

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB1021

Hearing Date: Tuesday February 09, 2010
Committee On: Education
Introducer: Avery
One Liner: Adopt the High School Activities Association Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Adams, Ashford, Avery, Cornett, Giese, Haar, Howard
Nay:
Absent:
Present Not Voting: 1 Senator Sullivan

Proponents:
Senator Bill Avery
Jack Mayfield
Lisa McNeel
Justin Brady
Laura Holmes
Jack Jackson

Representing:
Introducer
Self
Parents for Students
Media of Nebraska
Parents for Students
Parents for Students

Opponents:
Jim Tenopir
Rex Schultze
Cinde Wendell
Dan Flanagan
Jeremy Murphy

Representing:
Nebraska School Activities Association
Nebraska School Activities Association
Nebraska Council of School Administrators
Papillion-La Vista School Board
Nebraska Catholic Conference

Neutral:
John Lindsay

Representing:
Omaha Public Schools

Summary of purpose and/or changes:

Legislative Bill 1021 would require the association that governs high school activities in Nebraska to meet certain conditions regarding its governance structure and operating practices. School activities in Nebraska are currently governed by a private nonprofit association, the Nebraska School Activities Association (NSAA). The bill would require the following changes in NSAA governance and operating practices:

Membership by the Commissioner of Education on the association's board of directors, as well as membership by a member of the State Board of Education and the Speaker of the Legislature in nonvoting, ex officio capacities;

Realignment of administrative district boundaries based on the number of students participating in high school activities. Such realignment would occur decennially based on the results of the most recent federal decennial census;

Subjection of the association to the Open Meetings Act and public records statutes;

Eligibility of any full-time educator holding a teaching or administrative certificate to serve on governing bodies of the association. Currently, members of the association's board of control and district managing committees must hold an administrative certificate, and half of each administrative districts delegation to the representative assembly is reserved for administrators;

Creation of appeals boards at both the district and association levels;

Imposition of term limits on the association's executive director and members of district managing committees, the association representative assembly, association appeals board, and district committees on appeals. Such individuals would be eligible to serve no more than nine consecutive years.

Failure of such association to satisfy the requirements of the bill would result in it forfeiting its right to do business in the state of Nebraska. The Attorney General would be required to institute proceedings to enforce such forfeiture, and the Commissioner of Education, with approval of a majority of the State Board of Education, would designate a new association to govern high school athletics.

Explanation of amendments:

The committee amendment strikes the original sections and becomes the bill. The amendment would provide for access to meetings and records of any association that governs interscholastic competition in high school activities on a statewide basis. The provisions of the amendment are modeled closely after provisions of the Open Meetings Act and public records statutes, which apply to public entities.

Section 1 of the amendment names the act the High School Activities Association Meetings and Records Accessibility Act.

Section 2 provides intent language for the act. In general, the purpose of the act would be to provide access to meetings and records of an association that governs interscholastic competition in high school activities, except as prohibit by the Nebraska Constitution, federal law, and the provisions of the act.

Section 3 defines terms for purposes of the act.

Section 4 contains provisions related to closed sessions of association governing bodies.

Section 5 contains provisions regarding notice requirements for meetings of association governing bodies. The section also outlines the conditions that must be satisfied for meetings of association governing bodies to be held by videoconference or telephone conference.

Section 6 contains provisions regarding public attendance and participation at meetings of an association governing body.

Section 7 contains provisions regarding meeting minutes of an association governing body.

Section 8 contains provisions regarding enforcement of the open meetings requirements of the act.

Section 9 contains provisions relating to access to, and copying of, records of the association.

Section 10 describes the records of the association that shall be made public, provides for transmittal of records, and states that the act shall be liberally construed so as to provide public access to records relating to the expenditure of public funds.

Section 11 provides for remedies for any person denied access to public records of the association granted in sections 9

and 10 of the act.

Section 12 outlines specific information that must be provided in the event that access to records of the association is denied.

Section 13 lists specific types of records that may be withheld from the public.

Section 14 provides that any reasonably segregable portion of a public record of the association may be provided to the public after deletion of the portions that may be withheld.

Section 15 provides that provisions of the act relating to public records - section 7 and 9 through 16 of the act - may be enforced by equitable relief, whether or not any other remedy is also available. In the event that a complainant seeking access to records substantially prevails, a court may assess against the association reasonable attorney's fees and other litigation costs incurred by the complainant.

Section 16 provides that any association official who violates section 9 through 15 of the act related to public records commits a Class III misdemeanor and would be subject to removal.

Greg Adams, Chairperson