

## LEGISLATIVE BILL 592

Approved by the Governor February 20, 1974

Introduced by Carpenter, 48, Chmn., Executive Board

AN ACT to amend section 79-1108, Reissue Revised Statutes of Nebraska, 1943, sections 79-516.07 and 79-551, Revised Statutes Supplement, 1972, and section 79-426.19, Revised Statutes Supplement, 1973, relating to schools; to provide a statute of limitations; to provide for the validation of transfers of property; to eliminate provisions for electing members of a board of education of a Class III school district at a statewide primary election; to provide procedures for the election of the board of a Class III district; to repeal the original sections, and also section 79-803, Revised Statutes Supplement, 1973; and to declare an emergency.

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

Section 1. That section 79-426.19, Revised Statutes Supplement, 1973, 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. The first board shall be appointed on an at-large basis and all boards shall be elected at large until such time as districts are established as provided in section 5-10b. 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 of a Class II school district, the members shall be appointed so that the terms of all three members shall expire on the first Tuesday in June of the first even-numbered year thereafter and the terms of the three remaining members shall expire on the first Tuesday in June of the second even-numbered year following their appointment. 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

~~three 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 thereafter all candidates shall be elected to terms of four years.~~ Each member's term shall begin on the first Tuesday in June following his election.

In appointing the first board of a Class III school district with a six-member board serving terms of four years, the terms of three members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of the three remaining members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment.

In appointing the first board of a Class III school district with a nine-member board serving terms of four years, the terms of four members shall expire on the first Thursday after the first Tuesday in January after the first even-numbered year following their appointment and the terms of five members shall expire on the first Thursday after the first Tuesday in January after the second even-numbered year following their appointment.

Thereafter all Class III school boards shall be elected to terms of four years.

~~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.

Sec. 2. That section 79-516.07, Revised Statutes Supplement, 1972, be amended to read as follows:

~~79-516.07:~~ (1) At the statewide primary election in each even-numbered year, 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,~~ enough members of the board of education to provide a full complement of either six or nine members. ~~The number of members to be elected and the terms for which members they will be elected shall be determined by the county clerk or election commissioner with the aid of the secretary of the board of education of the district in accordance with the following:~~

(a) The term of each member currently serving on such a board whose term expires in an odd-numbered year is hereby extended to the first Tuesday in June of the following year;

(b) Each member's term of office shall begin on the first Tuesday in June following his election and shall continue for four years, or until the member's successor is elected and qualified, except as provided in subdivision (c) of this subsection; and

(c) Terms shall be staggered so that, by not later than the primary election of 1978, three members shall be elected to each ~~six-member board at each election, and either four or five members shall be elected to each nine-member board~~ board at each election. In primary elections prior to 1978, ~~when~~ where it is necessary, in order to establish the proper staggering of terms, to elect members for terms of different duration at the same election, candidates elected with the greater number of votes shall be elected for terms of four years, and candidates elected with the smaller number of votes shall be elected for terms of two years.

(2) Any vacancy on such a board resulting from causes other than expiration of a term shall be filled by the remaining members for the remainder of the term.

Sec. 3. That section 79-551, Revised Statutes Supplement, 1972, be amended to read as follows:

79-551. Class II, ~~Class III~~, and Class VI school elections shall be held in conjunction with the statewide primary election, and shall be conducted by the county clerk or election commissioner under the provisions of Chapter 32.

Sec. 4. At the statewide primary election in each even-numbered year, there may be nominated in each Class III school district whose board of education consists of six members enough members of the board of education to provide for a full complement of six members and in each Class III school district whose board of education consists of nine members enough members of the board of education to provide for a full complement of nine members. Candidates may make a personal filing as provided in section 32-503.01 or by petition as provided in section 32-504. Boards of education of Class III districts holding their elections by ward or district shall continue to elect their members in such manner and those boards of education holding their elections at large shall continue to elect their members at large. Any change in the procedures of electing board members



from districts or wards to at large or from at large to districts or wards shall be by petition as provided in section 5-108. The number of members to be nominated at the statewide primary election and elected at the statewide general election and the terms for which they will be nominated and elected shall be determined by the county clerk or election commissioner with the aid of the elected secretary of the board of education of the district in accordance with the following:

