

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 199

Introduced By: Schimek, 27

Read first time: January 9, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public bodies; to amend sections 18-2420,
2 18-2425, 18-2436, and 18-2439, Reissue Revised Statutes of
3 Nebraska, and sections 18-2410, 18-2438, and 84-1411,
4 Revised Statutes Cumulative Supplement, 2006; to change
5 provisions relating to municipal cooperative financing and
6 open meetings; to harmonize provisions; and to repeal the
7 original sections.

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

1 Section 1. Section 18-2410, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 18-2410. Municipality shall mean (1) any city or village
4 incorporated under the laws of this state,~~or~~ any equivalent
5 entity incorporated under the laws of another state, or any separate
municipal utility which has autonomous control and was established by
6 such a city, village, or equivalent entity or by the citizens thereof
7 for the purpose of providing electric energy for such municipality
8 or (2) any public entity organized under Chapter 70, article 6, and
9 incorporated under the laws of this state for the sole purpose of
10 providing wholesale electric energy to a single municipality which is
11 incorporated under the laws of this state.

13 Sec. 2. Section 18-2420, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 18-2420. The governing body of each of the municipalities
16 participating in the creation of such agency shall ~~adopt an ordinance~~
17 ~~determining by appropriate action by ordinance or resolution~~
18 determine that there is a need for such agency and ~~setting set~~
19 forth the names of the proposed participating municipalities of the
20 agency. Such an ~~ordinance may be adopted~~ action may be taken by a
21 municipality's governing body on its own motion upon determining, in
22 its discretion, that a need exists for an agency. In determining
23 whether such a need exists, a governing body may take into
24 consideration the present and future needs of the municipality with
25 respect to the commodities and services which an agency may provide,
26 the adequacy and suitability of the supplies of such commodities and
services to meet such needs, and economic or other advantages or

1 efficiencies which may be realized by cooperative action through an
2 agency. Upon the adoption of an ordinance or passage of a resolution
3 as provided in this section, the mayor, in the case of a city, ~~or~~
4 the chairperson of the board of trustees, in the case of a
5 village, or the chairperson of the governing body, of each of the
6 proposed participating municipalities, with the approval of the
7 respective governing body, shall appoint a director who shall be an
8 elector of the municipality for which he or she acts as director. The
9 directors shall constitute the board in which shall be vested all
10 powers of the agency.

11 Sec. 3. Section 18-2425, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 18-2425. After the creation of an agency, any other
14 municipality may become a participating municipality therein upon (1)
15 application to such agency, (2) the adoption of an ordinance or
16 passage of a resolution by the governing body of the municipality
17 setting forth the determination prescribed in section 18-2420 and
18 authorizing such municipality to become a participating municipality,
19 and (3) at least a majority vote of the directors, except that an
20 agency's bylaws may require a greater percentage of approval for such
21 authorization. Thereupon such municipality shall become a
22 participating municipality entitled to appoint a director or directors
23 of such agency in the manner prescribed by section 18-2420 and to
24 otherwise participate in such agency to the same extent as if such
25 municipality had participated in the creation of the agency. Upon the
26 filing with the Secretary of State of certified copies of the
27 ordinances and resolutions described in this section, the Secretary

1 of State shall issue an amended certificate of incorporation setting
2 forth the names of the participating municipalities.

3 Sec. 4. Section 18-2436, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 18-2436. Each participating municipality shall be entitled
6 to appoint one director, but with the approval of each of the
7 participating municipalities as evidenced by an ordinance or
8 resolution of the governing body thereof, an agency's bylaws may
9 contain a provision entitling any of the participating municipalities
10 to appoint more than one director and specifying the number of
11 directors to be appointed by each of the participating municipalities
12 of the agency. The number of directors may be increased or decreased
13 from time to time by an amendment to the bylaws approved by each of
14 the participating municipalities as evidenced by an ordinance or
15 resolution of the governing body thereof. Each participating
16 municipality shall at all times be entitled to appoint at least one
17 director. Each director shall be entitled to one vote, but with the
18 approval of each of the participating municipalities as evidenced by
19 an ordinance or resolution of the governing body thereof, an
20 agency's bylaws may contain a provision entitling any director or
21 directors to cast more than one vote and specifying the number or
22 numbers of votes such director or directors may cast. Unless the
23 bylaws of the agency shall require a larger number, a quorum of the
24 board shall be constituted for the purpose of conducting the business
25 and exercising the powers of the agency and for all other purposes
26 when directors are present who are entitled to cast a majority of the
27 total votes which may be cast by all of the board's directors. Action

