

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 66**

Introduced by Schilz, 47.

Read first time January 10, 2013

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities of the first class; to amend sections  
2 16-117, 16-120, and 16-130, Reissue Revised Statutes of  
3 Nebraska; to authorize annexation of certain  
4 noncontiguous property as prescribed; to change  
5 provisions relating to the extension of city services;  
6 and to repeal the original sections.

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

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

3                   16-117 (1)(a) Except as provided in sections 13-1111 to  
4 13-1120 and 16-130 and subject to this section, the mayor and city  
5 council of a city of the first class may by ordinance at any time  
6 include within the corporate limits of such city (i) any contiguous  
7 or adjacent lands, lots, tracts, streets, or highways as are urban or  
8 suburban in character and in such direction as may be deemed proper  
9 and (ii) any noncontiguous lands, lots, or tracts that are owned by  
10 such city.

11                   (b) Such grant of power shall not be construed as  
12 conferring power upon the mayor and city council to extend the limits  
13 of a city of the first class over any agricultural lands which are  
14 rural in character.

15                   (2) Any owner of property which constitutes part of a  
16 redevelopment project area so designated by a city of the first class  
17 or its community redevelopment authority in accordance with the  
18 provisions of the Community Development Law and sections 18-2145 to  
19 18-2154 may by petition request that such property be included within  
20 the corporate limits of such city if such annexation is for the  
21 purpose of implementing a lawfully adopted redevelopment plan  
22 containing a provision dividing ad valorem taxes as provided in  
23 subsection (1) of section 18-2147 and which will involve any  
24 construction or development of a commercial or industrial nature,  
25 notwithstanding that such property is not contiguous or adjacent or

1 is not urban or suburban in character. Such city shall not, in  
2 consequence of the annexation under this subsection of any  
3 noncontiguous land, exercise the authority granted to it by statute  
4 to extend its jurisdiction beyond its corporate boundaries for  
5 purposes of planning, zoning, or subdivision development without the  
6 agreement of any other city, village, or county currently exercising  
7 such jurisdiction over the area surrounding the annexed redevelopment  
8 project area. The annexation of any noncontiguous land undertaken  
9 pursuant to this subsection shall not result in any change in the  
10 service area of any electric utility without the express agreement of  
11 the electric utility serving the annexed noncontiguous area at the  
12 time of annexation, except that at such time following the annexation  
13 of the noncontiguous area as the city lawfully annexes sufficient  
14 intervening territory so as to directly connect the noncontiguous  
15 area to the main body of the city, such noncontiguous area shall,  
16 solely for the purposes of section 70-1008, be treated as if it had  
17 been annexed by the city on the date upon which the connecting  
18 intervening territory had been formally annexed.

19           ~~(2)~~(3) The invalidity of the annexation of any tract of  
20 land in one ordinance shall not affect the validity of the remaining  
21 tracts of land which are annexed by the ordinance and which otherwise  
22 conform to state law.

23           ~~(3)~~(4) The city council proposing to annex land under  
24 the authority of this section shall first adopt both a resolution  
25 stating that the city is proposing the annexation of the land and a

1 plan for extending city services to the land. The resolution shall  
2 state:

3 (a) The time, date, and location of the public hearing  
4 required by subsection ~~(5)~~(6) of this section;

5 (b) A description of the boundaries of the land proposed  
6 for annexation; and

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

11 ~~(4)~~(5) The plan adopted by the city council shall  
12 contain sufficient detail to provide a reasonable person with a full  
13 and complete understanding of the proposal for extending city  
14 services to the land proposed for annexation. The plan shall (a)  
15 state the estimated cost impact of providing the services to such  
16 land, (b) state the method by which the city plans to finance the  
17 extension of services to the land and how any services already  
18 provided to the land will be maintained, (c) include a timetable for  
19 extending services to the land proposed for annexation, and (d)  
20 include a map drawn to scale clearly delineating the land proposed  
21 for annexation, the current boundaries of the city, the proposed  
22 boundaries of the city after the annexation, and the general land-use  
23 pattern in the land proposed for annexation.

24 ~~(5)~~(6) A public hearing on the proposed annexation shall  
25 be held within sixty days following the adoption of the resolution

1 proposing to annex land to allow the city council to receive  
2 testimony from interested persons. The city council may recess the  
3 hearing, for good cause, to a time and date specified at the hearing.

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

12 ~~(7)-(8)~~ Any owner of property contiguous or adjacent to a  
13 city of the first class may by petition request that such property be  
14 included within the corporate limits of such city. The mayor and city  
15 council may include such property within the corporate limits of the  
16 city without complying with subsections ~~(3)-(4)~~ through ~~(6)-(7)~~ of  
17 this section.

18 ~~(8)-(9)~~ Notwithstanding the requirements of this section,  
19 the mayor and city council are not required to approve any petition  
20 requesting annexation or any resolution or ordinance proposing to  
21 annex land pursuant to this section.

22 Sec. 2. Section 16-120, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 16-120 ~~The~~ (1) Except as provided in subsection (2) of  
25 this section, the inhabitants of territories annexed to such a city

1 of the first class shall receive substantially the services of other  
2 inhabitants of such city as soon as practicable. Adequate plans and  
3 necessary city council action to furnish such services shall be  
4 adopted not later than one year after the date of annexation, ~~and~~  
5 ~~such inhabitants shall be subject to the ordinances and regulations~~  
6 ~~of such city,~~ except that the one-year period shall be tolled pending  
7 final court decision in any court action to contest such annexation.

