

LEGISLATIVE BILL 125

Approved by the Governor February 11, 2013

Introduced by Lautenbaugh, 18; Avery, 28; Chambers, 11; Ashford, 20; Murante, 49.

FOR AN ACT relating to school boards; to amend sections 32-545, 32-552, 79-4,129, 79-552, and 79-559, Reissue Revised Statutes of Nebraska, and sections 32-570 and 32-606, Revised Statutes Cumulative Supplement, 2012; to change the number and procedures for nominating, electing, and filling vacancies of members of school boards for Class V school districts; to eliminate requirements relating to taking the oath of office and provisions for student members for such boards; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 32-545, Reissue Revised Statutes of Nebraska, is amended to read:

32-545 (1) A member of the board of education of a Class V school district shall be elected from each district provided for in section 32-552. Such election shall be held on the date provided in subsection (3) or (4) of this section. The members of such board of education shall meet the qualifications found in section sections 79-543 and 79-552. At each statewide general election, six

(2) The term of office of each member serving on the effective date of this act expires on the fourth Monday after such election in 2013.

(3) At the election on the date provided in section 14-201 for the election of elective officers of a city of the metropolitan class for 2013, members of the board shall be elected to serve for four years terms as provided in subsection (4) of this section, from and including the first fourth Monday of the January following after their election or until their successors are elected and qualified.

(4)(a) In 2013, candidates from all districts for election to such board of education Candidates shall be nominated at the statewide primary election held for nomination of candidates for city council pursuant to section 14-204. Candidates for election to such board of education shall be nominated upon a nonpartisan ballot. At the statewide general election in 1976 and each four years thereafter, one member shall be elected from each even-numbered district. At the statewide general election in 1978 and each four years thereafter, one member shall be elected from each odd-numbered district. The members shall meet the qualifications found in section 79-543.

(b) In 2014, candidates for election to such board of education from even-numbered districts shall be nominated at the statewide primary election and elected at the statewide general election and shall take office on the first Monday in January 2015. Terms of the members elected from such even-numbered districts in 2013 shall expire on such date. In 2016, candidates for election to such board of education from odd-numbered districts shall be nominated at the statewide primary election and elected at the statewide general election and shall take office on the first Monday in January 2017. Terms of the members elected from odd-numbered districts in 2013 shall expire on such date. Thereafter, all members shall be nominated at the statewide primary election and elected at the statewide general election, shall take office on the first Monday in January following their election, and shall serve terms of four years or until their successors are elected and qualified. Candidates for election to such board of education shall be nominated upon the nonpartisan ballot.

Sec. 2. Section 32-552, Reissue Revised Statutes of Nebraska, is amended to read:

32-552 (1) At least five months prior to an election, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide written notification to the election commissioner or county clerk of the need and necessity of his or her office to perform such adjustments.

(2) After the next federal decennial census, the election commissioner of the county in which the greater part of a Class IV school district is situated shall, subject to review by the school board, divide the school district into seven numbered districts, substantially equal in population as determined by the most recent federal decennial census. The election commissioner shall consider the location of schools within the district and their boundaries. The election commissioner shall adjust the

boundaries of the election districts, subject to final review and adjustment by the school board, to conform to changes in the territory and population of the school district and also following each federal decennial census. Except when specific procedures are otherwise provided, section 32-553 shall apply to all Class IV school districts.

(3) For purposes of election of members to the board of education of a Class V school district:

(a) (i) The Legislature hereby divides such school district into nine numbered election districts of compact and contiguous territory and of as nearly equal population as may be practical. Each election district shall be entitled to one member on the board of education of such Class V school district. The Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census. The numbers and boundaries of the election districts are designated and established by a map identified and labeled as OPS-13-002, filed with the Clerk of the Legislature, and incorporated by reference as part of this legislative bill. Such districts are drawn using the boundaries of the Class V school district as they existed on the effective date of this act; (ii) the Clerk of the Legislature shall transfer possession of the map referred to in subdivision (a) (i) of this subsection to the Secretary of State and the election commissioner of the county in which the greater part of the school district is situated on the effective date of this act; (iii) when questions of interpretation of such election district boundaries arise, the map referred to in subdivision (a) (i) of this subsection in possession of such election commissioner shall serve as the indication of the legislative intent in drawing the election district boundaries; (iv) the Secretary of State and such election commissioner shall also have available for viewing on his or her web site the map referred to in subdivision (a) (i) of this subsection identifying the boundaries for such election districts; and (v) the twelve numbered districts in existence on January 1, 2013, shall remain unchanged until the terms of members elected at the election in May 2013 begin; and

