

LEGISLATIVE BILL 323

Approved by the Governor April 21, 1975

Introduced by F. Lewis, 45

AN ACT to amend sections 16-302.01, 16-307, 19-612, and 19-613.01, Revised Statutes Supplement, 1974, relating to elections; to delete obsolete matter; to change certain procedures; to extend certain terms; to eliminate certain primary elections; to repeal the original sections, and also section 17-107.01, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 16-302.01, Revised Statutes Supplement, 1974, be amended to read as follows:

16-302.01. [1] In any city of the first class, except any city having adopted the commissioner or city manager form of government, there shall be elected a mayor at large and two councilmen from each ward, who shall be electors of the city and residents of the ward from which elected. In any city of the first class not having a municipal court pursuant to section 26-404, there shall also be elected a police magistrate and in any city not owning its own lighting plant, there shall also be elected a water commissioner. The council may also, by a two-thirds vote of its members, provide by ordinance for the election of the treasurer and clerk. The terms of all such elective officers who were elected in the year 1969 shall be extended to the first Tuesday in June, 1972. Successors to such officers shall be elected at the statewide primary election in May, 1972, unless otherwise provided by this act, for a term of four years each, except that in each ward the candidate receiving the highest number of votes shall be elected for a term of four years, all such terms to commence on the first Tuesday in June, 1972. Their successors shall be elected for terms of four years each. All nominations and elections of such officers shall be held as provided in Chapter 32, or as provided in this act. At the election in 1970, the elective officers shall be elected for a term of four years commencing on the first Tuesday in June, 1970, and their successors shall be elected for terms of four years each; Provided, that cities of the first class may change their procedures for electing members to their governing body from ward to at large or from at large to ward following the procedures in section 5-408.

(2) Commencing with the statewide primary election in 1976, and every four years thereafter, those candidates whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election.

(3) The term of office of any member of a board that would expire prior to the first regular board meeting in December, 1976 is hereby extended to such date.

(4) The term of office of any member that would expire after December, 1976, and prior to the first regular board meeting in December, 1978, is hereby extended to the first regular board meeting in December, 1978.

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

(6) When any second-class city by law becomes a first-class city, and adopts the first-class city form of government, and it becomes necessary to establish the staggering of terms by nominating and electing members for terms of different durations at the same election, the candidates receiving the greatest number of votes shall be nominated and have their names placed on the general election ballot. In no case shall the city clerk, 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.

(7) When the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for a councilman, 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 vote cast for the candidate receiving the greatest number of votes in the precinct or ward or the candidate receiving the greatest number of votes of the at-large candidates, whichever the case may be, at the preceding election in which candidates were elected to serve the precinct or ward or of the at-large candidates if the election was held at large. In the case of a tie vote of any of the candidates in either the primary or general election, the city clerk, 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 canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail.

(8) When more than one person becomes a candidate by filing, petition, or write-in procedures for the same position in the primary, the city clerk, 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 general election ballot be more than twice the number of vacancies to be filled at the general election.

(9) 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 city clerk, 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 regular meeting of the board in December following their election. Any vacancy on the board resulting from causes other than expiration of the term shall be filled by vote of the remaining members as provided in section 32-4,152.

Sec. 2. That section 16-307, Revised Statutes Supplement, 1974, be amended to read as follows:

16-307. All properly registered voters, who shall reside within the limits of the city on or before election day, shall be entitled to vote at all municipal elections. ~~At a meeting of the council on the first Monday after any city election the returns shall be canvassed, and the city council shall cause the clerk to make out and deliver certificates of election to the persons found to be elected;~~ The county canvassing board shall canvass all returns at the same time and in the same manner as the other returns are canvassed, and the county clerk or election commissioner shall issue the certificates of nomination or election the same as all other certificates, and a neglect of any such officer to qualify within ten days after the delivery to him of such certificate shall be deemed a refusal to accept the office to which he may have been elected. Any vacancy on the council shall be filled as provided in section 32-4,152. In all cases of an election when the successful candidate or candidate receiving the highest number of votes in such election shall be prevented from

assuming office on account of disqualification, the incumbent shall not be entitled to hold over the term, but such office shall automatically become vacant and an appointment shall be made to fill such vacancy in the manner provided in sections 32-4,152 and 32-1045. An incumbent councilman shall be eligible for the appointment.

Sec. 3. That section 19-612, Revised Statutes Supplement, 1974, be amended to read as follows:

19-612. [1] The number of councilmen shall be determined by the class and population of the city as follows: In all cities having not more than forty thousand inhabitants, five; in cities having more than forty thousand inhabitants, seven; Provided, that in cities having between twenty-five thousand and forty thousand inhabitants, the city council may by ordinance provide for seven councilmen. Councilmen shall be elected from the city at large unless the city council by ordinance provides for the election of all or some of its councilmen by wards, the number and boundaries of which are provided for in section 16-104. Councilmen shall serve for a term of four years and until their successors are elected and have qualified, except at the first election hereunder or the first election under an ordinance changing the number of councilmen or their manner of election. Such first election shall take place at the next regular city election and shall be for all councilmen irrespective of their manner of election. The qualification of the candidates elected at such first election shall end the terms of those councilmen in office whose terms have not otherwise expired. If all councilmen shall be elected at large at the first election hereunder, the bare majority of councilmen receiving the highest number of votes shall serve for four years and the others for only two years. At the first election under an ordinance changing the number of councilmen or their manner of election, one half or the bare majority of councilmen elected at large, as the case may be, receiving the highest number of votes, shall serve for four years and the other or others for only two years. At such first election, one half or the bare majority of councilmen, as the case may be, elected by wards, shall serve for four years and the others for only two years, as provided in the ordinance. If only one councilman is to be elected at large at such first election he shall serve for four years. If a vacancy occurs in the office of ward councilman, a successor councilman shall be elected in the ward at the next regular city election to serve for the remainder of the term; Provided, a majority of the remaining members of the council shall appoint a resident and qualified

