

## LEGISLATIVE BILL 646

Approved by the Governor May 8, 2013

Introduced by Murante, 49; Ashford, 20; Avery, 28; Crawford, 45.

FOR AN ACT relating to public power districts; to amend sections 32-512, 70-612, 70-615, and 70-619, Reissue Revised Statutes of Nebraska; to change provisions relating to election of directors as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 32-512, Reissue Revised Statutes of Nebraska, is amended to read:

32-512 (1) After the selection of the original board of directors of a public power district as provided for in sections 70-803 and 70-805 or a district as provided for in sections 70-604 and 70-609, their successors shall be nominated and elected on the nonpartisan ballot, except that in districts receiving annual gross revenue of less than forty million dollars, the candidates for the board of directors shall not appear on the ballot in the primary election. The term of each elected director shall be not more than six years or until his or her successor is elected and qualified. Candidates for the board of directors shall meet the qualifications found in sections 70-610 and 70-619.

(2) Registered voters residing within the chartered territory and registered voters duly certified in accordance with section 70-604.03 shall be qualified to vote in the district as certified pursuant to section 70-611. The registered voters of a subdivision created under subsection (1) of section 70-612 may only cast their ballots for candidates for directors to be elected from such subdivision and for candidates for directors to be elected at large from the whole district. The registered voters of a subdivision created under subsection (2) or (3) of section 70-612 may only cast their ballots for candidates for directors to be elected from such subdivision.

Sec. 2. Section 70-612, Reissue Revised Statutes of Nebraska, is amended to read:

70-612 (1) (a) Subject to the provisions of Chapter 70, article 6, and subject to the approval of the Nebraska Power Review Board, the board of directors of a district, other than a district with a service area containing a city of the metropolitan class, may amend the petition for its creation to provide for the division of the territory of such district into two or more subdivisions for the nomination and election of some or all of the directors. Each subdivision shall be composed of one or more voting precincts, or divided voting precincts, and the total population of each such subdivision shall be approximately the same. Two Except in districts which contain a city of the metropolitan class, two or more subdivisions may be combined for election purposes, and members of the board of directors to be elected from such combined subdivisions may be nominated and elected at large when not less than seventy-five percent of the population of the combined subdivisions is within the corporate limits of any city.

(b) In the event a district formed includes all or part of two or more counties and is ~~(a)~~ (i) engaged in furnishing electric light and power and more than fifty percent of its customers are rural customers or ~~(b)~~ (ii) engaged in furnishing electric light and power and in the business of owning and operating irrigation works, then and in that event such subdivisions may be formed by following precinct or county boundary lines without regard to population if in the judgment of the Nebraska Power Review Board the interests of the rural users of electricity or of users of irrigation water service in such district will not be prejudiced thereby.

(2)(a) The board of directors of a district with a service area containing a city of the metropolitan class may amend its charter to provide for the division of the territory of the district into election subdivisions composed of substantially equal population and compact and contiguous territory and number the subdivisions consecutively and submit the maps to the Nebraska Power Review Board.

(b) If the board of directors provides for eight election subdivisions prior to January 1, 2014, the board of directors shall assign each position on the board of directors to represent a numbered election subdivision for the remainder of the term of office for which the member is elected, regardless of whether the member resides in the subdivision, and shall make such assignments so that the terms of members representing election subdivisions numbered one, two, and three expire in January 2015, the terms of members representing election subdivisions numbered four and five expire in

January 2017, and the terms of members representing election subdivisions six, seven, and eight expire in January 2019. If possible, each member shall be assigned to represent an election subdivision that corresponds to the end of the term he or she is serving.

(c) A successor who resides in the numbered election subdivision shall be nominated and elected at the statewide primary and general elections held in the calendar year prior to the expiration of the term of the member who represents such numbered election subdivision.