(3) The (b) After the next federal decennial census after the effective date of this act, the election commissioner of the county in which the greater part of a Class V school district is situated shall divide the school district into ~~twelve~~ nine numbered districts of compact and contiguous territory and of as nearly equal population as may be practical. The election commissioner shall adjust the boundaries of such districts, subject to final review and adjustment by the school board, to conform to changes in the territory of the school district and also following each federal decennial census.

Sec. 3. Section 32-570, Revised Statutes Cumulative Supplement, 2012, is amended to read:

32-570 (1) A vacancy in the membership of a school board shall occur as set forth in section 32-560 or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the district for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. The resignation of a member or any other reason for a vacancy shall be made a part of the minutes of the school board. The school board shall give notice of the date the vacancy occurred, the office vacated, and the length of the unexpired term (a) in writing to the election commissioner or county clerk and (b) by a notice published in a newspaper of general circulation in the school district.

(2) A person appointed to fill a vacancy on the school board of a Class I school district by the remaining members of the board shall hold office until the beginning of the next school year. A board member of a Class I school district elected to fill a vacancy at a regular or special school district meeting shall serve for the remainder of the unexpired term or until a successor is elected and qualified.

(3) Except as provided in subsection (4) of this section, a vacancy in the membership of a school board of a Class II, III, IV, V, or VI school district resulting from any cause other than the expiration of a term shall be filled by appointment of a qualified registered voter by the remaining members of the board. If the vacancy occurs in a Class II school district prior to July 1 preceding the general election in the middle of the vacated term, the appointee shall serve until a registered voter is elected at such general election for the remainder of the unexpired term. If the vacancy occurs in a Class III, IV, V, or VI school district prior to February 1 preceding the general election in the middle of the vacated term, the appointee shall serve until a registered voter is nominated at the next primary election and elected at the following general election for the remainder of the unexpired term. If the vacancy occurs on or after the applicable deadline, the appointment shall

be for the remainder of the unexpired term. A registered voter appointed or elected pursuant to this subsection shall meet the same requirements as the member whose office is vacant.

(4) Any vacancy in the membership of a school board of a school district described in section 79-549 which does not nominate candidates at a primary election and elect members at the following general election shall be filled by appointment of a qualified registered voter by the remaining members of the board. If the vacancy occurs at least twenty days prior to the first regular caucus to be held during the term that was vacated, the appointee shall serve until a registered voter is nominated and elected to fill the vacancy for the remainder of the term in the manner provided for nomination and election of board members in the district. If the vacancy occurred less than twenty days prior to the first regular caucus and at least twenty days prior to the second regular caucus to be held during the term that was vacated, the appointee shall serve until a registered voter is nominated and elected to fill the vacancy for the remainder of the term in the manner provided for nomination and election of board members in the district. If the vacancy occurred less than twenty days prior to the second regular caucus held during the term that was vacated or after such caucus, the appointment shall be for the remainder of the unexpired term.

(5) A vacancy in the membership of a school board of a Class V school district resulting from any cause other than the expiration of a term shall be filled by appointment of a qualified registered voter by the remaining members of the board for the remainder of the unexpired term. A registered voter appointed pursuant to this subsection shall meet the same requirements as the member whose office is vacant.

~~(5)~~ (6) If any school board fails to fill a vacancy on the board, the vacancy may be filled by election at a special election or school district meeting called for that purpose. Such election or meeting shall be called in the same manner and subject to the same procedures as other special elections or school district meetings.

~~(6)~~ (7) If there are vacancies in the offices of one-half or more of the members of a school board, the Secretary of State shall conduct a special school district election to fill such vacancies.

Sec. 4. Section 32-606, Revised Statutes Cumulative Supplement, 2012, is amended to read:

32-606 (1) Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and February 15 prior to the date of the primary election, except for candidates for election in 2013 to the board of education of a Class V school district. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All Incumbent and nonincumbent candidates for election in 2013 to the board of education of a Class V school district and all other candidates shall file for office between December 1 and March 1 prior to the date of the primary election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(2) Any candidate for a township office in a county under township organization, the board of trustees of a village, the board of directors of a reclamation district, the county weed district board, the board of directors of a public power district receiving annual gross revenue of less than forty million dollars, the school board of a Class II school district, or the board of an educational service unit may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. If a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between December 1 and July 15 prior to the date of the general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office between December 1 and August 1 prior to the date of the general election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a

date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(3) Any city having a home rule charter may provide for filing deadlines for any person desiring to be a candidate for the office of council member or mayor.

