

LEGISLATIVE BILL 557

Approved by the Governor May 26, 1973

Introduced by Government, Military and Veterans Affairs Committee, Chambers, 11, Chmn.; Earnett, 26; Fowler, 27; Duis, 39; DeCamp, 40; Stull, 49

AN ACT to amend sections 32-301, 79-426.19, 79-427, 79-516.06, and 79-803, Reissue Revised Statutes of Nebraska, 1943, sections 32-4,148, 79-428, and 79-705, Revised Statutes Supplement, 1972, section 79-311, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 402, Eighty-third Legislature, First Session, 1973, and sections 32-4,147 and 32-4,151, Revised Statutes Supplement, 1972, as amended by sections 51 and 52, respectively, Legislative Bill 562, Eighty-third Legislature, First Session, 1973, relating to elections; to harmonize with previous legislation; to provide for elections in Class III school districts; to provide terms for board members of new school districts; to change residency requirements; to provide for recall; and to repeal the original sections.

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

Section 1. That section 32-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-301. All state, district, county, precinct and township officers, by the Constitution and laws made elective by the people, except school district officers, other than those for a Class III district, and municipal officers in cities and villages, shall be elected at a general election.

Sec. 2. That section 32-4,147, Revised Statutes Supplement, 1972, as amended by section 51, Legislative Bill 562, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

32-4,147. All municipal elections shall be held in accordance with the municipal election laws of this state as provided in Chapters 16, 17, 18, 19, and 32 as may be applicable; Provided, that the governing board of any city of the first or second class or village may by ordinance duly adopted, hold such election in accordance

with the provisions of Chapter 32 if the county board consents in writing to permit joint elections. If the governing board of any city or village duly adopts an ordinance to hold its election on the day of the statewide primary in accordance with Chapter 32 after having obtained the consent of the county board, such ordinance shall be effective no later than February 1 of the year in which the first such joint election will be conducted and shall be in substantially the following form:

TITLE

Date of Municipal Election and Provisions therefor.

Be it ordained by the mayor and council of the city of ..... (or the chairman and board of trustees of the village of .....).

The city (or village) of ..... shall hold its municipal election for the year .... and all succeeding municipal elections on the date of the statewide primary election for the State of Nebraska. Such election shall be held in accordance with the provisions of Chapter 32. All ordinances or portions thereof inconsistent with this ordinance are hereby repealed. This ordinance shall be in force and effect from and after its passage and publication according to law.

Passed and approved this ..... day of ....., 19...., in ....., Nebraska.

Signed,
.....
.....
Mayor or Village Board Chairman

Attest: .....

City Clerk

SEAL

If the governing board of any city of the first or second class or village adopts an ordinance to hold the municipal election on the date of the statewide primary in accordance with Chapter 32, the county clerk or election commissioner shall have the authority to deputize the city or village clerk for municipal election purposes. The following charges shall be paid to the county clerks or election commissioners for conducting the election for a municipality or school district:

MUNICIPALITY

Population	Dollars
Not more than 450	50.00
451 to 800	100.00

LB557

801 to 2000	150.00
2001 to 3000	200.00
3001 to 4000	250.00
4001 to 5000	300.00
5001 to 20,000	600.00
20,001 to 40,000	700.00
40,001 to 60,000	800.00
60,001 to 80,000	900.00
80,001 to 100,000	1,000.00;

~~CLASS III~~ SCHOOL DISTRICT

<del>1001 to 25,000</del>	<del>200.00</del>
<del>25,001 to 50,000</del>	<del>350.00;</del>

Class II school district, \$100.00; and  
Class VI school district, \$50.00.

For purposes of this section, the population of a municipality shall be determined from the most recent federal decennial census and for a school district shall be as certified by the State Department of Education.

Each village, city, and school district shall pay for having its official and sample ballots printed at the time of the statewide primary, including the publishing of the sample ballot appearing in the newspaper. In case of a special issue placed on the ballot by any municipality or school district at the time of the statewide general election the charge to such municipality or school district shall be the cost of printing the official and sample ballots and all publication costs. All payments received under this section shall be placed in the county general fund and shall be used to help defray the cost of elections.

Sec. 3. That section 32-4, 148, Revised Statutes Supplement, 1972, be amended to read as follows:

32-4, 148. ~~All~~ Except as provided in section 79-803, all elective municipal and school district officers shall be elected at the statewide primary election as provided in Chapter 32, or as provided in this act. The municipality and school district shall reimburse the county for their proportionate share of the cost of holding such election upon the filing with the governing bodies thereof of an itemized claim therefor.

