

LEGISLATIVE BILL 595

Approved by the Governor June 9, 1997

Introduced by Robinson, 16

AN ACT relating to schools and school districts; to amend sections 79-550 and 79-1016, Reissue Revised Statutes of Nebraska, and sections 32-543 and 32-553 to 32-555, Revised Statutes Supplement, 1996; to provide for the nomination of members of the board of education of Class III school districts by district or ward and election at large; to change provisions relating to adjusted valuation used in the calculation of state aid; 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 32-543, Revised Statutes Supplement, 1996, is amended to read:

32-543. (1) If more than seventy-five percent of the geographical area of a Class III school district lies within a city of the metropolitan class, the board of education shall consist of six members to be elected by the registered voters of the school district at the statewide primary election. Two members shall be elected at each election for a term of six years. The members shall meet the qualifications found in section 79-543.

(2) Except as provided in subsection (1) of this section, members of the board of education of a Class III school district shall be nominated at the statewide primary election and elected at the statewide general election. The board of education of a Class III school district shall have six or nine members as provided in section 79-549 or 79-550, and the members shall be nominated and elected at large or by district or ward as provided in section 32-554 or nominated by district or ward and elected at large as provided in section 79-550. The number of members to be nominated at the statewide primary election and elected at the statewide general election and the terms for which they will be nominated and elected shall be determined by the election commissioner or county clerk with the aid of the elected secretary of the board of education of the district. The terms of office of members of such board shall expire on the first Thursday after the first Tuesday in January. Terms shall be staggered so that three members shall be elected to each six-member board and four or five members shall be elected to each nine-member board at each general election for terms of four years. When it becomes necessary to establish the staggering of terms by nominating and electing members for terms of different duration at the same election, candidates receiving the greatest number of votes shall be nominated. The members shall meet the qualifications found in section 79-543.

Sec. 2. Section 32-553, Revised Statutes Supplement, 1996, is amended to read:

32-553. (1) When any political subdivision except a public power district nominates or elects members of the governing board by districts, such districts shall be substantially equal in population as determined by the most recent federal decennial census. Any such political subdivision which has districts in place on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, shall, if necessary to maintain substantial population equality as required by this subsection, have new district boundaries drawn within six months after the passage and approval of the legislative bill providing for reestablishing legislative districts. Any such political subdivision in existence on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, and which has not established any district boundaries shall establish district boundaries pursuant to this section within six months after such date. If the deadline for drawing or redrawing district boundary lines imposed by this section is not met, the procedures set forth in section 32-555 shall be followed.

(2) The governing board of each such political subdivision shall be responsible for drawing its own district boundaries and shall, as nearly as possible, follow the precinct lines created by the election commissioner or county clerk after each federal decennial census, except that the election commissioner of any county in which a city of the metropolitan class is located shall draw district boundaries for such city as required under this section and section 14-201.03 and the election commissioner of any county in

which a Class IV or V school district is located shall draw district boundaries for such school district as provided in this section and section 32-552.

Sec. 3. Section 32-554, Revised Statutes Supplement, 1996, is amended to read:

32-554. (1) Any city not under a home rule charter, village, county, or school district nominating and electing members to its governing board at large may at a general election submit the question of nominating and electing members to its governing board by district or ward. Any city not under a home rule charter, village, county having not more than three hundred thousand inhabitants, or school district nominating and electing members to its governing board by district or ward may at a general election submit the question of nominating and electing members to its governing board at large.

(2) Petitions for submission of the question shall be prepared, circulated, and signed by registered voters of the city, village, county, or school district desiring to change the procedures for electing the governing board of the city, village, county, or school district. The petition or petitions shall be signed by registered voters equal in number to twenty-five percent of the votes cast for the person receiving the highest number of votes in the city, village, county, or school district at the preceding general election for electing the last member or members to its governing board. Each sheet of the petition shall have printed the full and correct copy of the question as it will appear on the official ballot. The petitions shall be filed with the county clerk or election commissioner not less than seventy days prior to the date of the general election, and no signatures shall be added or removed from the petitions after they have been so filed. If the petition or petitions are found to contain the required number of valid signatures, the county clerk or election commissioner shall place the question on a separate ballot to be issued to the registered voters of the city, village, county, or school district entitled to vote on the question.

(3)(a) Any city, village, county, or school district voting to change from nominating and electing the members of its governing board by district or ward to nominating and electing such members at large shall notify the public and instruct the filing officer to accept all filings on an at-large basis. Candidates shall be nominated and elected on an at-large basis at the next primary and general election following submission of the question.

(b) Any city, village, county, or school district voting to change from nominating and electing the members of its governing board at large to nominating and electing by district or ward shall notify the public and instruct the filing officer to accept all filings by district or ward. Candidates shall be nominated and elected by district or ward at the next primary and general election following submission of the question. When district or ward elections have been approved by the majority of the electorate, the governing board of any city, village, county, or school district approving such question shall establish districts substantially equal in population as determined by the most recent federal decennial census except as provided in subsection (2) of section 32-553.

