

LEGISLATIVE BILL 702

Approved by the Governor April 10, 2014

Introduced by Johnson, 23.

FOR AN ACT relating to cities and villages; to amend sections 17-101, 17-201, 17-306, and 17-312, Reissue Revised Statutes of Nebraska; to provide and change provisions relating to organization of cities of the second class and villages; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 17-101, Reissue Revised Statutes of Nebraska, is amended to read:

17-101 All cities, towns, and villages containing more than eight hundred and not more than five thousand inhabitants shall be cities of the second class and be governed by ~~the provisions of~~ sections 17-101 to 17-153 unless they adopt or retain a village government as provided in sections 17-306 to ~~17-309, 17-312.~~ The population of a city of the second class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

Sec. 2. Section 17-201, Reissue Revised Statutes of Nebraska, is amended to read:

17-201 (1) Any town or village containing not less than one hundred nor more than eight hundred inhabitants incorporated as a city, town, or village under the laws of this state, any village that votes to retain village government as provided in section 17-312, and any city of the second class that has adopted village government as provided by law sections 17-306 to 17-309 shall be a village and shall have the rights, powers, and immunities ~~hereinafter granted in sections 17-201 to 17-231,~~ and none other, except that all county seat towns shall have the powers and immunities ~~as hereinafter granted in sections 17-201 to 17-231.~~ The population of a village shall consist of the people residing within the territorial boundaries of such village and the residents of any territory duly and properly annexed to such village.

(2) Whenever a majority of the taxable inhabitants of any town or village, not incorporated under any laws of this state, shall present a petition to the county board of the county in which the petitioners reside, praying that they may be incorporated as a village and designating the name they wish to assume and the metes and bounds of the proposed village, and such county board or majority of the members thereof shall be satisfied that a majority of the taxable inhabitants of the proposed village have signed such petition and that inhabitants to the number of one hundred or more are actual residents of the territory described in the petition, the board shall declare the proposed village incorporated, enter the order of incorporation upon its records, and designate the metes and bounds thereof. Thereafter the village shall be governed by the provisions of law applicable to the government of villages. The county board shall, at the time of the incorporation of the village, appoint five persons, having the qualifications provided in section 17-203, as trustees, who shall hold their offices and perform all the duties required of them by law until the election and qualification of their successors at the time and in the manner provided in section 17-202, except that the county board shall not declare a proposed village incorporated or enter an order of incorporation if any portion of the territory of such proposed village is within five miles of a Nebraska incorporated village or city of any class.

Sec. 3. Section 17-306, Reissue Revised Statutes of Nebraska, is amended to read:

17-306 ~~Whenever any~~ (1) The registered voters of a city of the second class desires may vote to discontinue its organization as a city of the second class and organize as a village. The issue may be placed before the voters by a resolution adopted by the city council or by petition signed by 7 and one-fourth of the legal registered voters of such city, ~~shall petition the city council, the council shall cause to be published, for at least thirty days, a notice stating that the question of adopting village government will be submitted at the next city election, or at a special election announced in such notice.~~

(2) The petitions shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The city council shall submit the petitions to the election

commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the city at the last statewide general election. The election commissioner or county clerk shall notify the city council within thirty days after receiving the petitions from the city council whether the required number of signatures has been gathered. The city shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the city council determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the city council, the city council shall submit the question to the voters of whether to discontinue organization as a city of the second class and organize as a village at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the city of the second class. The form of ballot shall be For organization as a village, and Against organization as a village, and at the same election the qualified voters shall vote for five trustees for the village. If a majority of the votes cast are For organization as a village, then such city shall within sixty days after such election become a village and be governed under the provisions of the law relating laws of this state applicable to a village unless it shall at some future election adopt a city government in the manner provided herein for the adoption of a village government. such village votes to reorganize as a city of the second class in the manner provided in section 4 of this act.

Sec. 4. (1) The registered voters of a village which was reorganized under section 17-306 from a city of the second class to a village may vote to discontinue organization as a village and reorganize as a city of the second class under this section if the population exceeds eight hundred inhabitants. The issue may be placed before the voters by a resolution adopted by the board of trustees of the village or by petition signed by one-fourth of the registered voters of the village.

(2) The petitions shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The board of trustees shall submit the petitions to the election commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the village at the last statewide general election. The election commissioner or county clerk shall notify the board of trustees within thirty days after receiving the petitions from the board of trustees whether the required number of signatures has been gathered. The village shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the board of trustees determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the board of trustees, the board of trustees shall submit the question to the voters of whether to organize as a city of the second class at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the village. The form of the ballot at such election shall be For reorganization of the Village of as a city of the second class and Against reorganization of the Village of as a city of the second class.

(4) If the majority of the votes cast are for reorganization as a city of the second class, the board of trustees shall certify such fact to the Secretary of State who, upon the filing of such a certificate, shall by proclamation so declare and shall declare such village to have become a city of the second class. Thereafter such village shall become a city of the second class and such city shall be governed under the laws of this state applicable to cities of the second class. The government of such city shall continue as organized at the date of such proclamation until the reorganization as a city of the second class.