1 may be taken upon a vote of a majority of the votes which the
2 directors present are entitled to cast unless the bylaws of the agency
3 shall require a larger number. The manner of scheduling regular board
4 meetings and the method of calling special board meetings, including
5 the giving or waiving notice thereof, shall be as provided in the
6 bylaws. Such meetings may be held by any means permitted by the Open
7 Meetings Act.

8 Sec. 5. Section 18-2438, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 18-2438. The board of an agency may create an executive
11 committee the composition of which shall be set forth in the bylaws of
12 the agency. The executive committee shall have and exercise the power
13 and authority of the board during intervals between the board's
14 meetings in accordance with the board's bylaws, rules, motions, or
15 resolutions. The terms of office of the members of the executive
16 committee and the method of filling vacancies shall be fixed by the
17 bylaws of the agency. The board may also create one or more committees
18 to which the board may delegate such powers and duties as the board
19 shall specify. In no event shall any committee be empowered to
20 authorize the issuance of bonds. The membership and voting
21 requirements for action by a committee shall be specified by the
22 board. An agency which contracts with municipalities outside the State
23 of Nebraska may hold meetings outside the State of Nebraska if such
24 meetings are held only in such contracting municipalities. Meetings
25 of any committee which is a public body for purposes of the Open
26 Meetings Act may be held by any means permitted by the act.

27 Sec. 6. Section 18-2439, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 18-2439. An agency shall be dissolved upon the adoption, by
3 the governing bodies of at least half of the participating
4 municipalities, of an ordinance or resolution setting forth the
5 determination that the need for such municipality to act cooperatively
6 through an agency no longer exists. An agency shall not be dissolved
7 so long as the agency has bonds outstanding, unless provision for full
8 payment of such bonds and interest thereon, by escrow or otherwise,
9 has been made pursuant to the terms of such bonds or the ordinance,
10 resolution, trust indenture, or security instrument securing such
11 bonds. If the governing bodies of one or more, but less than a
12 majority, of the participating municipalities adopt such an ordinance
13 or resolution, such municipalities shall be permitted to withdraw
14 from participation in the agency, but such withdrawal shall not
15 affect the obligations of such municipality pursuant to any contracts
16 or other agreements with such agency. Such withdrawal shall not impair
17 the payment of any outstanding bonds or interest thereon. In the event
18 of the dissolution of an agency, its board shall provide for the
19 disposition, division, or distribution of the agency's assets among
20 the participating municipalities by such means as such board shall
21 determine, in its sole discretion, to be fair and equitable.

22 Sec. 7. Section 84-1411, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 84-1411. (1) Each public body shall give reasonable advance
25 publicized notice of the time and place of each meeting by a method
26 designated by each public body and recorded in its minutes. Such
27 notice shall be transmitted to all members of the public body and to

1 the public. Such notice shall contain an agenda of subjects known at
2 the time of the publicized notice or a statement that the agenda,
3 which shall be kept continually current, shall be readily available
4 for public inspection at the principal office of the public body
5 during normal business hours. Agenda items shall be sufficiently
6 descriptive to give the public reasonable notice of the matters to be
7 considered at the meeting. Except for items of an emergency nature,
8 the agenda shall not be altered later than (a) twenty-four hours
9 before the scheduled commencement of the meeting or (b) forty-eight
10 hours before the scheduled commencement of a meeting of a city council
11 or village board scheduled outside the corporate limits of the
12 municipality. The public body shall have the right to modify the
13 agenda to include items of an emergency nature only at such public
14 meeting.