(4) Except as provided in section 14-201, each city not under a home rule charter, village, county, and school district which votes to nominate and elect members to its governing board by district or ward shall establish districts or wards so that the members of its governing board may be nominated and elected from districts or wards bearing odd numbers at one election and from districts or wards bearing even numbers at the following election. Districts or wards shall be created not later than October 1 in the year following the general election at which the question was voted upon. If the governing board fails to draw district boundaries by October 1, the procedures set forth in section 32-555 shall be followed.

Sec. 4. Section 32-555, Revised Statutes Supplement, 1996, is amended to read:

32-555. (1) Except as provided in subsection (4) of this section, if the governing board of any city, village, county, or school district which nominates or elects members to the board by district or ward fails to draw district boundaries by the date established in subsection (1) of section 32-553 or subsection (4) of section 32-554, the county attorney of the county in which the board is located shall file an action in the district court for the purpose of ordering the board to draw district boundaries. If within six months after the receipt of such order the board does not comply, the members of the board shall be subject to removal and the court shall order the Secretary of State to draw district boundaries in accordance with the most recent federal decennial census. Any vacancy resulting from such removal from office shall be filled as provided by law.

(2) If the county attorney fails to file the action required by subsection (1) of this section, he or she shall be subject to removal from office. If the county attorney fails to file such action, any citizen within the jurisdiction of the governing board may file the action. The court shall order the board to pay any costs and attorney's fees involved in such action.

(3) If an election commissioner required to draw district boundaries for a city of the metropolitan class pursuant to section 32-553 fails to do so, the election commissioner shall be subject to (a) suit by the county attorney for the purpose of ordering the drawing of district boundaries, (b) removal from office pursuant to section 32-214 for failure to comply with an order to draw district boundaries within six months of receipt of such order, and (c) suit by any citizen for the purpose of ordering the drawing of district boundaries and shall be obligated to pay any costs and attorney's fees involved in any such action.

(4) If the county board of any county having more than three hundred thousand inhabitants fails to complete the process of drawing district boundaries as provided for in sections 23-151 and 32-553, the procedures set forth in subdivision (3)(b) of section 23-151 shall be followed.

Sec. 5. Section 79-550, Reissue Revised Statutes of Nebraska, is amended to read:

79-550. (1) A Class III school district with a six-member board of education may by resolution provide for an increase in the number of members from six to nine. The board of education shall appoint members to fill the three vacancies thus created in the manner prescribed in section 32-570.

(2) A Class III school district with a nine-member board of education may by resolution provide for decreasing the number of members of the board of education from nine to six. When such a decrease is provided, three of the vacancies which would otherwise occur at the next election shall not be filled.

(3) If the members of the board of education of a Class III school district are nominated and elected by district or ward, the board of education may by resolution provide for the nomination of the members by district or ward and the election of the members at large. If the members are nominated by district or ward and elected at large, the board of education may by resolution provide for the nomination and election of the members by district or ward.

Sec. 6. Section 79-1016, Reissue Revised Statutes of Nebraska, is amended to read:

79-1016. (1) On or before July 1 of each year, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current calendar year of each district for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (2) of this section. The Property Tax Administrator shall also notify each school district of its adjusted valuation for the current calendar year by class on or before July 1 of each year. Establishment of the adjusted valuation shall be based on assessment practices established by rule and regulation adopted and promulgated by the Property Tax Administrator. The assessment practices may include, but not be limited to, the appraisal techniques listed in section 77-112.

(2) For purposes of this section, state aid value means:

(a) For real property other than agricultural land, one hundred percent of market value;

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to 77-1365;

(c) For personal property other than motor vehicles, the net book value as defined in section 77-120; and

(d) For motor vehicles, the value established pursuant to section 77-1239.

(3) Prior to August 1 any school district may file with the Property Tax Administrator written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Property Tax Administrator shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. Prior to December 1, the Property Tax Administrator shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written

objections or at hearing. The final determination of the Property Tax Administrator may be appealed to the Tax Equalization and Review Commission.

(4) The Property Tax Administrator shall, on the date the adjusted valuations are certified to the State Department of Education under subsection (1) of this section, cause to be published notice of such adjusted valuations in a newspaper published or of general circulation in each county in Nebraska.

(5) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.

(6) Beginning with the 1997-98 school fiscal year, in the school fiscal year beginning during the calendar year that a county board adopts special valuation for all qualifying property in the county pursuant to sections 77-1343 to 77-1348, the adjusted valuation used in the calculation of state aid shall not exceed one hundred eight percent of the assessed valuation for the property tax year on which the adjusted valuation is based.

Sec. 7. Original sections 79-550 and 79-1016, Reissue Revised Statutes of Nebraska, and sections 32-543 and 32-553 to 32-555, Revised Statutes Supplement, 1996, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.