

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 289

FINAL READING

Introduced by Urban Affairs Committee: McKinney, 11, Chairperson;
Cavanaugh, J., 9; Clouse, 37; Quick, 35; Rountree, 3;
Sorrentino, 39.

Read first time January 15, 2025

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to cities and villages; to amend sections
2 17-201, 17-202, and 19-911, Reissue Revised Statutes of Nebraska,
3 and section 18-2709, Revised Statutes Cumulative Supplement, 2024;
4 to change provisions relating to the incorporation of a village and
5 the number, election, and term of members on a village board of
6 trustees; to provide a procedure for changing the number of members
7 on a village board of trustees; to allow certain city councils to
8 constitute a board of adjustment; to redefine qualifying business
9 under the Local Option Municipal Economic Development Act; and to
10 repeal the original sections.
11 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 17-201, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 17-201 (1) Any municipality containing not less than one hundred nor
4 more than eight hundred inhabitants as determined by the most recent
5 federal decennial census or the most recent revised certified count by
6 the United States Bureau of the Census incorporated as a village under
7 the laws of this state, any village that votes to retain village
8 government as provided in section 17-312, and any city of the second
9 class that has adopted village government as provided by sections 17-306
10 to 17-309 shall be a village and shall have the rights, powers, and
11 immunities granted by law to villages. The population of a village shall
12 consist of the people residing within the territorial boundaries of such
13 village and the residents of any territory duly and properly annexed to
14 such village.

15 (2) Whenever a majority of the inhabitants of any village, not
16 incorporated under any laws of this state, present a petition to the
17 county board of the county in which the petitioners reside, requesting
18 that they may be incorporated as a village and designating the name they
19 wish to assume, whether the village board of trustees will have three or
20 five members, and the metes and bounds of the proposed village, and a
21 majority of the members of such county board are satisfied that a
22 majority of the inhabitants of the proposed village have signed such
23 petition and that inhabitants to the number of one hundred or more are
24 actual residents of the territory described in the petition, the county
25 board shall declare the proposed village incorporated, enter the order of
26 incorporation upon its records, and designate the metes and bounds of
27 such village. Thereafter the village shall be governed by the provisions
28 of law applicable to the government of villages. The county board shall,
29 at the time of the incorporation of the village, appoint three or five
30 persons pursuant to the number of members of the village board designated
31 in the petition, having the qualifications provided in section 17-203, as

1 the village board of trustees, who shall hold their offices and perform
2 all the duties required of them by law until the election and
3 qualification of their successors at the time and in the manner provided
4 in section 17-202, except that the county board shall not declare a
5 proposed village incorporated or enter an order of incorporation if any
6 portion of the territory of such proposed village is within five miles of
7 another incorporated municipality.

8 **Sec. 2.** Section 17-202, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 17-202 The corporate powers and duties of every village shall be
11 vested in a board of trustees which shall consist of three or five
12 members. At the first statewide general election held after the
13 incorporation of a village with five members, two trustees shall be
14 elected to serve two years and three trustees shall be elected to serve
15 four years. At the first statewide general election held after the
16 incorporation of a village with three members, two trustees shall be
17 elected to serve four years and one trustee shall be elected to serve two
18 years. At the first statewide general election held after changing the
19 number of trustees from five to three, one trustee shall be elected to
20 serve two years and two trustees shall be elected to serve four years.
21 The two trustees receiving the highest and second highest number of votes
22 or tied for the highest number of votes shall serve the four-year terms,
23 and the trustee receiving the next highest number of votes shall serve
24 the two-year term. Thereafter the board members shall be elected as
25 provided in the Election Act. The terms shall begin on the first regular
26 meeting of the board in December following the statewide general
27 election. The changes made to this section by Laws 1994, LB 76, and Laws
28 1995, LB 194, shall not change the staggering of the terms of the board
29 members in villages established prior to January 1, 1995.

30 **Sec. 3.** (1) Pursuant to petitions filed or a vote of the village
31 board of trustees under subsection (2) of this section, the registered

1 voters in any village may vote at any statewide general election as to
2 whether the village board of trustees shall consist of three or five
3 members. Upon the completion of the canvass by the county canvassing
4 board, the proposition shall be decided and, if the number of members is:

5 (a) Increased from three to five members, vacancies shall be deemed
6 to exist and the procedures set forth in sections 32-568 and 32-569 shall
7 be followed; or

8 (b) Decreased from five to three members, the procedures set forth
9 in section 17-202 shall be followed.

10 (2)(a) A registered voter of a village may file a petition or
11 petitions for the submission of the question regarding the number of
12 members on the village board of trustees. The petition or petitions shall
13 be signed by registered voters equal in number to at least five percent
14 of the electors registered to vote in the village at the preceding
15 statewide general election. The petitions shall conform with the
16 requirements of section 32-628 and be procured from the village clerk
17 with assistance from the election commissioner or county clerk. The
18 petitions shall be filed with the election commissioner or county clerk
19 not less than seventy days prior to the date of the general election. No
20 signatures shall be added or removed from the petitions after they have
21 been filed. Petitions shall be verified as provided in section 32-631.

