

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 131

Introduced by Craighead, 6; Crawford, 45; Davis, 43; Harr, 8; Howard, 9;
Mello, 5; Riepe, 12.

Read first time January 09, 2015

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to annexation; to amend sections 14-117,
2 15-104, 16-117, 16-130, 17-405.01, 17-407, and 31-763, Reissue
3 Revised Statutes of Nebraska; to prohibit sanitary and improvement
4 districts from spending assets after receiving a notice of proposed
5 annexation; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 14-117, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 14-117 (1) The corporate limits of any city of the metropolitan
4 class shall be fixed and determined by ordinance by the council of such
5 city. The city council of any city of the metropolitan class may at any
6 time extend the corporate limits of such city over any contiguous or
7 adjacent lands, lots, tracts, streets, or highways, such distance as may
8 be deemed proper in any direction, and may include, annex, merge, or
9 consolidate with such city of the metropolitan class, by such extension
10 of its limits, any adjoining city of the first class having less than ten
11 thousand population or any adjoining city of the second class or village.
12 Any other laws and limitations defining the boundaries of cities or
13 villages or the increase of area or extension of limits thereof shall not
14 apply to lots, lands, cities, or villages annexed, consolidated, or
15 merged under this section.

16 (2) When a sanitary and improvement district board of trustees or
17 the administrator of the district receives notice from the city council
18 of the city's proposal to annex territory within the sanitary and
19 improvement district, the sanitary and improvement district is prohibited
20 from spending assets which were used to determine the feasibility of the
21 annexation.

22 Sec. 2. Section 15-104, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 15-104 (1) The corporate limits of such city shall remain as before
25 and the city council may by ordinance at any time include within the
26 corporate limits of such city any contiguous or adjacent lands, lots,
27 tracts, streets, or highways such distance and in such direction as may
28 be deemed proper, and may include, annex, merge or consolidate with such
29 city by such extension of its corporate limits, any village which is
30 within the limits of such city, and which it serves with water service or
31 supply or with a sanitary sewerage system and service, or both such water

1 and sanitary sewerage service. Such city shall have power by ordinance to
2 compel owners of land so brought within the corporate limits to lay out
3 streets and public ways to conform to and be continuous with the streets
4 and ways of such city, or otherwise as appears best for the convenience
5 of the inhabitants of such city and the public. It may vacate any public
6 road established through such land when necessary to secure regularity in
7 the general system of its public ways.

8 (2) When a sanitary and improvement district board of trustees or
9 the administrator of the district receives notice from the city council
10 of the city's proposal to annex territory within the sanitary and
11 improvement district, the sanitary and improvement district is prohibited
12 from spending assets which were used to determine the feasibility of the
13 annexation.

14 Sec. 3. Section 16-117, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 16-117 (1) Except as provided in sections 13-1111 to 13-1120 and
17 16-130 and subject to this section, the mayor and city council of a city
18 of the first class may by ordinance at any time include within the
19 corporate limits of such city any contiguous or adjacent lands, lots,
20 tracts, streets, or highways as are urban or suburban in character and in
21 such direction as may be deemed proper. Such grant of power shall not be
22 construed as conferring power upon the mayor and city council to extend
23 the limits of a city of the first class over any agricultural lands which
24 are rural in character.

25 (2) The invalidity of the annexation of any tract of land in one
26 ordinance shall not affect the validity of the remaining tracts of land
27 which are annexed by the ordinance and which otherwise conform to state
28 law.

29 (3) The city council proposing to annex land under the authority of
30 this section shall first adopt both a resolution stating that the city is
31 proposing the annexation of the land and a plan for extending city

1 services to the land. The resolution shall state:

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

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

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

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

21 (5) A public hearing on the proposed annexation shall be held within
22 sixty days following the adoption of the resolution proposing to annex
23 land to allow the city council to receive testimony from interested
24 persons. The city council may recess the hearing, for good cause, to a
25 time and date specified at the hearing.

26 (6) A copy of the resolution providing for the public hearing shall
27 be published in the official newspaper in the city at least once not less
28 than ten days preceding the date of the public hearing. A map drawn to
29 scale delineating the land proposed for annexation shall be published
30 with the resolution. A copy of the resolution providing for the public
31 hearing shall be sent by first-class mail following its passage to the

1 school board of any school district in the land proposed for annexation.

2 (7) When a sanitary and improvement district board of trustees or
3 the administrator of the district receives a resolution and plan from the
4 city council regarding the city's proposal to annex territory within the
5 sanitary and improvement district, the sanitary and improvement district
6 is prohibited from spending assets which were used to determine the
7 feasibility of the annexation.

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

13 (9 8) Notwithstanding the requirements of this section, the mayor
14 and city council are not required to approve any petition requesting
15 annexation or any resolution or ordinance proposing to annex land
16 pursuant to this section.

17 Sec. 4. Section 16-130, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 16-130 (1) The provisions of this section shall govern annexation by
20 a city of the first class located in whole or in part within the
21 boundaries of a county having a population in excess of one hundred
22 thousand inhabitants but less than two hundred thousand inhabitants.

