

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1060

Introduced by Lautenbaugh, 18.

Read first time January 22, 2014

Committee: Education

A BILL

1 FOR AN ACT relating to educational service units; to amend sections
2 32-404, 32-567, 32-608, 32-1301, 32-1302, and 79-1208,
3 Reissue Revised Statutes of Nebraska, sections 32-607,
4 32-1203, 79-1212, and 79-1217, Revised Statutes
5 Cumulative Supplement, 2012, and section 32-606, Revised
6 Statutes Supplement, 2013; to provide for appointment of
7 board members; to eliminate provisions relating to
8 election of board members; to harmonize provisions; to
9 repeal the original sections; and to outright repeal
10 sections 32-515 and 79-1217.01, Reissue Revised Statutes
11 of Nebraska.

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

1 Section 1. Section 32-404, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-404 (1) When any political subdivision holds an
4 election in conjunction with the statewide primary or general
5 election, the election shall be held as provided in the Election Act.
6 Any other election held by a political subdivision shall be held as
7 provided in the act unless otherwise provided by the charter, code,
8 or bylaws of the political subdivision.

9 (2) No later than December 1 of each odd-numbered year,
10 the election commissioner or county clerk shall give notice to each
11 political subdivision of the filing deadlines for the statewide
12 primary election. No later than January 5 of each even-numbered year,
13 the governing board of each political subdivision which will hold an
14 election in conjunction with a statewide primary election shall
15 certify to the Secretary of State, the election commissioner, or the
16 county clerk the name of the subdivision, the number of officers to
17 be elected, the length of the terms of office, the vacancies to be
18 filled by election and length of remaining term, and the number of
19 votes to be cast by a registered voter for each office.

20 (3) No later than July 1 of each even-numbered year, the
21 governing board of each reclamation district, county weed district,
22 village, county under township organization, or public power district
23 receiving annual gross revenue of less than forty million dollars, ~~or~~
24 ~~educational service unit~~ which will hold an election in conjunction
25 with a statewide general election shall certify to the Secretary of

1 State, the election commissioner, or the county clerk the name of the
2 subdivision, the number of officers to be elected, the length of the
3 terms of office, the vacancies to be filled by election and length of
4 remaining term, and the number of votes to be cast by a registered
5 voter for each office.

6 (4) The Secretary of State shall prescribe the forms to
7 be used for certification to him or her, and the election
8 commissioner or county clerk shall prescribe the forms to be used for
9 certification to him or her.

10 Sec. 2. Section 32-567, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 32-567 Vacancies in office shall be filled as follows:

13 (1) In state and judicial district offices and in the
14 membership of any board or commission created by the state when no
15 other method is provided, by the Governor;

16 (2) In county offices, by the county board;

17 (3) In the membership of the county board, by the county
18 clerk, county attorney, and county treasurer;

19 (4) In township offices, by the township board or, if
20 there are two or more vacancies on the township board, by the county
21 board;

22 (5) In offices in public power and irrigation districts,
23 according to section 70-615;

24 (6) In offices in natural resources districts, according
25 to section 2-3215;

1 (7) In offices in community college areas, according to
2 section 85-1514;

3 ~~(8) In offices in educational service units, according to~~
4 ~~section 79-1217;~~

5 ~~(9)~~(8) In offices in hospital districts, according to
6 section 23-3534;

7 ~~(10)~~(9) In offices in metropolitan utilities districts,
8 according to section 14-2104;

9 ~~(11)~~(10) In membership on airport authority boards,
10 according to section 3-502, 3-611, or 3-703, as applicable;

11 ~~(12)~~(11) In membership on the board of trustees of a
12 road improvement district, according to section 39-1607;

13 ~~(13)~~(12) In membership on the council of a municipal
14 county, by the council; and

15 ~~(14)~~(13) For learning community coordinating councils,
16 according to section 32-546.01.

17 Unless otherwise provided by law, all vacancies shall be
18 filled within forty-five days after the vacancy occurs unless good
19 cause is shown that the requirement imposes an undue burden.