(1) The term of office of any member of such board that would expire prior to the first Thursday after the first Tuesday in January, 1975 is hereby extended to such date;

(2) The term of office of any member that would expire after such latter date and prior to the first Thursday after the first Tuesday in January, 1977 is hereby extended to the first Thursday after the first Tuesday of January, 1977;

(3) The term of office of any member that would expire after such latter date and prior to the first Thursday after the first Tuesday in January, 1979 is hereby extended to the first Thursday after the first Tuesday of January, 1979; and

(4) If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all so filed may be considered to be nominated and no primary election for their nomination shall be required.

Terms shall be staggered so by not later than the general election of 1978 three members shall be elected to each six-member board and four or five members shall be elected to each nine-member board at each general election for terms of four years. When it becomes necessary to establish the staggering of terms by nominating and electing members for terms of different duration at the same election, candidates receiving the greatest number of votes shall be nominated. In no case shall the county clerk or election commissioner place on the general election ballot more than twice the number of names required to fill the vacancies that will occur.

Sec. 5. When the name of a person is written in and voted for as a candidate for the board of education of a Class III school district who did not file or become a petition candidate for such nomination, such person shall not be entitled to a certificate of nomination at a statewide primary election nor have his name placed on the general election ballot unless he shall have received

not less than twenty per cent of the total votes cast for the candidate receiving the greatest number of votes in the district or ward or the candidate receiving the greatest number of votes when the candidates are nominated at large at the primary election. In the case of a tie vote of any of the candidates in either the primary or general election, the county clerk or election commissioner shall notify such candidates to appear at his office on a given day and hour to determine the same by lot before the county canvassing board and the certificate of nomination shall be given accordingly. Notice to appear shall be given by certified mail.

Sec. 6. When more than one person becomes a candidate by filing, petition or write-in procedures for the same position in the primary, the county clerk or election commissioner in preparing the official ballot for the general election shall place thereon the names of the persons who received the greatest number of votes in the primary but in no event shall the names on the official general election ballot be more than twice the number of vacancies to be filled at the general election.

Sec. 7. The candidates shall be placed on the general election ballot and the candidates receiving the greatest number of votes shall be elected to terms of the longest duration and those receiving the next greatest number of votes shall be elected to the remaining term or terms. The county clerk or election commissioner shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. 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. Any vacancy on the board resulting from causes other than expiration of the term shall be filled by vote of the remaining members for the balance of the term.

Sec. 8. (1) A Class III school district whose board of education consists of six members may by resolution provide for an increase in the number of members from six to nine and the county clerk or election commissioner with the aid of the elected secretary of the board of education of the district shall determine the length of terms for which candidates shall be nominated and elected. The board of education shall appoint members to fill the three vacancies thus created and such appointed members shall serve until the first Thursday after the first Tuesday in January of the next odd-numbered year.



(2) A Class III school district whose board of education consists of nine members may by resolution provide for decreasing the number of members of the board of education from nine to six. When such decrease is provided for, three of the vacancies which would otherwise occur at the next election shall not be filled. After the adoption of such resolution, the county clerk or election commissioner, with the assistance of the secretary of the board of education, shall determine the length of the term for which candidates shall be nominated and elected.

Sec. 9. That section 79-1108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1108. No transfer of property from an accredited school district to a nonaccredited school district of any class shall be permitted. Any action to set aside the transfer of property from an accredited school district to a nonaccredited school district shall be commenced within four years from the date of the transfer, otherwise the transfer shall be valid as of the original date of the transfer. This provision shall apply to all transfers made prior as well as subsequent to the effective date of this act.

Sec. 10. That original section 79-1108, Reissue Revised Statutes of Nebraska, 1943, sections 79-516.07 and 79-551, Revised Statutes Supplement, 1972, and section 79-426.19, Revised Statutes Supplement, 1973, and also section 79-803, Revised Statutes Supplement, 1973, are repealed.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.