Sec. 5. Section 79-4,129, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,129 (1) Within thirty days after the classification of the reorganized school districts by the county clerk under section 79-4,128, the state committee shall appoint from among the legal voters of each new school district created the number of members necessary to constitute a school board of the class in which the new school district has been classified. A reorganized school district shall be formed and organized and shall have a school board not later than April 1 following the last legal action, as prescribed in section 79-4,128, necessary to effect the changes in boundaries as set forth in the plan of reorganization, although the physical reorganization of such reorganized school district shall take effect July 1 following the classification of the reorganized school districts under section 79-4,128. The first board shall be appointed on an at-large basis, and all boards shall be elected at large until such time as election districts are established as provided in section 32-554.

(2) In appointing the first school board of a Class II school district, the members shall be appointed so that the terms of three members expire on the date of the first regular meeting of the board in January after the first even-numbered year following their appointment and the terms of the three remaining members expire on the date of the first regular meeting of the board in January after the second even-numbered year following their appointment. At the statewide general election in the first even-numbered year after the reorganization, three board members in each Class II school district shall be elected to terms of four years. Thereafter all candidates shall be elected to terms of four years. Each member's term shall begin on the date of the first regular meeting of the board in January following his or her election.

(3) In appointing the first school 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. Thereafter all Class III district school boards with six-member boards shall be elected to terms of four years.

(4) In appointing the first school 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 district school boards with nine-member boards shall be elected to terms of four years.

(5) In appointing the first school board of a Class IV school district, the members shall be appointed so that the terms of three members shall expire on the third Monday in May of the first odd-numbered year following their appointment and the terms of four members shall expire on the third Monday in May of the second odd-numbered year following their appointment. Thereafter all Class IV district school boards shall be elected to terms of four years.

(6) In appointing the first school board of a Class V school district after a reorganization under this section with a twelve-member nine-member board serving terms of four years, the ~~terms of six members shall expire on the first Monday in January after the first even-numbered year following their appointment and the terms of six members shall expire on the first Monday in January after the second even-numbered year following their appointment. Thereafter all Class V district~~ terms of the members shall expire as provided in section 32-545. All Class V district school boards shall be elected to terms of four years.

(7) The school boards appointed under this section shall proceed at once to organize in the manner prescribed by law.

Sec. 6. Section 79-552, Reissue Revised Statutes of Nebraska, is amended to read:

79-552 The board of education of a Class V school district shall consist of ~~twelve members, one~~ until the fourth Monday after the date in 2013 of the election held pursuant to section 14-201 and shall consist of nine

~~members thereafter. One member shall be elected from each district pursuant to section 32-545, and also may include a nonvoting student member or members selected pursuant to section 79-559. Each elected member shall be a resident of the district for at least six months prior to the election. Each candidate for election to and each member of the board of education shall be a taxpayer in and a resident of the district of such school district as designated pursuant to section 32-552. All persons elected as members of the board of education shall take and subscribe to the usual oath of office before the first Monday in January following their election, and the student member shall take and subscribe to the usual oath of office before the first Monday in January following his or her designation. In case any person so elected fails so to do, his or her election shall be void and the vacancy shall be filled by the board.~~

Sec. 7. Section 79-559, Reissue Revised Statutes of Nebraska, is amended to read:

79-559 (1) The school board or board of education of any Class II, III, IV, V, or VI school district may include at least one nonvoting member who is a public high school student from the district. If the board elects to include such a nonvoting student member, the student member shall serve for a term of one year, beginning on September 1, and shall be the student body or student council president, the senior class representative, or a representative elected from and by the entire student body, as designated by the voting members of the board.

(2) Any nonvoting student member of the board has the privilege of attending all open meetings of the board but shall be excluded from executive sessions.

Sec. 8. Original sections 32-545, 32-552, 79-4,129, 79-552, and 79-559, Reissue Revised Statutes of Nebraska, and sections 32-570 and 32-606, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.