20 Sec. 3. Section 32-606, Revised Statutes Supplement,
21 2013, is amended to read:

22 32-606 (1) Any candidate may place his or her name on the
23 primary election ballot by filing a candidate filing form prescribed
24 by the Secretary of State as provided in section 32-607. If a
25 candidate for an elective office is an incumbent of any elective

1 office, the filing period for filing the candidate filing form shall
2 be between December 1 and February 15 prior to the date of the
3 primary election, except for candidates for election in 2013 to the
4 board of education of a Class V school district. No incumbent who
5 resigns from elective office prior to the expiration of his or her
6 term shall file for any office after February 15 of that election
7 year. Incumbent and nonincumbent candidates for election in 2013 to
8 the board of education of a Class V school district and all other
9 candidates shall file for office between December 1 and March 1 prior
10 to the date of the primary election. A candidate filing form may be
11 transmitted by facsimile for the offices listed in subdivision (1) of
12 section 32-607 if (a) the transmission is received in the office of
13 the filing officer by the filing deadline and (b) the original filing
14 form is mailed to the filing officer with a legible postmark bearing
15 a date on or prior to the filing deadline and is in the office of the
16 filing officer no later than seven days after the filing deadline.

17 (2) Any candidate for a township office in a county under
18 township organization, the board of trustees of a village, the board
19 of directors of a reclamation district, the county weed district
20 board, the board of directors of a public power district receiving
21 annual gross revenue of less than forty million dollars, or the
22 school board of a Class II school district, ~~or the board of an~~
23 ~~educational service unit~~ may place his or her name on the general
24 election ballot by filing a candidate filing form prescribed by the
25 Secretary of State as provided in section 32-607. If a candidate for

1 an elective office is an incumbent of any elective office, the filing
2 period for filing the candidate filing form shall be between December
3 1 and July 15 prior to the date of the general election. No incumbent
4 who resigns from elective office prior to the expiration of his or
5 her term shall file for any office after July 15 of that election
6 year. All other candidates shall file for office between December 1
7 and August 1 prior to the date of the general election. A candidate
8 filing form may be transmitted by facsimile for the offices listed in
9 subdivision (1) of section 32-607 if (a) the transmission is received
10 in the office of the filing officer by the filing deadline and (b)
11 the original filing form is mailed to the filing officer with a
12 legible postmark bearing a date on or prior to the filing deadline
13 and is in the office of the filing officer no later than seven days
14 after the filing deadline.

15 (3) Any city having a home rule charter may provide for
16 filing deadlines for any person desiring to be a candidate for the
17 office of council member or mayor.

18 Sec. 4. Section 32-607, Revised Statutes Cumulative
19 Supplement, 2012, is amended to read:

20 32-607 All candidate filing forms shall contain the
21 following statement: I hereby swear that I will abide by the laws of
22 the State of Nebraska regarding the results of the primary and
23 general elections, that I am a registered voter and qualified to be
24 elected, and that I will serve if elected. Candidate filing forms
25 shall also contain the candidate's name; residence address; mailing

1 address if different from the residence address; telephone number;
2 office sought; and party affiliation if the office sought is a
3 partisan office. Candidate filing forms shall be filed with the
4 following filing officers:

5 (1) For candidates for national, state, or congressional
6 office, directors of public power and irrigation districts, directors
7 of reclamation districts, directors of natural resources districts,
8 ~~members of the boards of educational service units,~~ members of
9 governing boards of community colleges, delegates to national
10 conventions, and other offices filled by election held in more than
11 one county and judges desiring retention, in the office of the
12 Secretary of State;

13 (2) For officers elected within a county, in the office
14 of the election commissioner or county clerk. If the candidate is not
15 a resident of the county, he or she shall submit a certificate of
16 registration obtained under section 32-316 with the candidate filing
17 form;

18 (3) For officers in school districts which include land
19 in adjoining counties, in the office of the election commissioner or
20 county clerk of the county in which the greatest number of registered
21 voters entitled to vote for the officers reside. If the candidate is
22 not a resident of the county, he or she shall submit a certificate of
23 registration obtained under section 32-316 with the candidate filing
24 form; and

25 (4) For city or village officers, in the office of the

1 election commissioner or county clerk.

2 Sec. 5. Section 32-608, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 32-608 (1) Except as provided in subsection (4) or (5) of
5 this section, a filing fee shall be paid by or on behalf of each
6 candidate prior to filing for office. For candidates who file in the
7 office of the Secretary of State as provided in subdivision (1) of
8 section 32-607, the filing fee shall be paid to the Secretary of
9 State who shall remit the fee to the State Treasurer for credit to
10 the Election Administration Fund. For candidates for any city or
11 village office, the filing fee shall be paid to the city or village
12 treasurer of the city or village in which the candidate resides. For
13 candidates who file in the office of the election commissioner or
14 county clerk, the filing fee shall be paid to the election
15 commissioner or county clerk in the county in which the office is
16 sought. The election commissioner or county clerk shall remit the fee
17 to the county treasurer. The fee shall be placed in the general fund
18 of the county, city, or village. No candidate filing forms shall be
19 filed until the proper payment or the proper receipt showing the
20 payment of such filing fee is presented to the filing officer. On the
21 day of the filing deadline, the city or village treasurer's office
22 shall remain open to receive filing fees until the hour of the filing
23 deadline.

