

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 344

Introduced by Ashford, 20.

Read first time January 12, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to municipal counties; to amend sections 13-2801
2 and 13-2810, Reissue Revised Statutes of Nebraska; to
3 change creation provisions; to provide for development of
4 a plan to merge governmental services; to change voting
5 requirements to establish a municipal county; and to
6 repeal the original sections.

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

1 Section 1. Section 13-2801, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2801 (1) One or more counties and at least one of the
4 municipalities in each county may create a municipal county to carry
5 out all county services and all municipal services. The process of
6 creating a municipal county shall begin by passage of a joint
7 resolution by the governing bodies of the counties and municipalities
8 involved or as provided in subsection (4) of this section. ~~The~~
9 joint resolution may be initiated by the governing bodies or by
10 petition as provided in subsection (2) of this section.

11 (2) Whenever registered voters of any county and of at
12 least one municipality in the county, equal in number to ten percent
13 of the total vote cast for Governor in the county or municipality at
14 the preceding election, petition the respective county board and city
15 council or village board of trustees to pass a resolution as
16 contemplated by this section, it shall be the duty of the county
17 board and city council or village board to pass a joint resolution
18 creating an interjurisdictional planning commission. Petitions shall
19 be filed with the county clerk, election commissioner, city clerk, or
20 other officer having charge of the records of the governing body. The
21 official shall ascertain the number of registered voters signing such
22 petitions and transmit his or her findings, along with the petition,
23 to the county board and city council or village board of trustees.

24 (3) Within ninety days after the passage of the joint
25 resolution or within ninety days after receipt of a petition by the

1 registered voters, the governing bodies of the counties and
2 municipalities involved shall create an interjurisdictional planning
3 commission. A commission may also be created by the district court
4 having jurisdiction over the counties and municipalities involved
5 upon the failure by the counties and municipalities to pass a joint
6 resolution after submission of a petition by the registered voters.
7 The commission shall have no less than nine members and no more than
8 twenty-one members representing the counties and municipalities
9 involved as determined by the governing bodies of the counties and
10 municipalities involved in order to achieve proportionate
11 representation. The governing bodies shall select the members.
12 Representation on the commission shall be prorated based upon
13 population of the counties and municipalities involved, except that
14 (a) each county and each municipality involved shall have at least
15 one representative selected by its respective governing body and (b)
16 not more than forty percent of the total membership shall be public
17 officials. Meetings of the commission shall be subject to the Open
18 Meetings Act.

19 (4)(a) The Legislature finds that there is redundancy in
20 services currently being provided by governmental subdivisions in
21 counties which contain a city of the metropolitan class and that an
22 interjurisdictional planning commission should be created to review
23 and plan for the merger of governmental services within such
24 counties. Within ninety days after the effective date of this act, a
25 interjurisdictional planning commission shall be created for each

1 such county to study issues relating to the merger of governmental
2 services of the county and municipalities and to develop a plan for
3 merger of some or all of such services. The plan shall be developed
4 and approved by the commission by July 1, 2012. The commission shall
5 have nine members. The membership shall include:

6 (i) Three members selected by the mayor of the city of
7 the metropolitan class;

8 (ii) Two members selected by the city council of the city
9 of the metropolitan class;

10 (iii) Two members selected by the county board of the
11 county containing the city of the metropolitan class; and

12 (iv) Two members selected jointly by other municipalities
13 within the county containing the city of the metropolitan class.

14 Members shall receive no compensation or expense
15 reimbursement for service on an interjurisdictional planning
16 commission created under this subsection. Members shall not be
17 elected officials or employees of a governmental subdivision.
18 Meetings of the commission shall be subject to the Open Meetings Act.
19 The commission shall terminate twenty-four months after issuance of a
20 report or approval of a plan pursuant to subsection (5) of this
21 section.

22 (b) An interjurisdictional planning commission created
23 under this subsection shall, in addition to the duties prescribed in
24 subsection (5) of this section:

25 (i) Study the various governmental subdivisions in the

- 1 county and services provided by each such governmental subdivision;
2 (ii) Study tax and spending implications of merging
3 governmental services;
4 (iii) Study quality and cost of governmental services;
5 (iv) Study elected officials and develop recommendations
6 regarding the continuation or elimination of such offices as part of
7 the plan;
8 (v) Study all functional areas that could be merged; and
9 (vi) Review the effects of a plan of merger approved by
10 the registered voters.

11 ~~(4)(a)~~ (5)(a) The commission shall hold at least one
12 public hearing prior to preparing the plan for the creation of the
13 municipal county, study all governmental subdivisions in the affected
14 area, and then make a determination of whether creation of a
15 municipal county is in the public interest. If it is not in the
16 public interest to do so, the commission shall issue a report stating
17 its findings, including, but not limited to, any recommendations
18 regarding (i) interlocal agreements, (ii) agreements to provide for
19 the joint delivery of services, or (iii) any other such
20 recommendations. If it is in the public interest to do so, the
21 commission shall prepare one plan for the creation of the municipal
22 county. Such plan shall be approved by the governing body of each
23 county and each municipality involved prior to submission of the
24 issue to a vote of the registered voters unless the commission was
25 created by a petition of the registered voters or pursuant to

1 subsection (4) of this section.