elector of the ward to serve as councilman until the successor is so elected and has qualified. ~~The election of councilmen shall be in even-numbered years and any councilmen in office shall serve until their successors are elected at the next regular municipal election and have qualified for the office. All such councilmen who were elected for a four-year term in the year 1967 shall have their term extended to the first Tuesday in June, 1972; and all such councilmen who were elected for a two-year term in the year 1969 shall have their term extended to the first Tuesday in June, 1972; and all such councilmen who were elected for a four-year term in the year 1969 shall have their term extended to the first Tuesday in June, 1974; or until their successors are elected and qualified.~~

(2) Commencing with the statewide primary election in 1976, and every four years thereafter, those candidates whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election.

(3) The term of office of any member of a board that would expire prior to the first regular board meeting in December, 1976 is hereby extended to such date.

(4) The term of office of any member that would expire after December, 1976, and prior to the first regular board meeting in December, 1978, is hereby extended to the first regular board meeting in December, 1978.

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

(6) When any second-class city by law becomes a first-class city, and adopts the city manager form of government, the first election of officers shall be as provided in subsection (1) of this section.

(7) When the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for a councilman, 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 vote cast for the candidate receiving the greatest number of votes in the precinct or ward or the candidate

receiving the greatest number of votes of the at-large candidates, whichever the case may be, at the preceding election in which candidates were elected to serve the precinct or ward or of the at-large candidates if the election was held at large. In the case of a tie vote of any of the candidates in either the primary or general election, the city clerk, 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 canvassing board and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail.

(8) When more than one person becomes a candidate by filing, petition, or write-in procedures for the same position in the primary, the city clerk, 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 general election ballot be more than twice the number of vacancies to be filled at the general election.

(9) 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 city clerk, 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 regular meeting of such board in December following their election.

Sec. 4. That section 19-613.01, Revised Statutes Supplement, 1974, be amended to read as follows:

19-613.01. Any councilman to be elected for a ward, or his appointed successor in the event of a vacancy, shall be a resident and a qualified elector of such ward. He shall be nominated and elected in the same manner as provided for at-large candidates, except that only residents and qualified registered electors of the ward may participate in the signing of nomination petitions, ~~and voting in the general election.~~ All nominating petitions and ballots shall clearly identify the ward from which he shall be a candidate. The ballots within a ward shall not contain the names of ward candidates from other wards. The printed ballots for each ward shall list the candidates in the order of filing affidavits of nomination or petitions by date and

hour with the county clerk or election commissioner, comply as nearly as may be with the requirements of section 49-622, so that ward candidates and at-large candidates, as the case may be, shall appear on the ballots in the order provided for by such section 49-622. The recall procedure shall apply to a ward councilman except that only qualified registered electors of his ward may sign a recall petition or vote at the recall election which shall be held within the ward only. The total number of votes cast within his ward at the last preceding regular municipal statewide general election shall be used to determine the number of signatures required for a recall election.

Sec. 5. (1) Commencing with the primary election in 1976, and every four years thereafter, all elected officers in all second-class cities shall be nominated at the statewide primary election and elected at the statewide general election.

(2) The term of office of any member of the board that would expire prior to the first regular board meeting in December, 1976, is hereby extended to such date.

(3) The term of office of any member that would expire after December, 1976, and prior to the first regular board meeting in December, 1978, is hereby extended to the first regular board meeting in December, 1978.

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

(5) When any village by law becomes a second-class city, and adopts the second-class city form of government, and such second-class city is holding its initial election of all officers, the city clerk, county clerk, or election commissioner shall place the names of the candidates receiving the greatest number of votes at the primary election on the general election ballot, but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election. At the first election, one half or the bare majority of the candidates in each precinct or ward or at-large candidates, as the case may be, receiving the greatest number of votes at the general election, 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.

(6) When the name of a candidate who did not file or become a petition candidate for nomination is written in and voted for as a candidate for councilman, 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 vote cast for the candidate receiving the greatest number of votes in the precinct or ward or of the at-large candidate, whichever the case may be, at the preceding election in which candidates were elected to serve the precinct or ward or of the at-large candidates, if the election was held at large. In the case of a tie vote of any of the candidates in either the primary or general election, the city clerk, 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 canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail.

(7) When more than one person becomes a candidate by filing, petition, or write-in procedures for the same position in the primary, the city clerk, 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 general election ballot be more than twice the number of vacancies to be filled at the general election.

(8) The candidates receiving the greatest number of votes to fill the vacancy for which they were candidates 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.

(9) The city clerk, 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 regular meeting of the board in December following their election.

Sec. 6. That original sections 16-302.01, 16-307, 19-612, and 19-613.01, Revised Statutes Supplement, 1974, and also section 17-107.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.