24 (2) Except as provided in subsection (4) or (5) of this
25 section, the filing fees shall be as follows:

1 (a) For the office of United States Senator, state
2 officers, including members of the Legislature, Representatives in
3 Congress, county officers, and city or village officers, except the
4 mayor or council members of cities having a home rule charter, a sum
5 equal to one percent of the annual salary such candidate will receive
6 if he or she is elected and qualifies for the office for which he or
7 she files as a candidate;

8 (b) For directors of public power and irrigation
9 districts in districts receiving annual gross revenue of forty
10 million dollars or more, twenty-five dollars, and in districts
11 receiving annual gross revenue of less than forty million dollars,
12 ten dollars;

13 (c) For directors of reclamation districts, ten dollars;
14 and

15 (d) For Regents of the University of Nebraska, members of
16 the State Board of Education, and directors of metropolitan utilities
17 districts, twenty-five dollars.

18 (3) All declared write-in candidates shall pay the filing
19 fees that are required for the office at the time that they present
20 the write-in affidavit to the filing officer. Any undeclared write-in
21 candidate who is nominated or elected by write-in votes shall pay the
22 filing fee required for the office within ten days after the canvass
23 of votes by the county canvassing board and shall file the receipt
24 with the person issuing the certificate of nomination or the
25 certificate of election prior to the certificate being issued.

1 (4) No filing fee shall be required for any candidate
2 filing for an office in which a per diem is paid rather than a salary
3 or for which there is a salary of less than five hundred dollars per
4 year. No filing fee shall be required for any candidate for
5 membership on a school board, ~~on the board of an educational service~~
6 ~~unit,~~ on the board of governors of a community college area, on the
7 board of directors of a natural resources district, or on the board
8 of trustees of a sanitary and improvement district.

9 (5) No filing fee shall be required of any candidate
10 completing an affidavit requesting to file for elective office in
11 forma pauperis. A pauper shall mean a person whose income and other
12 resources for maintenance are found under assistance standards to be
13 insufficient for meeting the cost of his or her requirements and
14 whose reserve of cash or other available resources does not exceed
15 the maximum available resources that an eligible individual may own.
16 Available resources shall include every type of property or interest
17 in property that an individual owns and may convert into cash except:

18 (a) Real property used as a home;
19 (b) Household goods of a moderate value used in the home;

20 and

21 (c) Assets to a maximum value of three thousand dollars
22 used by a recipient in a planned effort directed towards self-
23 support.

24 (6) If any candidate dies prior to an election, the
25 spouse of the candidate may file a claim for refund of the filing fee

1 with the proper governing body prior to the date of the election.
2 Upon approval of the claim by the proper governing body, the filing
3 fee shall be refunded.

4 Sec. 6. Section 32-1203, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 32-1203 (1) Each city, village, school district, public
7 power district, sanitary and improvement district, metropolitan
8 utilities district, fire district, natural resources district,
9 community college area, learning community coordinating council,
10 ~~educational service unit, hospital district, reclamation district,~~
11 and library board shall pay for the costs of nominating and electing
12 its officers as provided in subsection (2), (3), or (4) of this
13 section. If a special issue is placed on the ballot at the time of
14 the statewide primary or general election by any political
15 subdivision, the political subdivision shall pay for the costs of the
16 election as provided in subsection (2), (3), or (4) of this section.
17 The districts listed in this subsection shall furnish to the
18 Secretary of State and election commissioner or county clerk any maps
19 and additional information which the election commissioner or county
20 clerk may require in the proper performance of their duties in the
21 conduct of elections and certification of results.

22 (2) The charge for each primary and general election
23 shall be determined by (a) ascertaining the total cost of all
24 chargeable costs as described in section 32-1202, (b) dividing the
25 total cost by the number of precincts participating in the election

1 to fix the cost per precinct, (c) prorating the cost per precinct by
2 the inked ballot inch in each precinct for each political
3 subdivision, and (d) totaling the cost for each precinct for each
4 political subdivision, except that the minimum charge for each
5 primary and general election for each political subdivision shall be
6 fifty dollars.

7 (3) In lieu of the charge determined pursuant to
8 subsection (2) of this section, the election commissioner or county
9 clerk may charge public power districts the fee for election costs
10 set by section 70-610.