15 (2) A meeting of a state agency, state board, state
16 commission, state council, or state committee, of an advisory
17 committee of any such state entity, of an organization created under
18 the Interlocal Cooperation Act, the Joint Public Agency Act, or the
19 Municipal Cooperative Financing Act, of the governing body of a public
20 power district having a chartered territory of more than fifty
21 counties in this state, or of the governing body of a risk management
22 pool or its advisory committees organized in accordance with the
23 Intergovernmental Risk Management Act may be held by means of
24 videoconferencing or, in the case of the Judicial Resources Commission
25 in those cases specified in section 24-1204, by telephone conference,
26 if:

27 (a) Reasonable advance publicized notice is given;

1 (b) Reasonable arrangements are made to accommodate the
2 public's right to attend, hear, and speak at the meeting, including
3 seating, recordation by audio or visual recording devices, and a
4 reasonable opportunity for input such as public comment or questions
5 to at least the same extent as would be provided if videoconferencing
6 or telephone conferencing was not used;

7 (c) At least one copy of all documents being considered is
8 available to the public at each site of the videoconference or
9 telephone conference;

10 (d) At least one member of the state entity, advisory
11 committee, or governing body is present at each site of the
12 videoconference or telephone conference; and

13 (e) No more than one-half of the state entity's, advisory
14 committee's, or governing body's meetings in a calendar year are held
15 by videoconference or telephone conference.

16 Videoconferencing, telephone conferencing, or conferencing
17 by other electronic communication shall not be used to circumvent any
18 of the public government purposes established in the Open Meetings
19 Act.

20 (3) A meeting of the governing body of an entity formed
21 under the Interlocal Cooperation Act,~~or~~ the Joint Public Agency
22 Act, or the Municipal Cooperative Financing Act or of the governing
23 body of a risk management pool or its advisory committees organized in
24 accordance with the Intergovernmental Risk Management Act may be held
25 by telephone conference call if:

26 (a) The territory represented by the member public agencies
27 of the entity or pool covers more than one county;

1 (b) Reasonable advance publicized notice is given which
2 identifies each telephone conference location at which a member of the
3 entity's or pool's governing body will be present;

4 (c) All telephone conference meeting sites identified in the
5 notice are located within public buildings used by members of the
6 entity or pool or at a place which will accommodate the anticipated
7 audience;

8 (d) Reasonable arrangements are made to accommodate the
9 public's right to attend, hear, and speak at the meeting, including
10 seating, recordation by audio recording devices, and a reasonable
11 opportunity for input such as public comment or questions to at least
12 the same extent as would be provided if a telephone conference call
13 was not used;

14 (e) At least one copy of all documents being considered is
15 available to the public at each site of the telephone conference call;

16 (f) At least one member of the governing body of the entity
17 or pool is present at each site of the telephone conference call
18 identified in the public notice;

19 (g) The telephone conference call lasts no more than one
20 hour; and

21 (h) No more than one-half of the entity's or pool's meetings
22 in a calendar year are held by telephone conference call.

23 Nothing in this subsection shall prevent the participation
24 of consultants, members of the press, and other nonmembers of the
25 governing body at sites not identified in the public notice. Telephone
26 conference calls, emails, faxes, or other electronic communication
27 shall not be used to circumvent any of the public government purposes

1 established in the Open Meetings Act.

2 (4) The secretary or other designee of each public body
3 shall maintain a list of the news media requesting notification of
4 meetings and shall make reasonable efforts to provide advance
5 notification to them of the time and place of each meeting and the
6 subjects to be discussed at that meeting.

7 (5) When it is necessary to hold an emergency meeting
8 without reasonable advance public notice, the nature of the emergency
9 shall be stated in the minutes and any formal action taken in such
10 meeting shall pertain only to the emergency. Such emergency meetings
11 may be held by means of electronic or telecommunication equipment. The
12 provisions of subsection (4) of this section shall be complied with in
13 conducting emergency meetings. Complete minutes of such emergency
14 meetings specifying the nature of the emergency and any formal action
15 taken at the meeting shall be made available to the public by no later
16 than the end of the next regular business day.

17 (6) A public body may allow a member of the public or any
18 other witness other than a member of the public body to appear before
19 the public body by means of video or telecommunications equipment.

20 Sec. 8. Original sections 18-2420, 18-2425, 18-2436, and
21 18-2439, Reissue Revised Statutes of Nebraska, and sections 18-2410,
22 18-2438, and 84-1411, Revised Statutes Cumulative Supplement, 2006,
23 are repealed.