

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 874**

FINAL READING

Introduced by Murante, 49.

Read first time January 11, 2016

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Election Act; to amend sections 32-1524  
2 and 32-1527, Reissue Revised Statutes of Nebraska, sections 32-570,  
3 32-618, and 32-949.01, Revised Statutes Cumulative Supplement, 2014,  
4 and sections 32-941, 32-947, and 32-953, Revised Statutes  
5 Supplement, 2015; to change procedures for filling vacancies on  
6 school boards, requirements for certain petition candidates,  
7 deadlines for ballots for early voting and special elections by  
8 mail, and prohibitions related to yard signs; to allow a voter to  
9 photograph and reveal a marked ballot as prescribed; to harmonize  
10 provisions; to provide operative dates; to repeal the original  
11 sections; and to declare an emergency.  
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-570, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 32-570 (1) A vacancy in the membership of a school board shall occur  
4 as set forth in section 32-560 or in the case of absences, unless excused  
5 by a majority of the remaining members of the board, when a member is  
6 absent from the district for a continuous period of sixty days at one  
7 time or from more than two consecutive regular meetings of the board. The  
8 resignation of a member or any other reason for a vacancy shall be made a  
9 part of the minutes of the school board. The school board shall give  
10 notice of the date the vacancy occurred, the office vacated, and the  
11 length of the unexpired term (a) in writing to the election commissioner  
12 or county clerk and (b) by a notice published in a newspaper of general  
13 circulation in the school district.

14 (2) A person appointed to fill a vacancy on the school board of a  
15 Class I school district by the remaining members of the board shall hold  
16 office until the beginning of the next school year. A board member of a  
17 Class I school district elected to fill a vacancy at a regular or special  
18 school district meeting shall serve for the remainder of the unexpired  
19 term or until a successor is elected and qualified.

20 (3) Except as provided in subsection (4) of this section, a vacancy  
21 in the membership of a school board of a Class II, III, IV, V, or VI  
22 school district resulting from any cause other than the expiration of a  
23 term shall be filled by appointment of a qualified registered voter by  
24 the remaining members of the board. ~~If the vacancy occurs in a Class II~~  
25 ~~school district prior to July 1 preceding the general election in the~~  
26 ~~middle of the vacated term, the appointee shall serve until a registered~~  
27 ~~voter is elected at such general election for the remainder of the~~  
28 ~~unexpired term. If the vacancy occurs in a Class III, IV, or VI school~~  
29 ~~district prior to February 1 preceding the general election in the middle~~  
30 ~~of the vacated term, the appointee shall serve until a registered voter~~  
31 ~~is nominated at the next primary election and elected at the following~~

1 ~~general election for the remainder of the unexpired term. If the vacancy~~  
2 ~~occurs on or after the applicable deadline, the appointment shall be for~~  
3 ~~the remainder of the unexpired term. A registered voter appointed or~~  
4 ~~elected pursuant to this subsection shall meet the same requirements as~~  
5 ~~the member whose office is vacant.~~

6 (4) Any vacancy in the membership of a school board of a school  
7 district described in section 79-549 which does not nominate candidates  
8 at a primary election and elect members at the following general election  
9 shall be filled by appointment of a qualified registered voter by the  
10 remaining members of the board. ~~If the vacancy occurs at least twenty~~  
11 ~~days prior to the first regular caucus to be held during the term that~~  
12 ~~was vacated, the appointee shall serve until a registered voter is~~  
13 ~~nominated and elected to fill the vacancy for the remainder of the term~~  
14 ~~in the manner provided for nomination and election of board members in~~  
15 ~~the district. If the vacancy occurred less than twenty days prior to the~~  
16 ~~first regular caucus and at least twenty days prior to the second regular~~  
17 ~~caucus to be held during the term that was vacated, the appointee shall~~  
18 ~~serve until a registered voter is nominated and elected to fill the~~  
19 ~~vacancy for the remainder of the term in the manner provided for~~  
20 ~~nomination and election of board members in the district. If the vacancy~~  
21 ~~occurred less than twenty days prior to the second regular caucus held~~  
22 ~~during the term that was vacated or after such caucus, the appointment~~  
23 ~~shall be for the remainder of the unexpired term.~~

24 (5) ~~A vacancy in the membership of a school board of a Class V~~  
25 ~~school district resulting from any cause other than the expiration of a~~  
26 ~~term shall be filled by appointment of a qualified registered voter by~~  
27 ~~the remaining members of the board for the remainder of the unexpired~~  
28 ~~term. A registered voter appointed pursuant to this subsection shall meet~~  
29 ~~the same requirements as the member whose office is vacant.~~

30 (5 6) If any school board fails to fill a vacancy on the board, the  
31 vacancy may be filled by election at a special election or school

1 district meeting called for that purpose. Such election or meeting shall  
2 be called in the same manner and subject to the same procedures as other  
3 special elections or school district meetings.