11 (4) In lieu of the charge determined pursuant to
12 subsection (2) of this section, the election commissioner or county
13 clerk may bill school districts directly for the costs of an election
14 held under section 10-703.01.

15 Sec. 7. Section 32-1301, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 32-1301 For purposes of sections 32-1301 to 32-1309,
18 filing clerk shall mean the election commissioner or county clerk for
19 recall of elected officers of cities, villages, counties, irrigation
20 districts, natural resources districts, public power districts,
21 school districts, community college areas, ~~educational service units,~~
22 hospital districts, and metropolitan utilities districts.

23 Sec. 8. Section 32-1302, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 32-1302 (1) Except for trustees of sanitary and

1 improvement districts, any elected official of a political
2 subdivision and any elected member of the governing bodies of cities,
3 villages, counties, irrigation districts, natural resources
4 districts, public power districts, school districts, community
5 college areas, ~~educational service units,~~ hospital districts, and
6 metropolitan utilities districts may be removed from office by recall
7 pursuant to sections 32-1301 to 32-1309. A trustee of a sanitary and
8 improvement district may be removed from office by recall pursuant to
9 sections 31-786 to 31-793.

10 (2) If due to reapportionment the boundaries of the area
11 served by the official or body change, the recall procedure and
12 special election provisions of sections 32-1301 to 32-1309 shall
13 apply to the registered voters within the boundaries of the new area.

14 (3) The recall procedure and special election provisions
15 of such sections shall apply to members of the governing bodies
16 listed in subsection (1) of this section, other than sanitary and
17 improvement districts, who are elected by precinct, district, or
18 subdistrict of the political subdivision. Only registered voters of
19 such member's precinct, district, or subdistrict may sign a recall
20 petition or vote at the recall election. The recall election shall be
21 held within the member's precinct, district, or subdistrict. When an
22 elected member is nominated by precinct, district, or subdistrict in
23 the primary election and elected at large in the general election,
24 the recall provisions shall apply to the registered voters at the
25 general election.

1 (4) The recall procedure and special election provisions
2 shall apply to the mayor and members of the city council of
3 municipalities with a home rule charter notwithstanding any contrary
4 provisions of the home rule charter.

5 Sec. 9. Section 79-1208, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 79-1208 Petitions to the State Board of Education to
8 change educational service unit boundaries shall include a
9 description of the proposed boundaries and shall be accompanied by a
10 plan of reorganization which shall include (1) a summary of the
11 reasons for the proposed reorganization, (2) a plan for the provision
12 of services to school districts affected by any reorganization plan,
13 (3) when a petition proposes the dissolution of an entire educational
14 service unit or units for attachment to an existing educational
15 service unit or for the merger of two or more educational service
16 units into a new educational service unit, a summary of the terms on
17 which such reorganization is made, including provision for the
18 utilization of existing facilities, equipment, and materials and
19 provision for the disposition of assets and any unbonded indebtedness
20 of affected educational service units, and (4) when a petition deals
21 with the attachment of new territory to an existing educational
22 service unit, verification of approval by majority vote of the
23 receiving educational service unit governing board, ~~and (5) a plan~~
24 ~~for the establishment of new election districts as required under~~
25 ~~section 79-1217.~~

1 Sec. 10. Section 79-1212, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 79-1212 ~~Members~~ The terms of members of boards of
4 educational service units existing prior to approval of any plan of
5 reorganization shall ~~serve as board members of educational service~~
6 ~~units which are reorganized pursuant to sections 79-1206 to 79-1211~~
7 ~~until the expiration of their original terms. Such persons shall be~~
8 ~~members of the board of the reorganized educational service unit in~~
9 ~~which they reside.~~ end on the effective date of the reorganization.
10 Within thirty days after approval of any plan of reorganization by
11 the State Board of Education, the ~~president of the board of each~~
12 ~~educational service unit being reorganized shall call a meeting of~~
13 ~~board members of such educational service unit. At such meeting,~~
14 ~~members of each such board shall appoint one member from each~~
15 ~~election district to be created pursuant to the plan of~~
16 ~~reorganization not having representation on such board to serve until~~
17 ~~the next general election.~~ county boards of the counties comprising
18 the educational service unit shall meet and appoint members to the
19 board of the reorganized educational service unit. The new board
20 shall take all necessary action to prepare for operation of the
21 reorganized educational service unit following approval of any plan
22 of reorganization by the State Board of Education. Expenses incurred
23 by such board prior to such times shall be prorated between the
24 counties comprising the educational service unit on the basis of the
25 assessed valuation of such counties.