2 (b) The plan shall specify (i) which counties and
3 municipalities will be dissolved upon creation of the municipal
4 county, (ii) the form of government, with an elected executive
5 officer, a professional municipal county manager or administrator
6 appointed by the commission, or both, to operate the executive
7 functions of the municipal county, (iii) the number of council
8 members of the municipal county and whether they will be elected by
9 district or at large, and (iv) which elected officials, if any, will
10 be eliminated.

11 (c) At least ninety days prior to submission of the issue
12 to a vote of the registered voters, the commission and the governing
13 body of each county and each municipality involved shall hold at
14 least one public hearing in its respective jurisdiction and make
15 available for review by residents of the county and municipality all
16 material terms and conditions set forth in the resolution to create
17 the municipal county, including information regarding the tax
18 implications and quality and cost of services to be provided by the
19 proposed plan to create the municipal county.

20 ~~(5)~~(6) Upon approval of the plan by the governing body
21 of each county and each municipality involved, if required, or upon
22 the governing bodies' approval or failure to approve if the
23 commission was created by a petition of the registered voters, the
24 county clerks or election commissioners shall place the issue on the
25 ballot at the next primary, general, or special election.

1 Sec. 2. Section 13-2810, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2810 (1) The powers granted by sections 13-2801 to
4 13-2809 shall not be exercised unless and until the question has been
5 submitted at a primary, general, or special election held within the
6 county or counties involved and in which registered voters within the
7 boundaries of the proposed municipal county are entitled to vote on
8 such question. The ballot question may combine the issues of creation
9 of the municipal county, the merger of the county or counties and its
10 offices, the merger of each municipality proposed to be merged, and
11 the authorization of a local sales and use tax under section 13-2813.

12 (2) The officials of each county and each municipality
13 seeking to form the municipal county shall order the submission of
14 the question for creation by submitting a certified copy of the
15 resolution calling for creation to the election commissioner or
16 county clerk. The question may include any terms or conditions set
17 forth in the resolution, such as the timing of the consolidation
18 implementation, the number and method of election of council members,
19 and any proposed name for the municipal county, and shall
20 specifically state any offices to be eliminated.

21 (3) The election commissioner or county clerk shall give
22 notice of the submission of the question not more than thirty days
23 nor less than ten days before the election by publication one time in
24 one or more newspapers published in or of general circulation within
25 the boundaries of the proposed municipal county in which the question

1 is to be submitted. This notice is in addition to any other notice
2 required under the Election Act.

3 (4)(a) The vote shall be tabulated for (i) all those
4 voting on the question, (ii) those voting who reside in each county
5 and any municipality which would be consolidated into the municipal
6 county, and (iii) those voting who reside in each county but outside
7 any municipality, ~~, and (iv) those voting who reside in each county~~
8 ~~but outside any municipality or any sanitary and improvement~~
9 ~~district.~~

10 (b) If a majority of those voting on the question, a
11 majority of those voting who reside in at least one county to be
12 consolidated, a majority of those voting who reside in at least one
13 municipality which is in one county voting in favor of consolidation,
14 and a majority of those voting who reside in areas in the county to
15 be consolidated which are outside any municipality to be
16 consolidated, ~~and a majority of those voting who reside in each~~
17 ~~county but outside any municipality or any sanitary and improvement~~
18 ~~district~~ vote in favor of consolidation, the municipal county shall
19 be deemed to be created for each county and municipality which had a
20 majority of those voting in favor of consolidation according to the
21 terms of the resolution. If no date of creation is provided in the
22 resolution, the municipal county shall be deemed to be created on the
23 following July 1. Any county in which a majority of those voting
24 approve the consolidation shall be deemed to be abolished, and any
25 municipality in such county which was proposed to be consolidated and

1 in which a majority of those voting who reside in such municipality
2 approve the consolidation shall be deemed to be abolished.

3 (c) The municipal county shall not be created (i) if a
4 majority of those voting on the question are opposed, (ii) if a
5 majority of those voting who reside in every county to be
6 consolidated are opposed, (iii) if a majority of those voting who
7 reside in every municipality to be consolidated which is in a county
8 which approved are opposed, or (iv) if a majority of those voting who
9 reside in areas in a county which approved which are outside any
10 municipality are opposed. ~~, or (v) if a majority of those voting who~~
11 ~~reside in a county which approved but outside any municipality or~~
12 ~~sanitary and improvement district are opposed.~~

13 (5) If a municipality within the boundaries of a
14 municipal county is not a part of the municipal county either because
15 the governing body of the municipality did not approve the resolution
16 seeking inclusion or because the voters of the municipality
17 disapproved the consolidation, the municipality may later seek
18 inclusion into an existing municipal county by passing a resolution
19 seeking inclusion and approval by those voting at a primary, general,
20 or special election. The officials of the municipality shall deliver
21 a certified copy of the resolution to the appropriate officer of the
22 municipal county proposing inclusion. If a majority of those voting
23 in the municipality approve inclusion and a majority of the elected
24 council members of the municipal county vote to approve inclusion of
25 such municipality, the municipality shall be merged into the

1 municipal county. If a majority of those voting in the municipality
2 disapprove or a majority of the elected council members of the
3 municipal county do not vote to approve inclusion of such
4 municipality, it shall not be merged.

5 (6) Any election under this section shall be conducted in
6 accordance with the procedures provided in the Election Act.

7 Sec. 3. Original sections 13-2801 and 13-2810, Reissue
8 Revised Statutes of Nebraska, are repealed.