

LEGISLATIVE BILL 230

Approved by the Governor March 13, 1997

Introduced by Wickersham, 49

AN ACT relating to cities and villages; to amend sections 16-202 and 17-503, Revised Statutes Supplement, 1996; to provide for validation of signatures on remonstrance petitions; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 16-202, Revised Statutes Supplement, 1996, is amended to read:

16-202. The power to sell and convey any real estate owned by the city, including park land, except real estate used in the operation of public utilities and except real estate for state armory sites for the use of the State of Nebraska as expressly provided in section 16-201, shall be exercised by ordinance directing the conveyance of such real estate and the manner and terms thereof. Notice of such sale and the terms thereof shall be published for three consecutive weeks in a legal newspaper published in or of general circulation in such city immediately after the passage and publication of such ordinance.

If within thirty days after the passage and publication of such ordinance a remonstrance against such sale is signed by registered voters of the city equal in number to thirty percent of the registered voters of the city voting at the last regular municipal election held therein and is filed with the governing body of such city, the property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Upon the receipt of the remonstrance, the governing body of such city, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The governing body of such city shall deliver the remonstrance to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the election commissioner or county clerk shall issue to the governing body a written receipt that the remonstrance is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the governing body. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, and city, village, or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the governing body. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the governing body finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and

shall count only the earliest dated signature. The election commissioner or county clerk shall certify to the governing body the number of valid signatures necessary to constitute a valid remonstrance. The election commissioner or county clerk shall deliver the remonstrance and the certifications to the governing body within forty days after the receipt of the remonstrance from the governing body. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty signatures on one signature page shall be counted.

The governing body shall, within thirty days after the receipt of the remonstrance and certifications from the election commissioner or county clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The governing body shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

Sec. 2. Section 17-503, Revised Statutes Supplement, 1996, is amended to read:

17-503. (1) Except as provided in section 17-503.01, the power of any city of the second class or village to convey any real and personal property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution directing the sale at public auction or by sealed bid of such real and personal property and the manner and terms thereof, except that such real and personal property shall not be sold at public auction or by sealed bid when:

(a) Such property is being sold in compliance with the requirements of federal or state grants or programs;

(b) Such property is being conveyed to another public agency; or

(c) Such property consists of streets and alleys.

(2) The governing body of any such city or village may establish a minimum price for such real and personal property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(3) After the passage of the resolution directing the sale, notice of all proposed sales of real and personal property described in subsection (1) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in such city or village.

(4) If within thirty days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the city or village equal in number to thirty percent of the registered voters of the city or village voting at the last regular municipal election held therein and is filed with the governing body of such city or village, such property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Upon receipt of the remonstrance, the governing body of such city or village, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The governing body of such city or village shall deliver the remonstrance to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the election commissioner or county clerk shall issue to the governing body a written receipt that the remonstrance is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the governing body. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, and city, village, or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the governing body. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the governing body finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of

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(5) Real estate now owned or hereafter owned by a city of the second class or a village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of sections 18-1001 to 18-1006.

(4) (6) Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) passing of the thirty-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. The municipal clerk shall upon passage of such ordinance certify the name of the purchaser to the register of deeds of the county in which the property is located.

Sec. 3. Original sections 16-202 and 17-503, Revised Statutes Supplement, 1996, are repealed.