

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 412

FINAL READING

Introduced by Giese, 17.

Read first time January 16, 2009

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to sanitary and improvement districts; to amend
2 section 31-735, Reissue Revised Statutes of Nebraska;
3 to change procedures relating to the conduct of certain
4 district elections; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-735, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 31-735 (1) On the first Tuesday after the second Monday
4 in September which is at least fifteen months after the judgment
5 of the district court creating a sanitary and improvement district
6 and on the first Tuesday after the second Monday in September each
7 two years thereafter, the board of trustees shall cause a special
8 election to be held, at which election a board of trustees of five
9 in number shall be elected. Each member elected to the board of
10 trustees shall be elected to a term of two years and shall hold
11 office until such member's successor is elected and qualified. Any
12 person desiring to file for the office of trustee may file for such
13 office with the election commissioner, or county clerk in counties
14 having no election commissioner, of the county in which the greater
15 proportion in area of the district is located not later than fifty
16 days before the election. If such person will serve on the board of
17 trustees as a designated representative of a limited partnership,
18 general partnership, limited liability company, public, private,
19 or municipal corporation, estate, or trust which owns real estate
20 in the district, the filing shall indicate that fact and shall
21 include appropriate documentation evidencing such fact. No filing
22 fee shall be required. A person filing for the office of trustee to
23 be elected at the election held four years after the first election
24 of trustees and each election thereafter shall designate whether he
25 or she is a candidate for election by the resident owners of such

1 district or whether he or she is a candidate for election by all
2 of the owners of real estate located in the district. If a person
3 filing for the office of trustee is a designated representative of
4 a limited partnership, a general partnership, a limited liability
5 company, a public, private, or municipal corporation, an estate,
6 or a trust which owns real estate in the district, the name of
7 such entity shall accompany the name of the candidate on the ballot
8 in the following form: (Name of candidate) to represent (name of
9 entity) as a member of the board. The name of each candidate shall
10 appear on only one ballot.

11 The name of a person may be written in and voted for
12 as a candidate for the office of trustee, and such write-in
13 candidate may be elected to the office of trustee. A write-in
14 candidate for the office of trustee who will serve as a designated
15 representative of a limited partnership, a general partnership,
16 a limited liability company, a public, private, or municipal
17 corporation, an estate, or a trust which owns real estate in the
18 district shall not be elected to the office of trustee unless
19 (a) each vote is accompanied by the name of the entity which the
20 candidate will represent and (b) within ten days after the date of
21 the election the candidate provides the county clerk or election
22 commissioner with appropriate documentation evidencing his or her
23 representation of the entity. Votes cast which do not carry such
24 accompanying designation shall not be counted.

25 A trustee shall be an owner of real estate located

1 in the district or shall be a person designated to serve as a
2 representative on the board of trustees if the real estate is
3 owned by a limited partnership, a general partnership, a limited
4 liability company, a public, private, or municipal corporation, an
5 estate, or a trust. Notice of the date of the election shall be
6 mailed by the clerk of the district not later than sixty-five days
7 prior to the election to each person who is entitled to vote at the
8 election for trustees whose property ownership or lease giving a
9 right to vote is of record on the records of the register of deeds
10 as of a date designated by the election commissioner or county
11 clerk, which date shall be not more than seventy-five days prior to
12 the election.

13 (2) For any sanitary and improvement district, persons
14 whose ownership or right to vote becomes of record or is received
15 after the date specified pursuant to subsection (1) of this section
16 may vote when such person establishes their right to vote to the
17 satisfaction of the election board. At the first election and at
18 the election held two years after the first election, any person
19 may cast one vote for each trustee for each acre of unplatted
20 land or fraction thereof and one vote for each platted lot which
21 he or she may own in the district. At the election held four
22 years after the first election of trustees, two members of the
23 board of trustees shall be elected by the legal property owners
24 resident within such sanitary and improvement district and three
25 members shall be elected by all of the owners of real estate

