

LEGISLATIVE BILL 198

Approved by the Governor February 19, 1982

Introduced by Government, Military and Veterans Affairs Committee, Kahle, 37, Chpn.; Chambers, 11; Goll, 16; V. Johnson, 8; Haberman, 44; Landis, 46; Chronister, 18

AN ACT to amend sections 70-604.03 and 70-619, Reissue Revised Statutes of Nebraska, 1943, and sections 70-610 and 70-612, Revised Statutes Supplement, 1981, relating to public power; to provide for divided precincts; to authorize the division of voting precincts; to provide for charging additional costs; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 70-604.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-604.03. (1) To establish boundary lines of an operating area coincident with voting precinct or county boundary lines, it shall be permissible to eliminate from, or add to, the operating area relatively minor areas containing a limited number of retail customers served, so that retail distribution areas are identified by reference to whole voting precincts and wholesale distribution areas are identified by reference to whole counties.

(2) After the formation of a district, voting or election precincts may be divided, for the purposes of district elections, by amending the charter as prescribed in sections 70-662 to 70-665. A district may divide a voting or election precinct whenever either (a) an excessive number of ratepayers are excluded from voting, or (b) an excessive number of nonratepayers are allowed to vote. The description of such divided precincts may be given by township and range and section number and shall be subject to the approval of the Secretary of State.

(3) (a) Any retail customer whose principal residence is being served by a public power district and whose principal residence is not in the chartered territory of such district may request the district in writing prior to the certification date for such district, as such date is provided in section 70-611, for the right for each registered voter residing at such

residence to vote for, and be eligible to hold office as a member of, the board of directors of such district. The secretary of the district shall cause notice to be given to each such retail customer which reasonably prescribes the manner in which the retail customer may request such right to vote. The notice shall be given by first-class mail and may be included as part of the regular billing statement mailed to a customer, if such billing statement is sent by first-class mail to such retail customer, which mail shall be conspicuously marked as to its importance. Such notice shall be given at least sixty days prior to the time the election certification and publication information is transmitted to the Secretary of State pursuant to section 70-611. The district shall certify to the Secretary of State the names of all such retail customers for whom such request to vote has been made along with identification of the voting or election precincts wherein such retail customers reside, and each such retail customer shall be a qualified elector and qualified to hold office as a member of the board of directors, if otherwise qualified to vote.

(b) For 1982 only, the provisions of this subsection shall not apply to any district whose certification date, as such date is provided in section 70-611, has already passed as of the effective date of this act.

(4) Any district dividing a precinct pursuant to subsection (2) of this section or certifying retail customers pursuant to subsection (3) of this section shall transmit all necessary information relevant to such division or certification along with the election certification and publication provided for in section 70-611. All additional election costs caused by such division or certification shall be due and payable by the district within thirty days after the receipt of a statement from the county.

Sec. 2. That section 70-610, Revised Statutes Supplement, 1981, be amended to read as follows:

70-610. (1) After the selection of the original board of directors of a district as provided for in sections 70-604 and 70-609, their successors shall, except as provided in this section, be nominated and elected and shall take office, subject to the provisions of Chapter 70, article 6. Registered voters residing within the divided or undivided voting precincts ~~in which any or all of the precinct is served by a public power district;~~ except those areas specifically excluded in the chartered territory, or registered voters duly certified

in accordance with section 70-604.03 shall be qualified electors of such public power district and shall be eligible to cast ballots for the directors.

Any person filing nomination papers as a candidate for director shall file such nomination papers as provided in Chapter 32. A candidate for director shall be a qualified elector and shall reside within the chartered territory or subdivision as defined in the charter of the district.

In districts receiving annual gross revenue of less than forty million dollars the candidates for district director shall not appear on the primary ballot. Candidates for directors of such districts shall file applications for nomination with the Secretary of State on or before August 1 of each general election year. In such districts the candidates receiving the highest number of votes at the general election shall be declared duly elected to the offices for which they were candidates.

In those districts receiving annual gross revenue of forty million dollars or more, there shall be a treasurer's receipt from the candidate's county of residence accompanying the application for nomination in the amount of twenty-five dollars, and in those districts receiving annual gross revenue of less than forty million dollars, there shall be a treasurer's receipt from the candidate's county of residence in the amount of ten dollars.