4 (6 7) If there are vacancies in the offices of one-half or more of  
5 the members of a school board, the Secretary of State shall conduct a  
6 special school district election to fill such vacancies.

7 Sec. 2. Section 32-618, Revised Statutes Cumulative Supplement,  
8 2014, is amended to read:

9 32-618 (1) The number of signatures of registered voters needed to  
10 place the name of a candidate upon the nonpartisan ballot for the general  
11 election shall be as follows:

12 (a) For each nonpartisan office other than members of the Board of  
13 Regents of the University of Nebraska and board members of a Class III  
14 school district, at least ten percent of the total number of registered  
15 voters voting for Governor or President of the United States at the  
16 immediately preceding general election in the district or political  
17 subdivision in which the officer is to be elected, not to exceed two  
18 thousand;

19 (b) For members of the Board of Regents of the University of  
20 Nebraska, at least ten percent of the total number of registered voters  
21 voting for Governor or President of the United States at the immediately  
22 preceding general election in the regent district in which the officer is  
23 to be elected, not to exceed one thousand; and

24 (c) For board members of a Class III school district, at least  
25 twenty percent of the total number of votes cast for the board member  
26 receiving the highest number of votes at the immediately preceding  
27 general election in the school district.

28 (2) The number of signatures of registered voters needed to place  
29 the name of a candidate for an office upon the partisan ballot for the  
30 general election shall be at least ten percent of the registered voters  
31 entitled to vote for the office. ~~as follows:~~

1       ~~(a) For each partisan office to be filled by the registered voters~~  
2 ~~of the entire state, at least four thousand, and at least seven hundred~~  
3 ~~fifty signatures shall be obtained in each congressional district in the~~  
4 ~~state; and~~

5       ~~(b) For each partisan office to be filled by the registered voters~~  
6 ~~of a county or political subdivision, at least twenty percent of the~~  
7 ~~total vote for Governor or President of the United States at the~~  
8 ~~immediately preceding general election within the county or political~~  
9 ~~subdivision, not to exceed two thousand.~~

10       ~~The number of signatures shall not be required to exceed one-fourth~~  
11 ~~of the total number of registered voters voting for the office at the~~  
12 ~~immediately preceding general election when the nomination is for a~~  
13 ~~partisan office to be filled by the registered voters of a county.~~

14       Sec. 3. Section 32-941, Revised Statutes Supplement, 2015, is  
15 amended to read:

16       32-941 Any registered voter permitted to vote early pursuant to  
17 section 32-938 may, not more than one hundred twenty days before any  
18 election and not later than the close of business on the second Friday 4  
19 ~~p.m. on the Wednesday~~ preceding the election, request a ballot for the  
20 election to be mailed to a specific address. A registered voter shall  
21 request a ballot in writing to the election commissioner or county clerk  
22 in the county where the registered voter has established his or her home  
23 and shall indicate his or her residence address, the address to which the  
24 ballot is to be mailed if different, and his or her telephone number if  
25 available. The registered voter may use the form published by the  
26 election commissioner or county clerk pursuant to section 32-808. The  
27 registered voter shall sign the request. A registered voter may use a  
28 facsimile machine or electronic mail for the submission of a request for  
29 a ballot. The election commissioner or county clerk shall include a  
30 registration application with the ballots if the person is not  
31 registered. Registration applications shall not be mailed after the third

1 Friday preceding the election. If the person is not registered to vote,  
2 the registration application shall be returned not later than the closing  
3 of the polls on the day of the election. No ballot issued under this  
4 section shall be counted unless such registration application is properly  
5 completed and processed.

