

LEGISLATIVE BILL 248

Approved by the Governor March 19, 2007

Introduced by Nantkes, 46

FOR AN ACT relating to road improvement districts; to amend sections 39-1601, 39-1605, 39-1606, and 39-1607, Reissue Revised Statutes of Nebraska; to change and eliminate provisions for election of the board of trustees; to provide for elections to be held by mail; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal section 32-551, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 39-1601, Reissue Revised Statutes of Nebraska, is amended to read:

39-1601 (1) Whenever a petition, (a) containing a definite description of the territory to be embraced, (b) designating the name of the proposed district, and (c) signed by ten percent of the landowners within the limits of a proposed road improvement district ~~shall be~~ is presented and filed with the county board of the county ~~wherein in which~~ the greater portion of the area of the proposed district is located, the county board of any such county shall cause the question to be submitted to the legal voters of such proposed road improvement district as provided in section 39-1605. If fifty-five percent of those voting on the question are in favor of the proposition, the district shall be organized. No lands included within any municipal corporation shall be included in any road improvement district.

(2) Any road improvement district, ~~referred to in subsection (1) of this section,~~ can be dissolved, if there are no outstanding debts, by the board of trustees of any such district, on its own motion or on the request in writing of ten electors, submitting at ~~any regular~~ a special election, after due notice by publication in the manner provided for in subsection (1) of section 39-1604, the question of dissolution of the road improvement district. The special election shall be conducted by mail as provided in sections 32-953 to 32-959. If fifty-one percent of the votes cast on the question at such election are in favor of such dissolution, the board of trustees shall cause a record of such election and the vote thereon to be made in the office of the county clerk ~~where in the county in which~~ the election was held to create the district, and the district shall thereupon stand dissolved. An election shall not be required for the dissolution of the district if a petition requesting the district be dissolved, signed by fifty percent of the owners of property located within the district, is presented to the county board of the county. The county board shall determine the sufficiency of the petition and dissolve the district by an order of such board.

(3) In case a district is dissolved, ~~as referred to in subsections (2) and (3) of pursuant to this section,~~ the funds on hand or to be collected shall be held by the county treasurer in a separate fund, and the trustees of the district shall petition the district court of the county in which the election to form the district was held, for an order approving the distribution of funds to the landowners or easement owners as a dividend on the same basis as collected. ~~PROVIDED,~~ an election, ~~referred to in subsection (2) of this section,~~ will not be required for the dissolution of the district if a petition requesting the district be dissolved, signed by fifty percent of the owners of property located within the district, is presented to the county board of said county. ~~The county board shall determine the sufficiency of the petition and dissolve the district by an order of such board.~~

Sec. 2. Section 39-1605, Reissue Revised Statutes of Nebraska, is amended to read:

39-1605 After the determination by the county board, or a majority thereof, as provided by subsection (2) of section 39-1604, it shall call a special election and submit to the legal voters of the proposed road improvement district the question of the organization of such district and the election of a board of trustees who shall be resident taxpayers. Notice of such election shall be given as provided in subsection (1) of section 39-1604. At such election each legal voter resident within the proposed road improvement district shall have a right to cast a ballot with the words thereon, For road improvement district, or Against road improvement district. ~~The ballots cast shall be received, returned, and canvassed in the same manner as is provided by law for county elections.~~ special election shall be conducted by mail as provided in sections 32-953 to 32-959. The result of such

election shall be entered of record. If fifty-five percent of the votes cast are in favor of the proposed district, such proposed district shall be deemed an organized road improvement district. At the same election there shall be elected three members of a board of trustees. Such members so elected shall be the first board of trustees of such district if the formation of the district is so approved at such election. Such board of trustees shall hold office until their successors are elected and qualified under the provisions of section 39-1606. It shall elect a president and clerk substantially as is provided for in sections 39-1606 and 39-1609.

Sec. 3. Section 39-1606, Reissue Revised Statutes of Nebraska, is amended to read:

39-1606 (1) Any resident property owner desiring to file for the office of trustee of a road improvement district may file for such office with the county clerk or election commissioner of the county in which the greater proportion in area of the district is located, not later than forty-five days before the election, by paying a filing fee of five dollars.

(2)(a) The term of office of every member of a board of trustees of a road improvement district existing on the operative date of this act shall be extended to the first Monday in October following the expiration of the original term. Their successors shall be elected for terms of six years at elections held on the first Tuesday after the second Monday in September of odd-numbered years. The term of office shall begin on the first Monday in October after the election.

(b) The successors to the initial board of trustees of a road improvement district shall be elected on the first Tuesday after the second Monday in September of the first odd-numbered year which is at least fifteen months after the organization of the district pursuant to section 39-1605. One trustee shall be elected for a term of two years, one trustee for a term of four years, and one trustee for a term of six years, and thereafter their respective successors shall be elected for terms of six years at succeeding elections held on the first Tuesday after the second Monday in September of odd-numbered years. The term of office shall begin on the first Monday in October after the election.

(c) Elections under this subsection shall be conducted by mail as provided in sections 32-953 to 32-959.

(3) At the first meeting of the trustees of such district after the election of one or more members, at an election pursuant to section 32-551, the board shall elect one of their number president. Such district shall be a body corporate and politic by name of Road Improvement District No. of County or Counties, as the case may be, with power to sue, be sued, contract, acquire and hold property, and adopt a common seal. Each trustee shall receive as his or her salary the sum of five dollars for each meeting.

Sec. 4. Section 39-1607, Reissue Revised Statutes of Nebraska, is amended to read:

39-1607 If any trustee fails to qualify within sixty days after receipt of ~~his~~ the certificate of election, the office to which he or she was elected shall be declared vacant. Any vacancy, in the board of trustees from any cause, may be filled by the remaining trustees until the next ~~general state election pursuant to section 39-1606~~. At such election a trustee shall be elected by the voters of the district for the balance of the unexpired term of such trustee, if any.

Sec. 5. This act becomes operative on January 1, 2008.

Sec. 6. Original sections 39-1601, 39-1605, 39-1606, and 39-1607, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. The following section is outright repealed: Section 32-551, Reissue Revised Statutes of Nebraska.