22 (b) A village board of trustees may, by majority vote of all
23 members, adopt a resolution for the submission of the question regarding
24 the number of members on the village board. The resolution shall be filed
25 with the election commissioner or county clerk not less than seventy days
26 prior to the date of the general election.

27 (3) If the resolution is so filed or the petition or petitions are
28 found to contain the required number of valid signatures, the election
29 commissioner or county clerk shall cause the question to be submitted to
30 the voters of the village at such statewide general election and give
31 notice thereof in the general notice of such election. The form of the

1 ballot shall be respectively: For three members of the village board of
2 trustees or for five members of the village board; and the same shall be
3 printed upon the regular ballots cast for officers voted for at such
4 election and shall be counted and canvassed in the same manner.

5 (4) If a majority of votes cast at the election favor the
6 proposition for three members of the village board of trustees,
7 thereafter the village shall have three members, and if a majority of the
8 ballots cast at the election favor the proposition for five members of
9 the village board, thereafter the village shall have five members.

10 **Sec. 4.** Section 18-2709, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 18-2709 (1) Qualifying business means any corporation, partnership,
13 limited liability company, or sole proprietorship which derives its
14 principal source of income from any of the following: The manufacture of
15 articles of commerce; the conduct of research and development; the
16 processing, storage, transport, or sale of goods or commodities which are
17 sold or traded in interstate commerce; the sale of services in interstate
18 commerce; headquarters facilities relating to eligible activities as
19 listed in this section; telecommunications activities, including services
20 providing advanced telecommunications capability; tourism-related
21 activities; or the production of films, including feature, independent,
22 and documentary films, commercials, and television programs.

23 (2) Qualifying business also means:

24 (a) In cities of the first class, cities of the second class, and
25 villages, a business that derives its principal source of income from the
26 construction or rehabilitation of housing;

27 (b) In cities of the first class, cities of the second class, and
28 villages, a business that derives its principal source of income from
29 early childhood care and education programs;

30 (c) A business that derives its principal source of income from
31 retail trade, ~~except that no more than forty percent of the total~~

1 ~~revenue generated pursuant to the Local Option Municipal Economic~~
2 ~~Development Act for an economic development program in any twelve-month~~
3 ~~period and no more than twenty percent of the total revenue generated~~
4 ~~pursuant to the act for an economic development program in any five-year~~
5 ~~period, commencing from the date of municipal approval of an economic~~
6 ~~development program, shall be used by the city for or devoted to the use~~
7 ~~of retail trade businesses.~~ For purposes of this subdivision, retail
8 trade means a business which is principally engaged in the sale of goods
9 or commodities to ultimate consumers for their own use or consumption and
10 not for resale; and

11 (d) In cities with a population of five thousand inhabitants or less
12 as determined by the most recent federal decennial census or the most
13 recent revised certified count by the United States Bureau of the Census,
14 a business shall be a qualifying business even though it derives its
15 principal source of income from activities other than those set out in
16 this section.

17 (3) If a business which would otherwise be a qualifying business
18 employs people and carries on activities in more than one city in
19 Nebraska or will do so at any time during the first year following its
20 application for participation in an economic development program, it
21 shall be a qualifying business only if, in each such city, it maintains
22 employment for the first two years following the date on which such
23 business begins operations in the city as a participant in its economic
24 development program at a level not less than its average employment in
25 such city over the twelve-month period preceding participation.

26 (4) A qualifying business need not be located within the territorial
27 boundaries of the city from which it is or will be receiving financial
28 assistance.

29 (5) Qualifying business does not include a political subdivision, a
30 state agency, or any other governmental entity, except as allowed for
31 cities of the first class, cities of the second class, and villages for

1 rural infrastructure development as provided for in subdivision (3)(b) of
2 section 18-2705.

3 **Sec. 5.** Section 19-911, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 19-911 Notwithstanding the provisions of sections 19-907 and 19-908,
6 the city council of a city of the first class, the city council of a city
7 of the second class, or a ~~the~~ village board of trustees may, except as
8 set forth in section 19-912.01, provide by ordinance that such city
9 council or village board ~~it~~ shall constitute a board of adjustment, and
10 in the regulations and restrictions adopted pursuant to the authority of
11 sections 19-901 to 19-905 may provide that as such board of adjustment it
12 may exercise only the powers granted to boards of adjustment by section
13 19-910. As such board of adjustment, the city council or ~~the~~ village
14 board of trustees shall adopt rules and procedures that are in harmony
15 with sections 19-907 to 19-910 and shall have the powers and duties of a
16 board of adjustment provided for in such sections, and other parties
17 shall have all the rights and privileges provided for in such sections.
18 The concurring vote of two-thirds of the members of the city council or
19 ~~the~~ village board of trustees acting as a board of adjustment shall
20 decide any question upon which it is required to pass as such board of
21 adjustment.

22 **Sec. 6.** Original sections 17-201, 17-202, and 19-911, Reissue
23 Revised Statutes of Nebraska, and section 18-2709, Revised Statutes
24 Cumulative Supplement, 2024, are repealed.