(5) Upon such proclamation, the governing body of the city shall call a special election for the purpose of electing new members of the city's governing body to be held not more than eight months after the proclamation is issued. At the initial election of officers, the names of the candidates receiving the greatest number of votes at the primary election if one is held shall be placed on the general election ballot. One-half or the bare majority of the candidates in each precinct or ward or at-large candidates, as the case may be, receiving the greatest number of votes at the general election, shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms. Thereafter all members shall be nominated at the statewide primary election and elected at the statewide general election for four-year terms as provided

in section 32-533. The members of the board of trustees shall hold office only until the newly elected city officials assume office.

(6) All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to any village at the time of its incorporation as a city of the second class shall remain in full force and effect after such incorporation as a city of the second class until repealed or modified by such city within one year after the date of the filing of the certificate pursuant to subsection (4) of this section.

Sec. 5. Section 17-312, Reissue Revised Statutes of Nebraska, is amended to read:

17-312 (1) Whenever any village attains a population exceeding eight hundred inhabitants, the registered voters of the village may vote to retain a village form of government. The issue may be placed before the voters by a resolution adopted by the board of trustees of the village or by petition signed by and one-fourth of the legal registered voters but not less than one hundred registered voters of the village, petition the board of trustees of such village, the board of trustees shall cause to be published for at least thirty days a notice stating that the question of retaining a village form of government will be submitted at the next regularly scheduled election or at a special election announced in such notice. Thereupon there shall be submitted by the board of trustees at such election the question of retaining a village form of government. Such election shall be conducted in the manner provided for cities of the second class.

(2) The petitions shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The board of trustees shall submit the petitions to the election commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the village at the last statewide general election. The election commissioner or county clerk shall notify the board of trustees within thirty days after receiving the petitions from the board of trustees whether the required number of signatures has been gathered. The village shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the board of trustees determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the board of trustees, the board of trustees shall submit the question to the voters of whether to retain the village form of government at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the village. The form of the ballot at such election shall be For retention of village government and Against retention of village government. If the majority of the votes cast are for retention of village government, then such village shall remain a village and be governed under the provisions of the law relating laws of this state applicable to villages unless at some future election such village adopts votes to reorganize as a city government of the second class in the manner provided for the adoption of a village government. in section 6 of this act.

~~(2)~~ (4) If the question is submitted at a special election, such election shall be held not later than October 15 of an odd-numbered year. If the question is rejected, city of the second class officials shall be elected at the next regularly scheduled election.

~~(3)~~ (5) If the question is submitted at a regularly scheduled election, no village trustees shall be elected at such election, but trustees whose terms are to expire following such election shall hold office until either their successors or city officials take office as follows:

(a) If the question is rejected, the village board shall call a special election, to be held not more than eight months after the election at which the question was rejected, for the purpose of electing city officials under the provisions of law relating to cities of the second class. The terms of office for such officials shall be established pursuant to section 17-311. The members of the board of trustees shall hold office only until the newly elected city officials assume office; and

(b) If the question is approved, the village board shall call a special election, to be held not more than eight months after the election at which the question was approved, for the purpose of electing successors to those members of the village board who held office beyond the normal expiration of their terms. Such special election shall be conducted under the provisions of law relating to villages. Persons so elected shall take office as soon after the completion of the canvass of the votes as is practicable, and their terms of office shall be as if the holdovers had not occurred.

Sec. 6. (1) The registered voters of a village may vote to discontinue organization as a village and organize as a city of the second class under this section if the population of the village exceeds eight hundred inhabitants and the prior vote pursuant to section 17-312 was in favor of retaining the village form of government. The issue may be placed before the voters by a resolution adopted by the board of trustees of the village or by petition signed by one-fourth of the registered voters of the village.

(2) The petitions shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The board of trustees shall submit the petitions to the election commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the village at the last statewide general election. The election commissioner or county clerk shall notify the board of trustees within thirty days after receiving the petitions from the board of trustees whether the required number of signatures has been gathered. The village shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the board of trustees determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the board of trustees, the board of trustees shall submit the question to the voters of whether to organize as a city of the second class at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the village. The form of the ballot at such election shall be For reorganization of the Village of as a city of the second class and Against reorganization of the Village of as a city of the second class.

(4) If the majority of the votes cast are for reorganization as a city of the second class, the board of trustees shall certify such fact to the Secretary of State who, upon the filing of such a certificate, shall by proclamation declare such village to have become a city of the second class. Thereafter such village is a city of the second class, and such city shall be governed under the laws of this state applicable to cities of the second class. The government of such city shall continue as organized at the date of such proclamation until the reorganization as a city of the second class.

(5) Upon such proclamation, the governing body of the city shall call a special election for the purpose of electing new members of the city's governing body to be held not more than eight months after the proclamation is issued. At the initial election of officers, the names of the candidates receiving the greatest number of votes at the primary election if one is held shall be placed on the general election ballot. One-half or the bare majority of the candidates in each precinct or ward or at-large candidates, as the case may be, receiving the greatest number of votes at the general election, shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms. Thereafter all members shall be nominated at the statewide primary election and elected at the statewide general election for four-year terms as provided in section 32-533. The members of the board of trustees shall hold office only until the newly elected city officials assume office.

(6) All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to any village at the time of its incorporation as a city of the second class shall remain in full force and effect after such incorporation as a city of the second class until repealed or modified by such city within one year after the date of the filing of the certificate pursuant to subsection (4) of this section.

Sec. 7. Original sections 17-101, 17-201, 17-306, and 17-312, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.