8 (2) For property annexed to a city of the first class  
9 pursuant to subsection (2) of section 16-117 or subsection (3) of  
10 section 16-130, the city and the owner of such property shall  
11 negotiate and enter into an agreement to determine which city  
12 services will be provided to such property and when such services  
13 will be provided. The terms of the agreement shall be included within  
14 the city ordinance authorizing such annexation.

15 (3) The inhabitants of territories annexed to a city of  
16 the first class shall be subject to the ordinances and regulations of  
17 such city.

18 Sec. 3. Section 16-130, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 16-130 (1) The provisions of this section shall govern  
21 annexation by a city of the first class located in whole or in part  
22 within the boundaries of a county having a population in excess of  
23 one hundred thousand inhabitants but less than two hundred thousand  
24 inhabitants.

25 (2)(a) Except as provided in sections 13-1111 to 13-1120

1 and subject to this section, the mayor and city council of a city of  
2 the first class described in subsection (1) of this section may by  
3 ordinance at any time include within the corporate limits of such  
4 city (i) any contiguous or adjacent lands, lots, tracts, streets, or  
5 highways as are urban or suburban in character and in such direction  
6 as may be deemed proper and (ii) any noncontiguous lands, lots, or  
7 tracts that are owned by such city.

8 (b) Such grant of power shall not be construed as  
9 conferring power upon the mayor and city council to extend the limits  
10 of such a city over any agricultural lands which are rural in  
11 character.

12 (3) Any owner of property which constitutes part of a  
13 redevelopment project area so designated by a city of the first class  
14 described in subsection (1) of this section or its community  
15 redevelopment authority in accordance with the provisions of the  
16 Community Development Law and sections 18-2145 to 18-2154 may by  
17 petition request that such property be included within the corporate  
18 limits of such city if such annexation is for the purpose of  
19 implementing a lawfully adopted redevelopment plan containing a  
20 provision dividing ad valorem taxes as provided in subsection (1) of  
21 section 18-2147 and which will involve any construction or  
22 development of a commercial or industrial nature, notwithstanding  
23 that such property is not contiguous or adjacent or is not urban or  
24 suburban in character. Such city shall not, in consequence of the  
25 annexation under this subsection of any noncontiguous land, exercise

1 the authority granted to it by statute to extend its jurisdiction  
2 beyond its corporate boundaries for purposes of planning, zoning, or  
3 subdivision development without the agreement of any other city,  
4 village, or county currently exercising such jurisdiction over the  
5 area surrounding the annexed redevelopment project area. The  
6 annexation of any noncontiguous land undertaken pursuant to this  
7 subsection shall not result in any change in the service area of any  
8 electric utility without the express agreement of the electric  
9 utility serving the annexed noncontiguous area at the time of  
10 annexation, except that at such time following the annexation of the  
11 noncontiguous area as the city lawfully annexes sufficient  
12 intervening territory so as to directly connect the noncontiguous  
13 area to the main body of the city, such noncontiguous area shall,  
14 solely for the purposes of section 70-1008, be treated as if it had  
15 been annexed by the city on the date upon which the connecting  
16 intervening territory had been formally annexed.

17           ~~(3)~~(4) The invalidity of the annexation of any tract of  
18 land in one ordinance shall not affect the validity of the remaining  
19 tracts of land which are annexed by the ordinance and which otherwise  
20 conform to state law.

21           ~~(4)~~(5) Any owner of property contiguous or adjacent to  
22 such a city may by petition request that such property be included  
23 within the corporate limits of such city.

24           ~~(5)~~(6) Notwithstanding the requirements of this section,  
25 the mayor and city council are not required to approve any petition

1 requesting annexation or any resolution or ordinance proposing to  
2 annex land pursuant to this section.

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

17 ~~(7)~~(8) Prior to the final adoption of the annexation  
18 ordinance, the minutes of the city council meeting at which such  
19 final adoption was considered shall reflect formal compliance with  
20 the provisions of subsection ~~(6)~~(7) of this section.

21 ~~(8)~~(9) No additional or further notice beyond that  
22 required by subsection ~~(6)~~(7) of this section shall be necessary in  
23 the event (a) that the scheduled city council public hearing on the  
24 proposed annexation is adjourned, continued, or postponed until a  
25 later date or (b) that subsequent to providing such notice the

1 ordinance regarding such proposed annexation was amended, changed, or  
2 rejected by action of the city council prior to formal passage of the  
3 annexation ordinance.

4 ~~(9)~~ (10) Except for a willful or deliberate failure to  
5 cause notice to be given, no annexation decision made by a city  
6 either to accept or reject a proposed annexation, either in whole or  
7 in part, shall be void, invalidated, or affected in any way because  
8 of any irregularity, defect, error, or failure on the part of the  
9 city or its employees to cause notice to be given as required by this  
10 section if a reasonable attempt to comply with this section was made.

11 ~~(10)~~ (11) Except for a willful or deliberate failure to  
12 cause notice to be given, the city and its employees shall not be  
13 liable for any damage to any person resulting from any failure to  
14 cause notice to be given as required by this section when a  
15 reasonable attempt was made to provide such notice. No action for  
16 damages resulting from the failure to cause notice to be provided as  
17 required by this section shall be filed more than one year following  
18 the date of the formal acceptance or rejection of the proposed  
19 annexation, either in whole or in part, by the city council.

20 ~~(11)~~ (12) No action to challenge the validity of the  
21 acceptance or rejection of a proposed annexation on the basis of this  
22 section shall be filed more than one year following the date of the  
23 formal acceptance or rejection of the annexation by the city council.

24 Sec. 4. Original sections 16-117, 16-120, and 16-130,  
25 Reissue Revised Statutes of Nebraska, are repealed.