6 Sec. 4. Section 32-947, Revised Statutes Supplement, 2015, is  
7 amended to read:

8 32-947 (1) Upon receipt of an application or other request for a  
9 ballot to vote early, the election commissioner or county clerk shall  
10 determine whether the applicant is a registered voter and is entitled to  
11 vote as requested. If the election commissioner or county clerk  
12 determines that the applicant is a registered voter entitled to vote  
13 early and the application was received not later than the close of  
14 business on the second Friday at or before 4 p.m. on the Wednesday  
15 preceding the election, the election commissioner or county clerk shall  
16 deliver a ballot to the applicant in person or by mail, postage paid. The  
17 election commissioner or county clerk or any employee of the election  
18 commissioner or county clerk shall write or cause to be affixed his or  
19 her customary signature or initials on the ballot.

20 (2) An unsealed identification envelope shall be delivered with the  
21 ballot, and upon the back of the envelope shall be printed a form  
22 substantially as follows:

23 VOTER'S OATH

24 I, the undersigned voter, declare that the enclosed ballot or  
25 ballots contained no voting marks of any kind when I received them, and I  
26 caused the ballot or ballots to be marked, enclosed in the identification  
27 envelope, and sealed in such envelope.

28 To the best of my knowledge and belief, I declare under penalty of  
29 election falsification that:

30 (a) I, ....., am a registered voter  
31 in ..... County;

1 (b) I reside in the State of Nebraska at .....

2 (c) I have voted the enclosed ballot and am returning it in  
3 compliance with Nebraska law; and

4 (d) I have not voted and will not vote in this election except by  
5 this ballot.

6 ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION  
7 IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS  
8 IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY  
9 FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE  
10 NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

11 I also understand that failure to sign below will invalidate my  
12 ballot.

13 Signature .....

14 (3) If the ballot and identification envelope will be returned by  
15 mail or by someone other than the voter, the election commissioner or  
16 county clerk shall include with the ballot an identification envelope  
17 upon the face of which shall be printed the official title and post  
18 office address of the election commissioner or county clerk.

19 (4) The election commissioner or county clerk shall also enclose  
20 with the ballot materials:

21 (a) A registration application, if the election commissioner or  
22 county clerk has determined that the applicant is not a registered voter  
23 pursuant to section 32-945, with instructions that failure to return the  
24 completed and signed application indicating the residence address as it  
25 appears on the voter's request for a ballot to the election commissioner  
26 or county clerk by the close of the polls on election day will result in  
27 the ballot not being counted;

28 (b) A registration application and the oath pursuant to section  
29 32-946, if the voter is without a residence address, with instructions  
30 that the residence address of the voter shall be deemed that of the  
31 office of the election commissioner or county clerk of the county of the

1 voter's prior residence and that failure to return the completed and  
2 signed application and oath to the election commissioner or county clerk  
3 by the close of the polls on election day will result in the ballot not  
4 being counted; or

5 (c) Written instructions directing the voter to submit a copy of an  
6 identification document pursuant to section 32-318.01 if the voter is  
7 required to present identification under such section and advising the  
8 voter that failure to submit identification to the election commissioner  
9 or county clerk by the close of the polls on election day will result in  
10 the ballot not being counted.

11 (5) The election commissioner or county clerk may enclose with the  
12 ballot materials a separate return envelope for the voter's use in  
13 returning his or her identification envelope containing the voted ballot,  
14 registration application, and other materials that may be required.

15 Sec. 5. Section 32-949.01, Revised Statutes Cumulative Supplement,  
16 2014, is amended to read:

17 32-949.01 If a ballot for early voting is destroyed, spoiled, lost,  
18 or not received by the registered voter, the voter may cast a provisional  
19 ballot pursuant to section 32-915 at the voter's polling place on  
20 election day or may obtain a replacement ballot from the election  
21 commissioner or county clerk by signing a statement verified on oath or  
22 affirmation on a form prescribed by the Secretary of State that the  
23 original ballot for early voting was destroyed, spoiled, lost, or not  
24 received and delivering the statement to the election commissioner or  
25 county clerk. To receive a replacement ballot in person, the voter shall  
26 return the statement to the office of the election commissioner or county  
27 clerk by 8 p.m. on the day of the election. To receive a replacement  
28 ballot by mail, the voter shall return the statement to such office prior  
29 to the close of business on the second Friday preceding ~~fourth business~~  
30 ~~day before~~ the election. If the election commissioner or county clerk  
31 receives a statement meeting the requirements of this section, he or she



1 shall deliver a replacement ballot to the voter if the voter is present  
2 in the office or shall mail a replacement ballot to the voter at the  
3 address shown on the statement. The election commissioner or county clerk  
4 shall keep a record of all replacement ballots issued under this section.