Sec. 4. That section 32-4, 151, Revised Statutes Supplement, 1972, as amended by section 52, Legislative Bill 562, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

32-4, 151. The municipal and school district ballots shall be received, counted, and canvassed and the results certified in the same manner as ballots for

county officers or city officers. The county clerk, election commissioner, or city clerk as the case may be, shall certify the results and shall issue certificates of nomination or election to the successful candidates.

Sec. 5. That section 79-311, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 402, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

79-311. (1) Except as provided in section 2 of ~~this act~~ Legislative Bill 402, Eighty-third Legislature, First Session, 1973, there shall be a county superintendent in each organized county whose term of service shall be four years and who shall be elected at the same time and in the same manner as other county officers on the nonpolitical ballot; Provided, that no county superintendent shall be elected in those counties (a) having a population of three thousand inhabitants, or less, and (b) which has been organized into a single school district under the direction of a single board of education and a superintendent of schools elected by that board of education. The superintendent of schools of such a county shall submit all reports and assume the duties hereinafter required of the county superintendent.

(2) In counties or districts having a population of six thousand five hundred or more inhabitants, no person shall be eligible to have his name appear on the ballot as a nominee for the office of county superintendent at any primary election, to have his name appear on the ballot as a candidate for the office of county superintendent at any general election, or to have an election certificate issued to him if he is the successful candidate for the office of county superintendent, unless he holds a Nebraska certificate valid for administration in all elementary and secondary schools issued in this state and in force on each such occasion, except as otherwise provided for in subsection (4) of this section.

(3) In counties having a population of less than six thousand five hundred inhabitants, each nominee, each candidate, and each recipient of an election certificate for the office of county superintendent shall hold a teacher's certificate issued in this state and in force and a baccalaureate degree from a standard institution of higher education and shall have had not less than three years of successful teaching experience if his name is to appear on the ballot or if he is to receive his election certificate, except as otherwise provided for in subsection (4) of this section.

(4) Any person now holding the office of county superintendent in any county who has not the certificate required in a county of the size of the one in which he holds office, as provided by subsection (2) or (3) of this section, shall be eligible to be a candidate, nominee, or recipient of an election certificate for such office to succeed himself in that office except that a county superintendent, referred to in subsection (2) of this section, to be so eligible, must hereafter earn at least nine semester college hours of credit every four years until he shall qualify for the certificate referred to in subsection (2) of this section.

(5) It shall be the duty of the county clerk or election commissioner of each county to notify the Commissioner of Education of the nominations for the office of county superintendent in his county and of the election to such office at the time the results of the primary and general elections respectively are ascertained.

(6) The county clerk or election commissioner shall refuse to place the name of any candidate on the ballot for such office who shall not have presented such clerk or election commissioner with a certified statement from the office of the Commissioner of Education that such candidate holds a valid certificate, required under the provisions of subsection (2) or (3) of this section, in the county of such candidate unless the same is not required under subsection (4) of this section.

(7) A person may serve as county superintendent in more than one county if approved by the county boards of each of said counties.

(8) All provisions of law relating to the consolidation of county offices shall apply to the office of county superintendent. When the office of county superintendent is consolidated, the combined population of the counties involved shall be used for the purposes of subsections (2) and (3) of this section.

Sec. 6. That section 79-426.19, Beissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-426.19. Within thirty days after the classification by the county superintendent of schools of the reorganized districts, the county reorganization committee shall appoint from among the qualified electors of each new district created the number of members necessary to constitute a school board or board of education of the class in which the new district has been

classified. If the new district involves territory lying in two or more counties, the school board or board of education shall be appointed by the joint action of the county reorganization committees involved. In appointing the first board, the members shall be appointed so that ~~two members shall have a term of one year, two members shall have a term of two years, and two members shall have a term of three years, and as the terms of the members expire, their successors shall thereafter be elected for a term of three years; the terms of all members shall expire on the first Tuesday in June of the first even-numbered year thereafter.~~ At the statewide primary election in the first even-numbered year after the reorganization there shall be elected in each Class II and Class III school district, except a Class III district of which more than one half of the geographical area lies within a city of the metropolitan class, six board members, with the three candidates receiving the highest number of votes being elected to terms of four years, and the three candidates receiving the next highest number of votes being elected to terms of two years. Each member's term shall begin on the first Tuesday in June following his election.