1 located in the district pursuant to this section. Every resident
2 property owner may cast one vote for a candidate for each office
3 of trustee to be filled by election of resident property owners
4 only. Such resident property owners may also each cast one vote
5 for each acre of unplatted land or fraction thereof and for each
6 platted lot owned within the district for a candidate for each
7 office of trustee to be filled by election of all property owners.
8 For each office of trustee to be filled by election of all property
9 owners of the district, every legal property owner not resident
10 within such sanitary and improvement district may cast one vote
11 for each acre of unplatted land or fraction thereof and one vote
12 for each platted lot which he or she owns in the district. At
13 the election held eight years after the first election of trustees
14 and at each election thereafter, three members of the board of
15 trustees shall be elected by the legal property owners resident
16 within such sanitary and improvement district and two members shall
17 be elected by all of the owners of real estate located in the
18 district pursuant to this section, except that if more than fifty
19 percent of the homes in any sanitary and improvement district
20 are used as a second, seasonal, or recreational residence, the
21 owners of such property shall be considered legal property owners
22 resident within such district for purposes of electing trustees,
23 and at the election held six years after the first election of
24 trustees and at each election thereafter, three members of the
25 board of trustees shall be elected by the legal property owners

1 resident within such sanitary and improvement district and two
2 members shall be elected by all of the owners of real estate
3 located in the district pursuant to this section. If there are
4 not any legal property owners resident within such district or if
5 not less than ninety percent of the area of the district is owned
6 for other than residential uses, the five members shall be elected
7 by the legal property owners of all property within such district
8 as provided in this section. Any public, private, or municipal
9 corporation owning any land or lot in the district may vote at
10 such election the same as an individual. For purposes of voting for
11 trustees, each condominium apartment under a condominium property
12 regime established prior to January 1, 1984, under the Condominium
13 Property Act or established after January 1, 1984, under the
14 Nebraska Condominium Act shall be deemed to be a platted lot and
15 the lessee or the owner of the lessee's interest, under any lease
16 for an initial term of not less than twenty years which requires
17 the lessee to pay taxes and special assessments levied on the
18 leased property, shall be deemed to be the owner of the property
19 so leased and entitled to cast the vote of such property. When
20 ownership of a platted lot or unplatted land is held jointly by
21 two or more persons, whether as joint tenants, tenants in common,
22 limited partners, members of a limited liability company, or any
23 other form of joint ownership, only one person shall be entitled
24 to cast the vote of such property. The executor, administrator,
25 guardian, or trustee of any person or estate interested shall have

1 the right to vote. No corporation, estate, or irrevocable trust
2 shall be deemed to be a resident owner for purposes of voting for
3 trustees. Should two or more persons or officials claim the right
4 to vote on the same tract, the election board shall determine the
5 party entitled to vote. Such board shall select one of their number
6 chairperson and one of their number clerk. In case of a vacancy on
7 such board, the remaining trustees shall fill the vacancy on such
8 board until the next election.

9 (3) The election commissioner or county clerk shall hold
10 any election required by subsection (1) of this section by sealed
11 mail ballot by notifying the board of trustees on or before July
12 1 of a given year. The election commissioner or county clerk
13 shall, at least twenty days prior to the election, mail a ballot
14 and return envelope to each person who is entitled to vote at
15 the election and whose property ownership or lease giving a right
16 to vote is of record with the register of deeds as of the date
17 designated by the election commissioner or county clerk, which date
18 shall not be more than seventy-five days prior to the election.
19 The ballot and return envelope shall include: (a) The names and
20 addresses of the candidates; (b) room for write-in candidates; and
21 (c) instructions on how to vote and return the ballot. Such ballots
22 shall be returned to the election commissioner or county clerk no
23 later than ~~10 a.m. of the first Thursday following the election.~~ 5
24 p.m. on the date set for the election.

25 Sec. 2. Original section 31-735, Reissue Revised Statutes

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1 of Nebraska, is repealed.