(2) Such nomination and election of directors, as referred to in subsection (1) of this section, shall be by separate nonpartisan ballot. If, after a primary election in a district receiving annual gross revenue of forty million dollars or more, there shall be a vacancy on the ballot for members of board of directors through any cause whatever, the person polling the third highest in the primary shall be the candidate, and if two vacancies exist then the third and fourth highest in the primary shall be the candidates. If there were no third and fourth highest in the primary, then candidates may file by petition, by securing signatures of ten per cent of the legal voters voting for Governor or President within the district at the preceding general election, and if more persons file than there are places vacant, the candidates shall be chosen by drawing for place. Any such petition must be filed with the Secretary of State not less than sixty days prior to the general election. The petition must show the name and address of the candidate, the office to be filled, and the names and addresses of the signers, the truth of which must be

shown by the circulator or circulators thereof by the affidavit filed with such petition. In those districts receiving annual gross revenue of forty million dollars or more, there shall be a treasurer's receipt from the candidate's county of residence accompanying the petition in the amount of twenty-five dollars, and in those districts receiving annual gross revenue of less than forty million dollars, there shall be a treasurer's receipt from the candidate's county of residence in the amount of ten dollars. A vacancy shall be deemed to exist whenever any person shall cease for any reason to be a candidate for the office of member of board of directors for which he or she was nominated in the primary or when no person was nominated for such office in the primary. It shall be the duty of all state and local officers and officers of election to perform all duties imposed upon them by the laws of this state pertaining to primary and general elections, insofar as applicable to the election of directors of districts organized under the provisions of Chapter 70, article 6. Each public power district shall pay for the election expenses of nominating and electing its directors as provided in this section. Except as provided in this section, the district shall pay to each county wherein the name of one or more candidates appears upon the ballot as follows: Counties having a population of less than three thousand inhabitants, seventy-five dollars; counties having a population of three thousand but less than nine thousand inhabitants, one hundred fifty dollars; counties having a population of nine thousand but less than fourteen thousand inhabitants, two hundred dollars; counties having a population of fourteen thousand but less than twenty thousand inhabitants, two hundred fifty dollars; counties having a population of twenty thousand but less than sixty thousand inhabitants, three hundred dollars; counties having a population of sixty thousand but less than one hundred thousand inhabitants, fifteen hundred dollars; counties having a population of one hundred thousand but less than two hundred thousand inhabitants, three thousand dollars; and counties having a population of two hundred thousand inhabitants or more, fifty-five hundred dollars. The population of a county for purposes of this section shall be the population as determined by the most recent federal decennial census.

When the name of one or more candidates of a district appears on ballots in less than one half of the precincts in a county, the cost to the district shall be reduced fifty per cent. When the name of one or more candidates of a district appears on ballots in less than one-tenth of the precincts in a county, there shall be no cost to the district. Election expenses shall be due and

payable by each public power district within thirty days after receipt of a statement from the county.

Sec. 3. That section 70-612, Revised Statutes Supplement, 1981, be amended to read as follows:

70-612. Subject to the provisions of Chapter 70, article 6, and subject to the approval of the Nebraska Power Review Board, the board of directors of a public power district may amend the petition for its creation to provide for the division of the territory of such district into two or more subdivisions for the nomination and election of some or all of the directors. Each subdivision shall be composed of one or more voting precincts, or divided voting precincts, and the total number of electors in each such subdivision shall be approximately the same; Provided, that when no less than ninety per cent of the population of each of two or more such subdivisions is within the corporate limits of any city, members of the board of directors may be nominated and elected at large from such city; and provided further, that in the event a district formed comprises three or more counties, and is solely engaged in furnishing electric light and power to rural customers, or engaged in furnishing electric light and power and in the business of owning and operating irrigation works, then and in that event such subdivisions may be formed by following county boundary lines without regard to population if in the judgment of the Nebraska Power Review Board the interests of the rural users of electricity or of users of irrigation water service in such district will not be prejudiced thereby.

Sec. 4. That section 70-619, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-619. The corporate powers of the district shall be vested in and exercised by the board of directors of the district. No person shall be qualified to hold office as a member of the board of directors unless he or she shall be an elector of such chartered area or, if such chartered area be subdivided for election purposes as provided in sections 70-610 to 70-618, of the subdivision of which he or she shall be an elector, or of one of the municipalities from which directors are to be elected at large as provided in section 70-614, or a retail customer duly certified in accordance with subsection (3) of section 70-604.03. No person who acquires any interest in any pension plan, retirement plan, or similar plan or contract of any district shall be eligible to hold office as a member of the board of directors. No person shall be qualified to

be a member of more than one such district board, except that a director of a rural public power district may serve as a director of another public power district formed or organized for the purpose of generating electric energy or transmitting electric energy exclusively for resale to some other public power districts, rural electric cooperatives, and membership associations or municipalities. No member of a governing body of any one of the municipalities within the areas of the district shall be qualified to serve on the original board of directors under the provisions of sections 70-603 to 70-609.

Sec. 5. That original sections 70-604.03 and 70-619, Reissue Revised Statutes of Nebraska, 1943, and sections 70-610 and 70-612, Revised Statutes Supplement, 1981, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.