Candidates elected to a term of two years shall at the next statewide primary after their first election be elected to terms of four years and each member shall serve until his successor is elected and qualified. The school board or board of education so appointed shall proceed at once to organize in the manner prescribed by law. ~~At the next annual school meeting or election following the establishment of said new districts and at subsequent annual meetings or elections, successors shall be elected in the manner provided by law for election of board members of the class to which the district belongs.~~

Sec. 7. That section 79-427, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-427. Every citizen of the United States who ~~has resided~~ resides in the district ~~forty days~~ and who has registered to vote in the county in which he resides, shall be entitled to vote at any district meeting or school election; Provided, the provisions of sections 79-427 to 79-430 shall not apply to Class V districts.

Sec. 8. That section 79-428, Revised Statutes Supplement, 1972, be amended to read as follows:

79-428. If any person offering to vote at any school district meeting or election shall be challenged as unqualified by any legal registered voter in such

district, the chairman presiding at such meeting or a judge at such election shall explain to the person challenged the qualifications of a voter. If such person shall state that he is qualified, and the challenge shall not be withdrawn, the said chairman or judge shall administer to him an oath, which shall be reduced to writing, in substance as follows: You do solemnly swear (or affirm) that you are a citizen of the United States, that you are eighteen years of age, that you ~~resided~~ reside in this school district, ~~for forty days last past,~~ and that you are registered to vote in the county, ~~in which you reside,~~ so help you God. Every person taking such oath and signing his name thereto shall be permitted to vote on all questions proposed at such meeting or election.

Sec. 9. That section 79-516.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-516.06. At the first meeting of each board elected, ~~as provided in section 79-516.05,~~ and annually thereafter, each board shall elect from among its members a president and vice president. There shall also be elected a secretary who need not be a member of the board. If the secretary is a member of the board, an assistant secretary may be named and his duties and compensation set by the board.

Sec. 10. That section 79-705, Revised Statutes Supplement, 1972, be amended to read as follows:

~~79-705: Any member of a school board or board of education of a Class II, III, or VI school district may be subject to recall in the same manner as provided for the recall of county officers in sections 23-2610 and 23-2614: for habitual or willful neglect of duty, gross partiality, oppression, extortion, corruption, willful maladministration in office, conviction of a felony, or habitual drunkenness. The procedure to accomplish the removal by recall of any incumbent of such office shall be initiated by the filing of a petition signed by the registered voters of the district equal in number to at least twenty-five per cent of the total number of votes cast for the board member receiving the highest number of votes at the preceding school election. A board member nominated by ward and elected at large may be recalled within the ward in the same manner.~~

The percentage figure used for petition signing shall be based on the total votes of the board member receiving the highest number of votes in all precincts including those parts of precincts in adjoining counties.

The names on the petitions shall be those of registered voters residing within the boundaries of the school district and may be obtained in any one or all precincts forming the school district.

The petition shall name the incumbent and the reason for removal and the candidate proposed for election to succeed him, and such petition shall be filed with the county clerk or election commissioner of the county in which the majority of school age children reside. The petition shall show the name and residence address of each signer. Within fifteen days from the date of filing of such petition, the county clerk or election commissioner shall compare the petition signatures with the voters' registration to ascertain whether the signatures are valid. The county clerk or election commissioner shall attach to such petition his certificate showing the result of such examination. If the county clerk's or election commissioner's certificate to such petition shows that it is insufficient because of a lack of signatures, he shall notify the circulators and they may obtain additional signatures to supplement the original petition. The supplemental petition shall be filed within fifteen days of the filing of the original petition and the supplemental petition shall state all the facts as in the case of the original petition. The county clerk or election commissioner shall within ten days examine the supplemental petition and if his certificate shall show that the petition or petitions contain the requisite number of signatures, he shall submit the petition and any supplement together with his certificate to the school board or board of education.

The board shall, without delay, order and fix a date for holding an election, which date shall be not less than thirty days nor more than sixty days from the date on which the county clerk or election commissioner's certificate is received by the board. No candidate's name, other than the name of the incumbent and the name of the candidate named in the recall petition, shall appear on the ballot for such office, but a blank line shall appear thereon on which a name may be written in and voted for. Not less than twenty days prior to the date of the election, public notice shall be given by the board, stating the time and place of holding the recall election, the name of the incumbent sought to be removed and the name of the candidate opposing the incumbent. The county clerk or election commissioner along with the board shall establish the polling places. If polling places are consolidated, the board shall include in the notice of election the notice of the consolidation of precincts and the place for holding the election as directed by the county clerk or election commissioner.



