7 reason of this consolidation, but the rights of creditors and all
8 liens upon the property of any of the cities shall be preserved
9 unimpaired. All prior indebtedness of each city shall remain a
10 charge on the taxable property within the territory of each city
11 as it existed prior to consolidation. A special tax levy shall be
12 assessed on the taxable property within the prior city's boundaries
13 to retire all prior indebtedness for that area.

14 (4) If there is one consolidated city formed, all money
15 on hand and accounts receivable shall be distributed pursuant to
16 the consolidation agreement.

17 (5) Suits may be brought and maintained against such
18 consolidated city in any of the courts of this state in the same
19 manner as against any other city of the first class. Pursuant to
20 the consolidation agreement, any action or proceeding pending by
21 or against any of the cities consolidated may be prosecuted to
22 judgment and the consolidated city may be substituted in its place.

23 (6) The boundaries for school districts and election
24 districts for offices other than the consolidated offices shall
25 continue as prior to consolidation unless and until changed in

1 accordance with law.

2 (7) For the purpose of representation in Congress and
3 in the Legislature, the existing boundaries for congressional and
4 legislative districts shall continue until changed in accordance
5 with law. Such consolidated city shall in all respects, except
6 as provided in sections 1 to 16 of this act, be subject to all
7 the obligations and liabilities imposed and shall possess all the
8 rights, powers, and privileges vested by law in other cities of the
9 first class.

10 Sec. 14. Following approval of the consolidation of city
11 offices and prior to January 15 of the year in which the general
12 election is held for consolidated offices, the city council of
13 each city included within such consolidation shall, by joint or
14 concurrent action, establish the salary to be paid to the holder of
15 the consolidated office and shall apportion such salary among the
16 cities in the proportion that the population in each city bears to
17 the population in all such cities or according to the consolidation
18 agreement. In establishing salaries for a consolidated office, the
19 city councils shall use the population of the cities involved
20 according to the most recent federal decennial census. The city
21 council shall further agree upon the actual payment of such salary
22 by a single city and the monthly remittance to such paying city of
23 the proportionate share of each of the other cities.

24 Sec. 15. Candidates for a consolidated elective office
25 shall file with the county clerk or election commissioner of

1 their county of residence. The names of such candidates shall be
2 certified to the appropriate office of each of the other counties
3 to be placed on the primary ballot. At the primary election
4 following the approval of the consolidation of city offices, and
5 in the year prior to the expiration of the office or offices
6 consolidated, the two candidates receiving the greater number of
7 votes for the position of consolidated nonpartisan office shall
8 be nominated. If the consolidated office is under the laws of
9 this state a partisan office, the candidate receiving the greatest
10 number of votes for each political party shall be nominated. The
11 election commissioner or county clerk shall certify the results of
12 the primary election, as well as of the ensuing general election,
13 from his or her county to the election commissioner or county
14 clerk of the county having the largest population involved in the
15 consolidation who shall certify the winner to each of the other
16 cities.

17 Sec. 16. The question of the withdrawal of a city from an
18 agreement for the joint performance of common functions or services
19 or the consolidation of city offices shall be placed on the ballot
20 for submission to the voters upon the petition of registered
21 voters equal in number, in the city desiring to so withdraw, to
22 ten percent of the total vote cast for Governor in such city at
23 the preceding general election. The registered voters signing such
24 petitions shall be so distributed as to include ten percent of
25 the registered voters of each of one-half of the voting precincts

1 in the city. Such petitions shall be filed with the election
2 commissioner or county clerk of the county in which is located the
3 city proposed to be withdrawn from the agreement not later than
4 four months preceding the next general election or at a special
5 election. The election commissioner or county clerk shall examine
6 the petitions filed in his or her office to determine whether they
7 are in proper form and signed by a sufficient number of registered
8 voters. Not later than thirty days after the petitions are filed
9 in his or her office, he or she shall certify the determination
10 to the election commissioner or county clerk of each county in
11 which is located the city which is part of the agreement. If the
12 petitions are in proper form and signed by a sufficient number of
13 registered voters, the question of the withdrawal of the city from
14 the agreement shall be placed on the ballot in the city proposed
15 to be withdrawn from the agreement at the next general election or
16 at a special election called for such purpose and held at least
17 four months after the filing of the petitions. A majority of all
18 votes cast in the affirmative on the question shall be necessary
19 for the withdrawal of the city from the agreement. The election
20 commissioner or county clerk of the county in which is located the
21 city which votes to withdraw from the agreement shall certify the
22 results of the election to all cities in the agreement. If the
23 agreement involved the consolidation of offices, such withdrawal
24 shall only be effective at the expiration of a term of office of
25 the consolidated offices.

1 Sec. 17. The city councils of two or more cities of the
2 first class may meet and hold joint sessions for the transaction of
3 joint city business, including, but not limited to, consolidation
4 agreements pursuant to sections 1 to 16 of this act.