

## LEGISLATIVE BILL 630

Approved by the Governor April 18, 1994

Introduced by Hartnett, 45; Will, 8; Abboud, 12

AN ACT relating to political subdivisions; to amend sections 16-404, 17-614, 19-903, and 31-766, Reissue Revised Statutes of Nebraska, 1943, and section 19-929, Revised Statutes Supplement, 1993; to define terms; to provide duties and limitations for certain municipalities annexing territory; to change provisions relating to the comprehensive development plan; to change provisions relating to annexation of sanitary and improvement districts as provided; to provide operative dates; and to repeal the original sections.

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

Section 1. (1) For purposes of this section, municipality shall mean any city of the first or second class or village which elects members of its governing board by districts.

(2) Any municipality which annexes territory and thereby brings sufficient new residents into such municipality so as to require that election districts be redrawn to maintain substantial population equality between districts shall redistrict its election districts so that such districts are substantially equal in population within one hundred and eighty days after the effective date of the ordinance annexing the territory. Such redistricting shall create election districts which are substantially equal in population as determined by the most recent federal decennial census.

(3) No municipality which proposes to annex territory and thereby bring new residents into the municipality shall annex such territory unless the redistricting required by subsection (2) of this section will be accomplished at least eighty days prior to the next primary election in which candidates for the governing body of the municipality are nominated.

(4)(a) No city of the first or second class shall annex any territory during the period from eighty days prior to any primary election in which candidates for the governing body of the city are nominated until the date of the general election of the same year if such annexation would bring sufficient new residents into such city so as to require that election districts be redrawn to maintain substantial population equality between districts.

(b) No village shall annex any territory during the period eighty days prior to the election at which members of the governing body of the village are chosen until the date of such election if such annexation would bring sufficient new residents into such village so as to require that election districts be redrawn to maintain substantial population equality between districts.

(5)(a) No proposed annexation by a municipality shall be restricted or governed by this section unless such annexation would bring sufficient new residents into such municipality so as to require the election districts of the municipality to be redrawn to maintain substantial population equality between districts.

(b) Nothing in this section shall be construed to require a municipality to redraw the boundaries of its election districts following an annexation unless such annexation brought sufficient new residents into such municipality so as to require such redistricting to maintain substantial population equality between districts.

(c) For the purposes of this section only, a municipal annexation shall be held to have brought sufficient new residents into such municipality so as to require that its election districts be redrawn to maintain substantial population equality between districts if, following such annexation, the total range of deviation from the mean population of each election district, according to the most recent federal decennial census, exceeds ten percent.

Sec. 2. That section 16-404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-404. All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the council. The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the council.

Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the council members vote to suspend this requirement, except that in a city having a commission form of government such requirement may be suspended by a three-fifths majority vote. Regardless of the form of government, such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement is suspended, ~~such~~ the ordinances shall be read by title or number and then moved for final passage. Three-fourths of the council members may require a reading of any such ordinance in full before enactment under either procedure set out in this section, except that in a city having a commission form of government such reading may be required by a three-fifths majority vote.

Ordinances shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended ~~shall be~~ is repealed, except that for an ordinance revising all the ordinances of the city, the only title necessary shall be An ordinance of the city of . . . . ., revising all the ordinances of the city. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be ~~and~~ corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title.

Sec. 3. That section 17-614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-614. All ordinances and resolutions, or orders for the appropriation or payment of money, shall require for their passage or adoption the concurrence of a majority of all members elected to the council or board of trustees. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the council vote to suspend this requirement, except that such requirement shall not be suspended for any ordinance for the annexation of territory. In case such requirement ~~shall be~~ is suspended, such ~~the~~ ordinances shall be read by title and then moved for final passage. Three-fourths of the council may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

Ordinances shall contain no subject which ~~shall is~~ is not be clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended, and the ordinance or section so amended ~~shall be~~ is repealed, except that ~~7~~ PROVIDED, for an ordinance revising all the ordinances of the city or village, the title need only state that the ordinance revises all the ordinances of the city or village. Under such title all the ordinances may be revised in sections and chapters, or otherwise, and may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part, without other title.

Sec. 4. That section 19-903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-903. The regulations and restrictions authorized by sections 19-901 to 19-915 shall be ~~made~~ in accordance with a comprehensive development plan which shall consist of both graphic and textual material and shall be designed to accommodate anticipated long-range future growth which shall be based upon documented population and economic projections. The comprehensive development plan shall, among other possible elements, include:

(1) A land-use element which designates the proposed general distributions, general location, and extent of the uses of land for agriculture, housing, commerce, industry, recreation, education, public buildings and lands, and other categories of public and private use of land;

(2) The general location, character, and extent of existing and proposed major roads, streets, and highways, and air and other transportation routes and facilities; and

(3) The general location, type, capacity, and area served of present and projected or needed community facilities including recreation facilities, schools, libraries, other public buildings, and public utilities and services; and

(4)(a) When next amended after January 1, 1995, an identification of sanitary and improvement districts, subdivisions, industrial tracts, commercial tracts, and other discrete developed areas which are or in the future may be appropriate subjects for annexation and (b) a general review of the standards and qualifications that should be met to enable the municipality to undertake annexation of such areas. Failure of the plan to identify subjects for annexation or to set out standards or qualifications for

annexation shall not serve as the basis for any challenge to the validity of an annexation ordinance.