1 Sec. 11. Section 79-1217, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 79-1217 (1) All educational service units shall be
4 governed by a board to be known as the Board of Educational Service
5 Unit No. ~~Until the first Thursday after the first Tuesday in~~
6 ~~January 2009, the educational service unit board, except the board of~~
7 ~~an educational service unit with only one member school district,~~
8 ~~shall be composed of one member from each county and four members at~~
9 ~~large, all of whom shall reside within the geographical boundaries of~~
10 ~~the educational service unit, but no more than two of the members at~~
11 ~~large shall be appointed or elected from the same county unless any~~
12 ~~one county within the educational service unit has a population in~~
13 ~~excess of one hundred fifty thousand inhabitants or the educational~~
14 ~~service unit consists of only one county. Beginning on the first~~
15 ~~Thursday after the first Tuesday in January 2009, the educational~~
16 ~~service unit board, except the board of an educational service unit~~
17 ~~with only one member school district, shall be composed of one member~~
18 ~~elected to represent each election district established pursuant to~~
19 ~~section 79-1217.01. Successors to the members initially appointed~~
20 ~~pursuant to section 79-1212 shall be elected pursuant to section~~
21 ~~32-515. Except as provided in subsection (6) of this section, the~~
22 ~~board members shall be appointed by the county boards of each county~~
23 ~~within the educational service unit.~~

24 (2) ~~Vacancies in office shall occur as set forth in~~
25 ~~section 32-560, except as otherwise provided in section 79-1212~~

1 ~~regarding the requirement to live in the district represented, or in~~
2 ~~the case of absences, unless~~ Unless excused by a majority of the
3 remaining members of the board, when a member is absent from the
4 geographical boundaries of the educational service unit for a
5 continuous period of sixty days at one time or from more than two
6 consecutive regular meetings of the board. Whenever any vacancy
7 occurs on the board, the ~~remaining members of such board~~ county
8 boards shall appoint an individual residing within the ~~election~~
9 ~~district of the educational service unit for which the vacancy exists~~
10 and meeting the qualifications for the office to fill such vacancy
11 for the balance of the unexpired term.

12 (3) Members of the board shall receive no compensation
13 for their services but shall be reimbursed for the actual and
14 necessary expenses incurred in the performance of their duties under
15 the Educational Service Units Act as provided in sections 81-1174 to
16 81-1177.

17 (4) Except as provided in subsection (5) of this section,
18 any joint school district located in two or more counties shall be
19 considered a part of the educational service unit in which the
20 greater number of school-age children of such joint school district
21 reside.

22 (5) Any Class I district which is part of a Class VI
23 district shall be considered a part of the educational service unit
24 of which the Class VI district is a member. If the Class VI district
25 has removed itself from an educational service unit, each Class I

1 district which is part of such Class VI district may continue its
2 existing membership in an educational service unit or may change its
3 status relative to membership in an educational service unit in
4 accordance with section 79-1209. The patrons of a Class I district
5 maintaining membership in an educational service unit pursuant to
6 this subsection shall have the same rights and privileges as other
7 patrons of the educational service unit, and the taxable valuation of
8 the taxable property within the geographic boundaries of such Class I
9 district shall be subject to the educational service unit's tax levy
10 established pursuant to section 79-1225.

11 ~~(6) The administrator of each educational service unit,~~
12 ~~prior to July 1 of each year in which a statewide primary election is~~
13 ~~to be held, shall certify to the election commissioner or county~~
14 ~~clerk of each county located within the unit the corporate name of~~
15 ~~each school district, as described in section 79-405, located within~~
16 ~~the county. If a school district is a joint school district located~~
17 ~~in two or more counties, the administrator shall certify to each~~
18 ~~election commissioner or county clerk the educational service unit of~~
19 ~~which the school district is considered to be a part.~~

20 ~~(7)~~(6) An educational service unit may consist of a
21 single school district if the single school district is either a
22 Class IV or Class V school district. An educational service unit with
23 only one member school district shall be governed by the school board
24 of such school district and shall participate in one or more of the
25 statewide projects managed by the Educational Service Unit

1 Coordinating Council.

2 Sec. 12. Original sections 32-404, 32-567, 32-608,
3 32-1301, 32-1302, and 79-1208, Reissue Revised Statutes of Nebraska,
4 sections 32-607, 32-1203, 79-1212, and 79-1217, Revised Statutes
5 Cumulative Supplement, 2012, and section 32-606, Revised Statutes
6 Supplement, 2013, are repealed.

7 Sec. 13. The following sections are outright repealed:
8 Sections 32-515 and 79-1217.01, Reissue Revised Statutes of Nebraska.