

AMENDMENTS TO LB 104

Introduced by Urban Affairs.

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 16-117, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           16-117 (1) Except as provided in sections 13-1111 to  
6 13-1120 and section 2 of this act and subject to this section,  
7 the mayor and city council of a city of the first class may  
8 by ordinance at any time include within the corporate limits of  
9 such city any contiguous or adjacent lands, lots, tracts, streets,  
10 or highways as are urban or suburban in character and in such  
11 direction as may be deemed proper. Such grant of power shall not  
12 be construed as conferring power upon the mayor and city council  
13 to extend the limits of a city of the first class over any  
14 agricultural lands which are rural in character.

15           (2) The invalidity of the annexation of any tract of land  
16 in one ordinance shall not affect the validity of the remaining  
17 tracts of land which are annexed by the ordinance and which  
18 otherwise conform to state law.

19           (3) The city council proposing to annex land under the  
20 authority of this section shall first adopt both a resolution  
21 stating that the city is proposing the annexation of the land and a  
22 plan for extending city services to the land. The resolution shall  
23 state:

1           (a) The time, date, and location of the public hearing  
2 required by subsection (5) of this section;

3           (b) A description of the boundaries of the land proposed  
4 for annexation; and

5           (c) That the plan of the city for the extension of city  
6 services to the land proposed for annexation is available for  
7 inspection during regular business hours in the office of the city  
8 clerk.

9           (4) The plan adopted by the city council shall contain  
10 sufficient detail to provide a reasonable person with a full and  
11 complete understanding of the proposal for extending city services  
12 to the land proposed for annexation. The plan shall (a) state  
13 the estimated cost impact of providing the services to such land,  
14 (b) state the method by which the city plans to finance the  
15 extension of services to the land and how any services already  
16 provided to the land will be maintained, (c) include a timetable  
17 for extending services to the land proposed for annexation, and  
18 (d) include a map drawn to scale clearly delineating the land  
19 proposed for annexation, the current boundaries of the city, the  
20 proposed boundaries of the city after the annexation, and the  
21 general land-use pattern in the land proposed for annexation.

22           (5) A public hearing on the proposed annexation shall be  
23 held within sixty days following the adoption of the resolution  
24 proposing to annex land to allow the city council to receive  
25 testimony from interested persons. The city council may recess  
26 the hearing, for good cause, to a time and date specified at the  
27 hearing.

1           (6) A copy of the resolution providing for the public  
2 hearing shall be published in the official newspaper in the city  
3 at least once not less than ten days preceding the date of the  
4 public hearing. A map drawn to scale delineating the land proposed  
5 for annexation shall be published with the resolution. A copy of  
6 the resolution providing for the public hearing shall be sent by  
7 first-class mail following its passage to the school board of any  
8 school district in the land proposed for annexation.

9           (7) Any owner of property contiguous or adjacent to a  
10 city of the first class may by petition request that such property  
11 be included within the corporate limits of such city. The mayor and  
12 city council may include such property within the corporate limits  
13 of the city without complying with subsections (3) through (6) of  
14 this section.

15           (8) Notwithstanding the requirements of this section, the  
16 mayor and city council are not required to approve any petition  
17 requesting annexation or any resolution or ordinance proposing to  
18 annex land pursuant to this section.

19           Sec. 2. (1) The provisions of this section shall govern  
20 annexation by a city of the first class located in whole or in part  
21 within the boundaries of a county having a population in excess of  
22 one hundred thousand inhabitants but less than two hundred thousand  
23 inhabitants.

24           (2) Except as provided in sections 13-1111 to 13-1120 and  
25 subject to this section, the mayor and city council of a city of  
26 the first class described in subsection (1) of this section may  
27 by ordinance at any time include within the corporate limits of

1 such city any contiguous or adjacent lands, lots, tracts, streets,  
2 or highways as are urban or suburban in character and in such  
3 direction as may be deemed proper. Such grant of power shall not  
4 be construed as conferring power upon the mayor and city council to  
5 extend the limits of such a city over any agricultural lands which  
6 are rural in character.

7 (3) The invalidity of the annexation of any tract of land  
8 in one ordinance shall not affect the validity of the remaining  
9 tracts of land which are annexed by the ordinance and which  
10 otherwise conform to state law.

11 (4) Any owner of property contiguous or adjacent to such  
12 a city may by petition request that such property be included  
13 within the corporate limits of such city.

14 (5) Notwithstanding the requirements of this section, the  
15 mayor and city council are not required to approve any petition  
16 requesting annexation or any resolution or ordinance proposing to  
17 annex land pursuant to this section.

