

LEGISLATIVE BILL 312

Approved by the Governor February 7, 2008

Introduced by Aguilar, 35; McDonald, 41.

FOR AN ACT relating to government officials; to amend sections 32-562, 32-1205, and 32-1306, Reissue Revised Statutes of Nebraska, and section 32-571, Revised Statutes Cumulative Supplement, 2006; to change provisions relating to resignations, vacancy appointments, recall election costs, and recall elections; and to repeal the original sections.

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

Section 1. Section 32-562, Reissue Revised Statutes of Nebraska, is amended to read:

32-562 The resignation of the incumbent of an elective office may be made as follows:

(1) By the Governor to the Legislature if in session or, if not, to the Secretary of State;

(2) By United States Senators and Representatives in the Congress of the United States, by incumbents elected by all the registered voters of the state, by judges of the Supreme Court, Court of Appeals, district courts, separate juvenile courts, Nebraska Workers' Compensation Court, and county courts, and by Regents of the University of Nebraska to the Governor;

(3) By members of the Legislature to the presiding officer of the Legislature if in session, who shall immediately transmit information of the same to the Governor, or if such body is not in session, to the Governor;

(4) By all county officers to the county board or the county clerk;

(5) By members of the county board to the county clerk;

(6) By all township officers to the township clerk;

(7) By the township clerk to the township board;

(8) By all city or village officers to the city council or village board;

(9) By all school board members to the school board;

(10) By all officers holding appointments to the officer or body by whom they were appointed; and

(11) By all elective officers for which no other method is provided to the body on which they serve.

Such resignation shall be in writing and shall not take effect until accepted by the board or officer to whom the resignation is made. ~~tendered.~~

Sec. 2. Section 32-571, Revised Statutes Cumulative Supplement, 2006, is amended to read:

32-571 Appointments made pursuant to sections 32-565 to 32-570 and 32-573 shall be in writing and shall continue for the unexpired term and until a successor is elected and qualified except as otherwise provided in such sections. The written appointment shall be filed with the Secretary of State or county or township clerk. No person shall be appointed to fill a vacancy unless he or she has the qualifications required to be elected to such office at the time of the appointment unless otherwise specifically provided. Appointments made to fill vacancies created as the result of the recall process shall be subject to subsection (5) of section 32-1308.

Sec. 3. Section 32-1205, Reissue Revised Statutes of Nebraska, is amended to read:

32-1205 A political subdivision in which an official is recalled or a vacancy needs to be filled as the result of a recall petition shall pay the costs of the recall procedure and any special election held as a result of a recall election. If a recall election is canceled pursuant to section 32-1306, the political subdivision shall be responsible for costs incurred related to the canceled election. The costs shall include all chargeable costs as provided in section 32-1202 associated with preparing for and conducting a recall or special election.

Sec. 4. Section 32-1306, Reissue Revised Statutes of Nebraska, is amended to read:

32-1306 (1) If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the governing body of the affected political subdivision that sufficient signatures have been gathered. Notification of the official sought to be removed may be by any method specified in section 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01, by leaving such notice at the official's usual place of residence and mailing a copy by first-class mail to the official's

last-known address.

(2) ~~If the official does not resign within five days after receiving the notice, the~~ The governing body of the political subdivision shall order an election to be held not less than thirty nor more than forty-five days after the ~~expiration of the five-day period,~~ notification of the official whose removal is sought under subsection (1) of this section, except that if any other election is to be held in that district political subdivision within ninety days of the expiration of the five-day period, after such notification, the governing body of the political subdivision shall provide for the holding of the ~~removal recall~~ recall election on the same day. ~~After the governing body sets the date for the recall election,~~ the recall election shall be held regardless of whether All resignations shall be tendered as provided in section 32-562. If the official whose removal is sought resigns before the recall election is held, the governing body may cancel the recall election if the governing body notifies the election commissioner or county clerk of the cancellation at least sixteen days prior to the election, otherwise the recall election shall be held as scheduled.

(3) If the governing body of the political subdivision fails or refuses to order a recall election within the time required, the election may be ordered by the district court having jurisdiction over a county in which the elected official serves. If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election.

Sec. 5. Original sections 32-562, 32-1205, and 32-1306, Reissue Revised Statutes of Nebraska, and section 32-571, Revised Statutes Cumulative Supplement, 2006, are repealed.