(3) After each federal decennial census, the board of directors of a district with a service area containing a city of the metropolitan class shall create new boundaries for the election subdivisions. In establishing the boundaries of the election subdivisions, the board of directors shall follow county lines wherever practicable, shall provide for the subdivisions to be composed of substantially equal population and compact and contiguous territory, and shall, as nearly as possible, follow the precinct lines created by the election commissioner or county clerk after each federal decennial census.

~~(2)~~ (4) Any public power district or public power and irrigation district owning and operating irrigation works may, with approval of the Nebraska Power Review Board, add representation on its board of directors from any county which is outside its chartered territory but in which is located some or all of such irrigation works.

Sec. 3. Section 70-615, Reissue Revised Statutes of Nebraska, is amended to read:

70-615 (1) In addition to the events listed in section 32-560, a vacancy on the board of directors shall exist in the event of the (a) removal from the chartered area of any director, (b) removal from the subdivision from which such director was elected except as otherwise provided in subsection (2) or (3) of section 70-612, (c) elimination or detachment from the chartered area of the territory in which a director or directors reside, or (d) expiration of the term of office of a director and failure to elect a director to fill such office at the preceding general election. After notice and hearing, a vacancy shall also exist in the event of the absence of any director from more than two consecutive regular meetings of the board, unless such absences are excused by a majority of the remaining board members.

(2) In the event of a vacancy from any of such causes, or otherwise, such vacancy or vacancies shall, except in districts having within their chartered area twenty-five or more cities and villages, be filled by the board of directors. In districts having within their chartered area twenty-five or more cities and villages, vacancies shall be filled by the Governor.

(3) If a vacancy occurs during the term of any director prior to the deadline for filing and the unexpired term extends beyond the first Thursday after the first Tuesday in January following the next general election, an appointment shall be until the first Thursday after the first Tuesday in January following the next general election, and candidates may file nomination papers as provided by law for the placing of their names upon the ballot for election to the unexpired term. If a vacancy occurs during the term of any director after the deadline for filing for election, an appointment shall be until the first Thursday after the first Tuesday in January following the next general election for which candidates may file nomination papers as provided by law.

(4) At any time a vacancy is to be filled by election, the secretary of the district shall give notice to the public by publishing the notice of vacancy, length of term, and the deadline for filing, once in a newspaper or newspapers of general circulation within the district.

(5) Any appointment shall be filed with the Secretary of State by certified mail.

Sec. 4. Section 70-619, Reissue Revised Statutes of Nebraska, is amended to read:

70-619 (1) The corporate powers of the district shall be vested in and exercised by the board of directors of the district. No person shall be qualified to hold office as a member of the board of directors unless ~~(1)~~ (a) he or she is a registered voter ~~(a)~~ (i) of such chartered territory, ~~(b)~~ (ii) of the subdivision from which a director is to be elected if such chartered territory is subdivided for election purposes as provided in subsection (1), (2), or (3) of section 70-612, or ~~(e)~~ (iii) of one of the combined subdivisions from which directors are to be elected at large as provided in section 70-612 or ~~(2)~~ (b) he or she is a retail customer duly certified in accordance with subsection (3) of section 70-604.03.

(2) No person who is a full-time or part-time employee of the district shall be eligible to serve as a member of the board of directors unless such person resigns or assumes an unpaid leave of absence for the term

as a member. The district shall grant such leave of absence when requested by any employee for the purpose of the employee serving as a member of the board of directors. No person shall be qualified to be a member of more than one such district board, except that a director of a rural public power district may serve as a director of another public power district formed or organized for the purpose of generating electric energy or transmitting electric energy exclusively for resale to some other public power districts, rural electric cooperatives, and membership associations or municipalities. No member of a governing body of any one of the municipalities within the areas of the district shall be qualified to serve on the original board of directors under sections 70-603 to 70-609.

Sec. 5. Original sections 32-512, 70-612, 70-615, and 70-619, Reissue Revised Statutes of Nebraska, are repealed.