18 (6) Not later than fourteen days prior to the public  
19 hearing before the planning commission on a proposed annexation  
20 by the city, the city clerk shall send notice of the proposed  
21 annexation by certified mail, return receipt requested, to any  
22 of the following entities serving customers in such city or in  
23 the area proposed for annexation: Any natural gas public utility  
24 as defined in section 66-1802; any natural gas utility owned  
25 or operated by the city; any metropolitan utilities district;  
26 any public power district; any public power and irrigation  
27 district; any municipality; any electric cooperative; and any

1 other governmental entity providing electric service. Such notice  
2 shall include a copy of the proposed annexation ordinance, the  
3 date, time, and place of the public hearing before the planning  
4 commission on the proposed annexation ordinance, and a map showing  
5 the boundaries of the area proposed for annexation.

6 (7) Prior to the final adoption of the annexation  
7 ordinance, the minutes of the city council meeting at which  
8 such final adoption was considered shall reflect formal compliance  
9 with the provisions of subsection (6) of this section.

10 (8) No additional or further notice beyond that required  
11 by subsection (6) of this section shall be necessary in the  
12 event (a) that the scheduled city council public hearing on the  
13 proposed annexation is adjourned, continued, or postponed until a  
14 later date or (b) that subsequent to providing such notice the  
15 ordinance regarding such proposed annexation was amended, changed,  
16 or rejected by action of the city council prior to formal passage  
17 of the annexation ordinance.

18 (9) Except for a willful or deliberate failure to cause  
19 notice to be given, no annexation decision made by a city either  
20 to accept or reject a proposed annexation, either in whole or in  
21 part, shall be void, invalidated, or affected in any way because  
22 of any irregularity, defect, error, or failure on the part of the  
23 city or its employees to cause notice to be given as required by  
24 this section if a reasonable attempt to comply with this section  
25 was made.

26 (10) Except for a willful or deliberate failure to cause  
27 notice to be given, the city and its employees shall not be

1 liable for any damage to any person resulting from any failure  
2 to cause notice to be given as required by this section when a  
3 reasonable attempt was made to provide such notice. No action for  
4 damages resulting from the failure to cause notice to be provided  
5 as required by this section shall be filed more than one year  
6 following the date of the formal acceptance or rejection of the  
7 proposed annexation, either in whole or in part, by the city  
8 council.

9           (11) No action to challenge the validity of the  
10 acceptance or rejection of a proposed annexation on the basis of  
11 this section shall be filed more than one year following the date  
12 of the formal acceptance or rejection of the annexation by the city  
13 council.

14           Sec. 3. Section 17-405.01, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           17-405.01 (1) Except as provided in subsection (2) of  
17 this section and section 4 of this act, the mayor and council  
18 of any city of the second class or the chairperson and members  
19 of the board of trustees of any village may by ordinance, except  
20 as provided in sections 13-1111 to 13-1118, at any time, include  
21 within the corporate limits of such city or village any contiguous  
22 or adjacent lands, lots, tracts, streets, or highways as are  
23 urban or suburban in character, and in such direction as may  
24 be deemed proper. Such grant of power shall not be construed as  
25 conferring power to extend the limits of any municipality over any  
26 agricultural lands which are rural in character.

27           (2) The mayor and city council of any city of the

1 second class or the chairperson and members of the board of  
2 trustees of any village may, by ordinance, annex any lands, lots,  
3 tracts, streets, or highways which constitute a redevelopment  
4 project area so designated by the city or village or its community  
5 redevelopment authority in accordance with the provisions of the  
6 Community Development Law and sections 18-2145 to 18-2154 when such  
7 annexation is for the purpose of implementing a lawfully adopted  
8 redevelopment plan containing a provision dividing ad valorem  
9 taxes as provided in subsection (1) of section 18-2147 and which  
10 will involve the construction or development of an agricultural  
11 processing facility, notwithstanding that such lands, lots, tracts,  
12 streets, or highways are not contiguous or adjacent or are not  
13 urban or suburban in character. Such annexation shall comply with  
14 all other provisions of law relating to annexation generally for  
15 cities of the second class and villages. The city or village shall  
16 not, in consequence of the annexation under this subsection of any  
17 noncontiguous land, exercise the authority granted to it by statute  
18 to extend its jurisdiction beyond its corporate boundaries for  
19 purposes of planning, zoning, or subdivision development without  
20 the agreement of any other city, village, or county currently  
21 exercising such jurisdiction over the area surrounding the annexed  
22 redevelopment project area. The annexation of any noncontiguous  
23 land undertaken pursuant to this subsection shall not result in  
24 any change in the service area of any electric utility without  
25 the express agreement of the electric utility serving the annexed  
26 noncontiguous area at the time of annexation, except that at such  
27 time following the annexation of the noncontiguous area as the city

1 or village lawfully annexes sufficient intervening territory so as  
2 to directly connect the noncontiguous area to the main body of  
3 the city or village, such noncontiguous area shall, solely for the  
4 purposes of section 70-1008, be treated as if it had been annexed  
5 by the city or village on the date upon which the connecting  
6 intervening territory had been formally annexed.