5 Sec. 6. Section 32-953, Revised Statutes Supplement, 2015, is  
6 amended to read:

7 32-953 (1) Except as otherwise provided in subsection (2) of this  
8 section, the election commissioner or county clerk shall mail the  
9 official ballot to all registered voters of the political subdivision or  
10 the district or ward of the political subdivision at the addresses  
11 appearing on the voter registration register on the same day. The ballots  
12 shall be mailed by nonforwardable first-class mail not sooner than the  
13 twenty-second ~~twentieth~~ day before the date set for the election and not  
14 later than the tenth day before the date set for the election. The  
15 election commissioner or county clerk shall include with the ballot an  
16 unsealed identification envelope meeting the requirements of subsection  
17 (2) of section 32-947 and instructions sufficient to describe the voting  
18 process.

19 (2) The election commissioner or county clerk may choose not to mail  
20 a ballot to all registered voters who have been sent a notice pursuant to  
21 section 32-329 and failed to respond to the notice. If the election  
22 commissioner or county clerk chooses not to mail a ballot to such voters,  
23 he or she shall mail a notice to all such registered voters explaining  
24 how to obtain a ballot and stating the applicable deadlines.

25 Sec. 7. Section 32-1524, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 32-1524 (1) No judge or clerk of election or precinct or district  
28 inspector shall do any electioneering while acting as an election  
29 official.

30 (2) No person shall do any electioneering, circulate petitions, or  
31 perform any action that involves solicitation within any polling place or

1 any building designated for voters to cast ballots by the election  
2 commissioner or county clerk pursuant to the Election Act while the  
3 polling place or building is set up for voters to cast ballots or within  
4 two hundred feet of any such polling place or building except as  
5 otherwise provided in subsection (3) of this section.

6 (3) Subject to any local ordinance, a person may display yard signs  
7 on private property within two hundred feet of a polling place or  
8 building designated for voters to cast ballots if the property is not  
9 under common ownership with the property on which the polling place or  
10 building is located.

11 (4) Any person violating this section shall be guilty of a Class V  
12 misdemeanor.

13 Sec. 8. Section 32-1527, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 32-1527 (1) No voter shall receive an official ballot from any  
16 person other than a judge of election, and no person other than a judge  
17 of election shall deliver an official ballot to a voter.

18 (2) No voter shall vote or offer to vote any ballot except an  
19 official ballot received from a judge of election.

20 (3) No voter shall place any mark upon an official ballot by which  
21 it may afterwards be identified as the one voted by him or her.

22 (4) No person shall solicit a voter to show his or her ballot after  
23 it is marked to any person in such a way as to reveal the contents  
24 thereof or the name of the candidate or candidates for whom he or she has  
25 marked his or her vote. This subsection does not prohibit a voter from  
26 voluntarily photographing his or her ballot after it is marked and  
27 revealing such photograph in a manner that allows the photograph to be  
28 viewed by another person , and no person shall solicit a voter to show  
29 the same.

30 (5) No person other than a judge of election shall receive from a  
31 voter an official ballot prepared for voting.

1           (6) Any person violating this section shall be guilty of a Class V  
2 misdemeanor.

3           Sec. 9. Sections 3, 4, 5, 6, and 10 of this act become operative on  
4 June 1, 2016. Sections 1, 2, 7, 8, and 11 of this act become operative  
5 three calendar months after the adjournment of this legislative session.  
6 The other sections of this act become operative on their effective date.

7           Sec. 10. Original section 32-949.01, Revised Statutes Cumulative  
8 Supplement, 2014, and sections 32-941, 32-947, and 32-953, Revised  
9 Statutes Supplement, 2015, are repealed.

10          Sec. 11. Original sections 32-1524 and 32-1527, Reissue Revised  
11 Statutes of Nebraska, and sections 32-570 and 32-618, Revised Statutes  
12 Cumulative Supplement, 2014, are repealed.

13          Sec. 12. Since an emergency exists, this act takes effect when  
14 passed and approved according to law.