The notice of election shall be published once in at least one newspaper of general circulation within the district, but if no newspaper is circulated within the district the notice shall be posted in at least three public places within the district. The board shall furnish the official and absent and disabled voters ballots. The county clerk or election commissioner shall issue all absent and disabled voters ballots and the canvassing board appointed by the county clerk or election commissioner shall canvass all returns and count the absent and disabled voters ballots pursuant to Chapter 32. The county clerk or election commissioner shall issue a certificate of election to the person receiving the highest number of votes. The ballots shall be printed in the same manner as for a general election and the names shall not be rotated. The successor of any office so removed, if qualified, shall be sworn into office within ten days and shall hold office during the unexpired term of his predecessor. In any such election, the candidate receiving the highest number of votes shall be declared elected, and if some person other than the incumbent receives the highest number of votes the incumbent shall thereupon be removed from the office upon the qualifying of his successor. If the party receiving the highest number of votes be some person other than the incumbent, and if he should fail to qualify and give bond as provided by law within ten days after receiving his certificate of election, the office shall be deemed vacant and shall be filled by the remaining board members for the balance of the unexpired term. If the incumbent receives the highest number of votes cast at such election, he shall continue in office.

The district in which the recall election is being held shall pay for the full cost of the election, including all supplies, notices, election boards, and all other charges pertaining to the election. The county clerk or election commissioner shall return all supplies to the board upon completion of the election.

Sec. 11. That section 79-803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-803. (1) The board of education of a Class III district may, by resolution, provide for the election of members by school board districts or wards and thereafter the members shall be so elected; Provided, that the filing or the petition of a candidate may be by school board districts or wards and the election at large; and provided further, that such districts or wards may be altered by resolution of subsequent boards of education. If districts or wards have not been

previously established, the board shall, as a part of such resolution, determine the boundaries of the districts or wards based on standards contained in subdivision (3) of section 79-426.11; Provided, that when the boundaries of districts change, the county reorganization committee, or committees, if located in more than one county, shall review for changes in districts or wards of the district.

(2) The board of education may, by resolution, provide for increasing the number of members of the board to nine. When such an increase is ordered, three additional members shall be elected at the next statewide primary election or as provided in this act. Terms of members elected to fill the newly created positions on the board shall be two, four, or six years as may be necessary to assure that terms of three of the nine members will expire each two years, with the candidates receiving the greatest number of votes being elected for the longest terms. The board of education, in its resolution increasing the size of the board, shall specify the length of terms to be filled. The successors of such members shall be elected in the same manner as provided for other members of the board.

(3) When a newly organized district determines that it shall be governed by a board of nine members, at the first election three members shall be elected for terms of six years, three for four years, and three for two years. Thereafter, three members shall be elected every two years for terms of six years.

(4) (a) The members of the board of education shall be nominated at the statewide primary election and elected at the statewide general election. All procedures governing the election of such members shall be as provided in Chapter 32. The term of office of all such members shall commence on the first Thursday after the first Tuesday in January following each statewide general election. The first election under this subsection shall be held in 1974.

(b) (i) The term of office of any member of such board that would expire prior to the first Thursday after the first Tuesday of January, 1975, is hereby extended to such date. (ii) The term of office of any member that would expire after such date and prior to the first Thursday after the first Tuesday of January, 1977, shall be continued to such latter date. (iii) The term of office of any member that would expire after such latter date and prior to the first Thursday after the first Tuesday of January, 1979, is hereby extended to the first Thursday after the first Tuesday of January, 1979.

LB557

Sec. 12. That original sections 32-301, 79-426.19, 79-427, 79-516.06, and 79-803, Reissue Revised Statutes of Nebraska, 1943, sections 32-4,148, 79-428, and 79-705, Revised Statutes Supplement, 1972, section 79-311, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 402, Eighty-third Legislature, First Session, 1973, and sections 32-4,147 and 32-4,151, Revised Statutes Supplement, 1972, as amended by sections 51 and 52, respectively, Legislative Bill 562, Eighty-third Legislature, First Session, 1973, are repealed.