Regulations shall be designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to secure safety from flood; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to protect property against blight and depreciation; to protect the tax base; to secure economy in governmental expenditures; and to preserve, protect, and enhance historic buildings, places, and districts.

Such regulations shall be made with reasonable consideration, among other things, ~~of~~ for the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.

Sec. 5. That section 19-929, Revised Statutes Supplement, 1993, be amended to read as follows:

19-929. (1) Except as provided in sections 19-930 to 19-933, the planning commission shall (a) make and adopt plans for the physical development of the municipality, including any areas outside its boundaries which, in the commission's judgment, bear relation to the planning of such municipality, and including a comprehensive development plan as defined by section 19-903, (b) prepare and adopt such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning ordinance in cooperation with other interested municipal departments, and (c) consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens with relation to the promulgation and implementation of the comprehensive development plan and its implemental programs. The commission may delegate authority to any such group to conduct studies and make surveys for the commission, make preliminary reports on its findings, and hold public hearings before submitting its final reports. The municipal governing body shall not ~~hold its public meetings or~~ take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the planning commission if such commission in fact has been created and is existent. The governing body shall by ordinance set a reasonable time within which the recommendation from the planning commission is to be received. A recommendation from the planning commission shall not be required for subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the governing body has designated, by ordinance, an agent pursuant to section 19-916.

(2) The commission may, with the consent of the governing body, in its own name (a) make and enter into contracts with public or private bodies, (b) receive contributions, bequests, gifts, or grant funds from public or private sources, (c) expend the funds appropriated to it by the municipality, (d) employ agents and employees, and (e) acquire, hold, and dispose of property.

The commission may on its own authority make arrangements consistent with its program, conduct or sponsor special studies or planning work for any public body or appropriate agency, receive grants, remuneration, or reimbursement for such studies or work, and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

(3) The commission may grant conditional uses or special exceptions to property owners for the use of their property if the municipal governing body has, through a zoning ordinance or special ordinance, generally authorized the commission to exercise such powers and has approved the standards and procedures adopted by the commission for equitably and judiciously granting such conditional uses or special exceptions. The granting of a conditional use permit or special exception shall only allow property owners to put their property to a special use if it is among those uses specifically identified in the zoning ordinance as classifications of uses which may require special conditions or requirements to be met by the owners before a use permit or building permit is authorized. The power to grant conditional uses or special exceptions shall be the exclusive authority of the commission, except that the municipal governing body may choose to retain for itself the power to grant conditional uses or special exceptions for those classifications of uses specified in the zoning ordinance. The

municipal governing body may exercise such power if it has formally adopted standards and procedures for granting such conditional uses or special exceptions in a manner that is equitable and will promote the public interest.

Sec. 6. That section 31-766, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-766. If only a part of the territory within any sanitary and improvement district, any road improvement district, or any fire protection district is annexed by a city or village, the road improvement district or fire protection district acting through its trustees or the sanitary and improvement district acting through its trustees or administrator and the city or village acting through its governing body may agree between themselves as to the equitable division of the assets, liabilities, maintenance, or other obligations of the district for a change in the boundaries of the district so as to exclude the portion annexed by the city or village or may agree upon a merger of the district with the city or village. The division of assets, liabilities, maintenance, or other obligations of the district shall be equitable, shall be proportionate to the valuation of the portion of the district annexed and to the valuation of the portion of the district remaining following annexation, and shall, to the greatest extent feasible, reflect the actual impact of the annexation on the ability of the district to perform its duties and responsibilities within its new boundaries following annexation. In event a merger is agreed upon, the city or village shall have all the rights, privileges, duties, and obligations as provided in sections 31-763 to 31-766 when the city annexes the entire territory within the district, and the trustees or administrator shall be relieved of all further duties and liabilities and their bonds exonerated as provided in section 31-764. No agreement between the district and the city or village shall be effective until submitted to and approved by the district court of the county in which the major portion of the district is located. No agreement shall be approved which may prejudice the rights of any bondholder or creditor of the district or employee under contract to the district. The court may authorize or direct amendments to the agreement before approving the same. If the district and city or village do not agree upon the proper adjustment of all matters growing out of the annexation of a part of the territory located within the district, either the district, or the annexing city or village, any bondholder or creditor of the district, or any employee under contract to the district may apply to the district court of the county where the major portion of the district is located for an adjustment of all matters growing out of or in any way connected with the annexation of such territory, and after a hearing thereon the court may enter an order or decree fixing the rights, duties, and obligations of the parties. ~~In  $\gamma$  PROVIDED, that in every case such decree or order shall require a change of the district boundaries so as to exclude from the district that portion of the territory of the district which has been annexed.~~ Such change of boundaries shall become effective on the date of entry of such decree. Only the district and the city or village shall be necessary parties to such an action. Any bondholder or creditor of the district or any employee under contract to the district whose interests may be adversely affected by the annexation may intervene in the action pursuant to section 25-328. The decree when entered shall be binding on both the parties the same as though the parties had voluntarily agreed thereto. Nothing contained in this section shall authorize any district to levy any special assessments within the annexed area after the effective date of annexation.

Sec. 7. Section 1 of this act shall become operative on November 10, 1994. The other sections of this act shall become operative on their effective date.

Sec. 8. That original sections 16-404, 17-614, 19-903, and 31-766, Reissue Revised Statutes of Nebraska, 1943, and section 19-929, Revised Statutes Supplement, 1993, are repealed.