

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 462

Introduced by Seiler, 33; Kuehn, 38.

Read first time January 20, 2015

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Nebraska Political Accountability and
2 Disclosure Act; to amend sections 49-14,101.02, 49-14,101.03, and
3 49-14,114, Reissue Revised Statutes of Nebraska; to define a term;
4 to change restrictions on campaigning by certain public officials
5 and public employees; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 49-14,101.02, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 49-14,101.02 (1) For purposes of this section:

4 (a) Campaign or campaigning means disseminating any communication
5 which:

6 (i) Refers to a ballot question, refers to a candidate by name,
7 nickname, photograph, or drawing appearing in the communication, or makes
8 the identity of the candidate otherwise apparent through an unambiguous
9 reference or through an unambiguous reference to the candidate's status
10 as a candidate; and

11 (ii)(A) Is aired, broadcast, cablecast, printed, or otherwise
12 disseminated through the facilities of a television station, newspaper,
13 periodical, radio station, cable television system, web site, satellite
14 system, or other electronic means within or directed at the district of
15 the office sought by the candidate or the area to be impacted by the
16 ballot question; or

17 (B) Is disseminated by any other means not described in subdivision
18 (A) of this subdivision; and

19 (b) Public ~~, public~~ resources means personnel, property, resources,
20 or funds under the official care and control of a public official or
21 public employee.

22 (2) Except as otherwise provided in this section, a public official
23 or public employee shall not use or authorize the use of public resources
24 ~~to campaign for the purpose of campaigning~~ for or against the nomination
25 or election of a candidate or the qualification, passage, or defeat of a
26 ballot question.

27 (3) This section does not prohibit a public official or public
28 employee from making government facilities available ~~to a person for~~
29 ~~campaign purposes~~ if the identity of the candidate or the support for or
30 opposition to the ballot question is not a factor in making the
31 government facility available or a factor in determining the cost or

1 conditions of use.

2 (4) This section does not prohibit a governing body from discussing
3 and voting upon a resolution supporting or opposing a ballot question or
4 a public corporation organized under Chapter 70 from otherwise supporting
5 or opposing a ballot question concerning the sale or purchase of its
6 assets.

7 (5) This section does not prohibit a public official or a public
8 employee under the direct supervision of a public official from
9 responding to specific inquiries by the press or the public as to his or
10 her opinion regarding a ballot question or from providing information in
11 response to a request for information.

12 (6) This section does not prohibit a member of the Legislature from
13 making use of public resources in expressing his or her opinion regarding
14 a candidate or a ballot question or from communicating that opinion. A
15 member is not authorized by this section to utilize mass mailings or
16 other mass communications at public expense to campaign ~~for the purpose~~
17 ~~of campaigning~~ for or against the nomination or election of a candidate.
18 A member is not authorized by this section to utilize mass mailings at
19 public expense for the purpose of qualifying, supporting, or opposing a
20 ballot question.

21 (7) This subsection applies to public officials other than members
22 of the Legislature provided for in subsection (6) of this section. This
23 section does not prohibit, in the normal course of his or her duties, a
24 public official or a public employee under the direct supervision of a
25 public official from using public resources to research and prepare
26 materials to assist the government body for which the individual is a
27 public official or public employee in determining the effect of the
28 ballot question on the government body. This section does not authorize
29 mass mailings, mass duplication, or other mass communications at public
30 expense for the purpose of qualifying, supporting, or opposing a ballot
31 question. Mass communications shall not include placing public records

1 demonstrating the consequences of the passage or defeat of a ballot
2 question affecting the government body for which the individual is a
3 public official or public employee on existing web sites of such
4 government body.

5 (8) Nothing in this section prohibits a public official from
6 campaigning for or against the qualification, passage, or defeat of a
7 ballot question or the nomination or election of a candidate when no
8 public resources are used.

9 (9) Nothing in this section prohibits a public employee from
10 campaigning for or against the qualification, passage, or defeat of a
11 ballot question or the nomination or election of a candidate when no
12 public resources are used. Except as otherwise provided in this section,
13 a public employee shall not ~~engage in~~ campaign activity for or against
14 the qualification, passage, or defeat of a ballot question or the
15 nomination or election of a candidate while on government work time or
16 when otherwise engaged in his or her official duties.

17 (10) This section does not prohibit an employee of the Legislature
18 from using public resources consistent with this section for the purpose
19 of researching or campaigning for or against the qualification, passage,
20 or defeat of a ballot question if the employee is under the direction and
21 supervision of a member of the Legislature.

22 (11) Nothing in this section prohibits a public official or public
23 employee from identifying himself or herself by his or her official
24 title.

25 Sec. 2. Section 49-14,101.03, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 49-14,101.03 (1) Any use of public resources by a public official or
28 public employee which is incidental or de minimis shall not constitute a
29 violation of section 49-14,101.01 or 49-14,101.02.

30 (2) For purposes of sections 49-14,101.01 and 49-14,101.02, a
31 resource of government, including a vehicle, shall not be considered a

1 public resource and personal use shall not be prohibited if (a) the use
2 of the resource for personal purposes is part of the public official's or
3 public employee's compensation provided in an employment contract or a
4 written policy approved by a government body and (b) the personal use of
5 the resource as compensation is reported in accordance with the Internal
6 Revenue Code of 1986, as amended, and taxes, if any, are paid. If
7 authorized by the contract or policy, the resource may be used whether or
8 not the public official or public employee is engaged in the duties of
9 his or her public office or public employment.

10 (3) Use of a government vehicle by a public official or public
11 employee to travel to a designated location or the home of the public
12 official or public employee is permissible when the primary purpose of
13 the travel serves a government purpose and the use is pursuant to a
14 written policy approved by a government body.

15 (4) Pursuant to a collective-bargaining agreement, a public facility
16 may be used by a bargaining unit to meet regarding activities of the
17 union or bargaining unit. This section shall not authorize the use of
18 public resources to campaign as defined in section 49-14,101.02 ~~for the~~
19 ~~purpose of campaigning~~ for or against the nomination or election of a
20 candidate or the qualification, passage, or defeat of a ballot question.

21 (5) Nothing in the Nebraska Political Accountability and Disclosure
22 Act prohibits a public official or public employee from using his or her
23 personal cellular telephone, electronic handheld device, or computer to
24 access a wireless network to which access is provided to the public by a
25 government body.

26 Sec. 3. Section 49-14,114, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 49-14,114 (1) No appointed individual, while a member of the
29 commission, shall engage in any activity or hold any position or office
30 which is regulated by the commission as follows: (a) Lobbying; (b) being
31 a public official, a public employee, or a state elective official; (c)

1 campaigning as defined in section 49-14,101.02 for the election or
2 appointment of himself or herself to an elective public office; or (d)
3 holding an office in any political party or political committee.

4 (2) An appointed individual shall withdraw from any activity and
5 resign from any position or office regulated by the commission prior to
6 beginning his or her term on the commission.

7 (3) Nothing in this section shall be construed to limit an appointed
8 individual's right to vote in any election or to limit his or her right
9 to make contributions.

10 Sec. 4. Original sections 49-14,101.02, 49-14,101.03, and
11 49-14,114, Reissue Revised Statutes of Nebraska, are repealed.