7 (3) For the purposes of subsection (2) of this section,  
8 agricultural processing facility means a plant or establishment  
9 where value is added to agricultural commodities through  
10 processing, fabrication, or other means and where eighty percent  
11 or more of the direct sales from the facility are to other than  
12 the ultimate consumer of the processed commodities. A facility  
13 shall not qualify as an agricultural processing facility unless its  
14 construction or development involves the investment of more than  
15 one million dollars derived from nongovernmental sources.

16 Sec. 4. (1) The provisions of this section shall govern  
17 annexation by a city of the second class or village located in  
18 whole or in part within the boundaries of a county having a  
19 population in excess of one hundred thousand inhabitants but less  
20 than two hundred thousand inhabitants.

21 (2) The mayor and council of any city of the second  
22 class or the chairperson and members of the board of trustees  
23 of any village described in subsection (1) of this section may  
24 by ordinance, except as provided in sections 13-1111 to 13-1118,  
25 at any time include within the corporate limits of such city or  
26 village any contiguous or adjacent lands, lots, tracts, streets,  
27 or highways as are urban or suburban in character and in such

1 direction as may be deemed proper. Such grant of power shall  
2 not be construed as conferring power to extend the limits of any  
3 such municipality over any agricultural lands which are rural in  
4 character.

5 (3) Not later than fourteen days prior to the public  
6 hearing before the planning commission on a proposed annexation  
7 by the city or village, the city or village clerk shall send  
8 notice of the proposed annexation by certified mail, return receipt  
9 requested, to any of the following entities serving customers in  
10 such city or village or in the area proposed for annexation: Any  
11 natural gas public utility as defined in section 66-1802; any  
12 natural gas utility owned or operated by the city or village;  
13 any metropolitan utilities district; any public power district;  
14 any public power and irrigation district; any municipality; any  
15 electric cooperative; and any other governmental entity providing  
16 electric service. Such notice shall include a copy of the proposed  
17 annexation ordinance, the date, time, and place of the public  
18 hearing before the planning commission on the proposed annexation  
19 ordinance, and a map showing the boundaries of the area proposed  
20 for annexation.

21 (4) Prior to the final adoption of the annexation  
22 ordinance, the minutes of the city council or village board  
23 meeting at which such final adoption was considered shall reflect  
24 formal compliance with the provisions of subsection (3) of this  
25 section.

26 (5) No additional or further notice beyond that required  
27 by subsection (3) of this section shall be necessary in the event

1 (a) that the scheduled city council or village board public hearing  
2 on the proposed annexation is adjourned, continued, or postponed  
3 until a later date or (b) that subsequent to providing such notice  
4 the ordinance regarding such proposed annexation was amended,  
5 changed, or rejected by action of the city council or village board  
6 prior to formal passage of the annexation ordinance.

7 (6) Except for a willful or deliberate failure to cause  
8 notice to be given, no annexation decision made by a city of the  
9 second class or village either to accept or reject a proposed  
10 annexation, either in whole or in part, shall be void, invalidated,  
11 or affected in any way because of any irregularity, defect, error,  
12 or failure on the part of the city or village or its employees  
13 to cause notice to be given as required by this section if a  
14 reasonable attempt to comply with this section was made.

15 (7) Except for a willful or deliberate failure to cause  
16 notice to be given, the city or village and its employees shall  
17 not be liable for any damage to any person resulting from any  
18 failure to cause notice to be given as required by this section  
19 when a reasonable attempt was made to provide such notice. No  
20 action for damages resulting from the failure to cause notice to be  
21 provided as required by this section shall be filed more than one  
22 year following the date of the formal acceptance or rejection of  
23 the proposed annexation, either in whole or in part, by the city  
24 council or village board.

25 (8) No action to challenge the validity of the acceptance  
26 or rejection of a proposed annexation on the basis of this section  
27 shall be filed more than one year following the date of the formal

1 acceptance or rejection of the annexation by the city council or  
2 village board.

3           Sec. 5. Original sections 16-117 and 17-405.01, Reissue  
4 Revised Statutes of Nebraska, are repealed.