

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 418

Introduced by Kolowski, 31.

Read first time January 22, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-214, 32-215,
2 32-228, and 32-904, Reissue Revised Statutes of Nebraska,
3 and section 32-903, Revised Statutes Cumulative
4 Supplement, 2012; to change powers and duties of certain
5 election commissioners; to provide powers and duties for
6 and change removal provisions regarding certain chief
7 deputy election commissioners; to provide powers and
8 duties for county boards; to harmonize provisions; and to
9 repeal the original sections.

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

1 Section 1. Section 32-214, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-214 The election commissioner shall be responsible for
4 the enforcement of the Election Act as it relates to his or her
5 office and for the competency, integrity, and conduct of his or her
6 chief deputy election commissioner and all personnel appointed by him
7 or her. The election commissioner or chief deputy election
8 commissioner shall be removed when it appears that (1) he or she has
9 been derelict in the performance of the duties of his or her office,
10 (2) he or she is incompetent, (3) his or her conduct is prejudicial
11 to the public interest, (4) he or she has appointed incompetent,
12 negligent, or corrupt precinct or district inspectors, judges of
13 election, clerks of election, or deputy registrars, (5) a fair and
14 impartial registration of voters was not obtained in any district of
15 the county, or (6) the act was not enforced in the county. Refusal to
16 agree with the election commissioner regarding duties to be performed
17 under sections 32-215, 32-228, 32-903, and 32-904 shall not
18 constitute grounds for removal of the chief deputy election
19 commissioner. If the election commissioner is appointed by the
20 Governor, the Governor shall remove the election commissioner or
21 chief deputy election commissioner when either is subject to removal
22 under this section. If the Governor fails to remove the election
23 commissioner or the chief deputy election commissioner when either
24 the election commissioner or deputy, or both, are subject to removal
25 under this section, any citizen of the county may institute an action

1 to order the Governor to remove the election commissioner, chief
2 deputy election commissioner, or both. If the election commissioner
3 is appointed by the county board, the county board shall remove the
4 election commissioner or chief deputy election commissioner when
5 either is subject to removal under this section. If the county board
6 fails to remove the election commissioner or the chief deputy
7 election commissioner when either the election commissioner or
8 deputy, or both, are subject to removal under this section, any
9 citizen of the county may institute an action to order the county
10 board to remove the election commissioner, chief deputy election
11 commissioner, or both.

12 Sec. 2. Section 32-215, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 32-215 (1) The election commissioner shall adopt and
15 promulgate rules and regulations in regard to elections and the
16 registration of voters in his or her county which are not
17 inconsistent with the Election Act or the rules and regulations of
18 the Secretary of State. The election commissioner shall have charge
19 of and make provisions for all elections to be held in such county
20 unless otherwise specifically provided.

21 (2) ~~The~~ Subject to subsection (3) of this section, the
22 election commissioner shall select and appoint the places of
23 registration and the polling place for each precinct and cause the
24 same to be properly equipped and maintained.

25 (3) In counties having a population of more than one

1 hundred thousand inhabitants, the election commissioner shall perform
2 the duties which are subject to this subsection under subsection (2)
3 of this section and sections 32-228, 32-903, and 32-904, in
4 consultation with and with the agreement of the chief deputy election
5 commissioner. If the election commissioner and chief deputy election
6 commissioner agree with respect to duties under such sections, the
7 election commissioner shall forward to the county board a report of
8 action with respect to such duties. If the election commissioner and
9 chief deputy election commissioner do not agree with respect to
10 duties under such sections, the election commissioner shall forward a
11 report of such disagreement with respect to duties under such
12 sections to the county board and the county board shall make a
13 determination with respect to such action.

14 Sec. 3. Section 32-228, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 32-228 (1) The election commissioner shall notify each
17 person appointed as a judge or clerk of election, precinct inspector,
18 district inspector, member of a counting board, or member of a
19 canvassing board of the appointment by letter. Such letter shall be
20 mailed at least fifteen days prior to the required reporting date for
21 each statewide primary and general election. Each appointee shall, at
22 the time fixed in the notice of appointment, report to the office of
23 the election commissioner or other designated location to complete
24 any informational forms and receive training regarding his or her
25 duties. The training shall include instruction as required by the

1 Secretary of State and, subject to subsection (3) of section 32-215,
2 any other training deemed necessary by the election commissioner.
3 Each appointee, if found qualified and unless excused by reason of
4 ill health or other good and sufficient reason, shall serve for the
5 term of his or her appointment.

6 (2) An appointee who fails to serve for such term, unless
7 excused by reason of ill health or other good and sufficient reason,
8 is guilty of a Class V misdemeanor. The election commissioner shall
9 submit the names of appointees violating this subsection to the local
10 law enforcement agency for citation pursuant to sections 32-1549 and
11 32-1550.

12 Sec. 4. Section 32-903, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 32-903 (1) The election commissioner or county clerk
15 shall create precincts composed of compact and contiguous territory
16 within the boundary lines of legislative districts. The precincts
17 shall contain not less than seventy-five nor more than one thousand
18 seven hundred fifty registered voters based on the number of voters
19 voting at the last statewide general election, except that a precinct
20 may contain less than seventy-five registered voters if in the
21 judgment of the election commissioner or county clerk it is necessary
22 to avoid creating an undue hardship on the registered voters in the
23 precinct. The election commissioner or county clerk shall create
24 precincts based on the number of votes cast at the immediately
25 preceding presidential election or the current list of registered

1 voters for the precinct. The election commissioner or county clerk
2 shall revise and rearrange the precincts and increase or decrease
3 them at such times as may be necessary to make the precincts contain
4 as nearly as practicable not less than seventy-five nor more than one
5 thousand seven hundred fifty registered voters voting at the last
6 statewide general election. The election commissioner or county clerk
7 shall, when necessary and possible, readjust precinct boundaries to
8 coincide with the boundaries of cities, villages, and school
9 districts which are divided into districts or wards for election
10 purposes. The election commissioner or county clerk shall not make
11 any precinct changes in precinct boundaries or divide precincts into
12 two or more parts between the statewide primary and general elections
13 unless he or she has been authorized to do so by the Secretary of
14 State. If changes are authorized, the election commissioner or county
15 clerk shall notify each state and local candidate affected by the
16 change.

17 (2) The election commissioner or county clerk may alter
18 and divide the existing precincts, except that when any city of the
19 first class by ordinance divides any ward of such city into two or
20 more voting districts or polling places, the election commissioner or
21 county clerk shall establish precincts or polling places in
22 conformity with such ordinance. No such alteration or division shall
23 take place between the statewide primary and general elections except
24 as provided in subsection (1) of this section.

25 (3) All precincts and polling places may be consolidated

1 for the use of electronic voting systems into fewer and larger
2 precincts as deemed necessary and advisable by the election
3 commissioner or county clerk. Such precincts, consolidated for
4 electronic voting systems only, may have as many registered voters
5 therein as deemed advisable in the interest of economy and
6 efficiency. At least one electronic voting device shall be provided
7 for every five hundred registered voters voting in the consolidated
8 precinct or polling place at the immediately preceding general
9 election.

10 (4) The duties of the election commissioner under this
11 section shall be subject to subsection (3) of section 32-215.

12 Sec. 5. Section 32-904, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 32-904 (1) The election commissioner or county clerk
15 shall designate the polling places for each precinct at which the
16 registered voters of the precinct will cast their votes. Polling
17 places representing different precincts may be combined at a single
18 location when potential sites cannot be found, contracts for
19 utilizing polling sites cannot be obtained, or a potential site is
20 not accessible to handicapped persons. When combining polling places
21 at a single site for an election other than a special election, the
22 election commissioner or county clerk shall clearly separate the
23 polling places from each other and maintain separate receiving
24 boards. When combining polling places at a single site for a special
25 election, the election commissioner or county clerk may combine the

1 polling places and receiving boards. Polling places shall not be
2 changed between the statewide primary and general elections unless
3 the election commissioner or county clerk has been authorized to make
4 such change by the Secretary of State. If changes are authorized, the
5 election commissioner or county clerk shall notify each state and
6 local candidate affected by the change. The duties of the election
7 commissioner under this subsection shall be subject to subsection (3)
8 of section 32-215.

9 (2) Notwithstanding any other provision of the Election
10 Act, the Secretary of State may adopt and promulgate rules and
11 regulations, with the consent of the appropriate election
12 commissioner or county clerk, for the establishment of polling places
13 which may be used for voting pursuant to section 32-1041 for the
14 twenty days preceding the day of election. Such polling places shall
15 be in addition to the office of the election commissioner or county
16 clerk and the polling places otherwise established pursuant to this
17 section.

18 Sec. 6. Original sections 32-214, 32-215, 32-228, and
19 32-904, Reissue Revised Statutes of Nebraska, and section 32-903,
20 Revised Statutes Cumulative Supplement, 2012, are repealed.