23 (2) Except as provided in sections 13-1111 to 13-1120 and subject to
24 this section, the mayor and city council of a city of the first class
25 described in subsection (1) of this section may by ordinance at any time
26 include within the corporate limits of such city any contiguous or
27 adjacent lands, lots, tracts, streets, or highways as are urban or
28 suburban in character and in such direction as may be deemed proper. Such
29 grant of power shall not be construed as conferring power upon the mayor
30 and city council to extend the limits of such a city over any
31 agricultural lands which are rural in character.

1 (3) When a sanitary and improvement district board of trustees or
2 the administrator of the district receives notice from the city council
3 of the city's proposal to annex territory within the sanitary and
4 improvement district, the sanitary and improvement district is prohibited
5 from spending assets which were used to determine the feasibility of the
6 annexation.

7 (4 3) The invalidity of the annexation of any tract of land in one
8 ordinance shall not affect the validity of the remaining tracts of land
9 which are annexed by the ordinance and which otherwise conform to state
10 law.

11 (5 4) Any owner of property contiguous or adjacent to such a city
12 may by petition request that such property be included within the
13 corporate limits of such city.

14 (6 5) Notwithstanding the requirements of this section, the mayor
15 and city council are not required to approve any petition requesting
16 annexation or any resolution or ordinance proposing to annex land
17 pursuant to this section.

18 (7 6) Not later than fourteen days prior to the public hearing
19 before the planning commission on a proposed annexation by the city, the
20 city clerk shall send notice of the proposed annexation by certified
21 mail, return receipt requested, to any of the following entities serving
22 customers in such city or in the area proposed for annexation: Any
23 natural gas public utility as defined in section 66-1802; any natural gas
24 utility owned or operated by the city; any metropolitan utilities
25 district; any public power district; any public power and irrigation
26 district; any municipality; any electric cooperative; and any other
27 governmental entity providing electric service. Such notice shall include
28 a copy of the proposed annexation ordinance, the date, time, and place of
29 the public hearing before the planning commission on the proposed
30 annexation ordinance, and a map showing the boundaries of the area
31 proposed for annexation.

1 (8 ~~7~~) Prior to the final adoption of the annexation ordinance, the
2 minutes of the city council meeting at which such final adoption was
3 considered shall reflect formal compliance with the provisions of
4 subsection (7 ~~6~~) of this section.

5 (9 ~~8~~) No additional or further notice beyond that required by
6 subsection (7 ~~6~~) of this section shall be necessary in the event (a) that
7 the scheduled city council public hearing on the proposed annexation is
8 adjourned, continued, or postponed until a later date or (b) that
9 subsequent to providing such notice the ordinance regarding such proposed
10 annexation was amended, changed, or rejected by action of the city
11 council prior to formal passage of the annexation ordinance.

12 (10 ~~9~~) Except for a willful or deliberate failure to cause notice to
13 be given, no annexation decision made by a city either to accept or
14 reject a proposed annexation, either in whole or in part, shall be void,
15 invalidated, or affected in any way because of any irregularity, defect,
16 error, or failure on the part of the city or its employees to cause
17 notice to be given as required by this section if a reasonable attempt to
18 comply with this section was made.

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

28 (12 ~~11~~) No action to challenge the validity of the acceptance or
29 rejection of a proposed annexation on the basis of this section shall be
30 filed more than one year following the date of the formal acceptance or
31 rejection of the annexation by the city council.

1 Sec. 5. Section 17-405.01, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 17-405.01 (1) Except as provided in subsection (3 2) of this section
4 and section 17-407, the mayor and council of any city of the second class
5 or the chairperson and members of the board of trustees of any village
6 may by ordinance, except as provided in sections 13-1111 to 13-1118, at
7 any time, include within the corporate limits of such city or village any
8 contiguous or adjacent lands, lots, tracts, streets, or highways as are
9 urban or suburban in character, and in such direction as may be deemed
10 proper. Such grant of power shall not be construed as conferring power to
11 extend the limits of any municipality over any agricultural lands which
12 are rural in character.

13 (2) When a sanitary and improvement district board of trustees or
14 the administrator of the district receives notice from the city council
15 of a city of the second class or the board of trustees of a village of
16 such city's or village's proposal to annex territory within the sanitary
17 and improvement district, the sanitary and improvement district is
18 prohibited from spending assets which were used to determine the
19 feasibility of the annexation.

20 (3 2) The mayor and city council of any city of the second class or
21 the chairperson and members of the board of trustees of any village may,
22 by ordinance, annex any lands, lots, tracts, streets, or highways which
23 constitute a redevelopment project area so designated by the city or
24 village or its community redevelopment authority in accordance with the
25 provisions of the Community Development Law and sections 18-2145 to
26 18-2154 when such annexation is for the purpose of implementing a
27 lawfully adopted redevelopment plan containing a provision dividing ad
28 valorem taxes as provided in subsection (1) of section 18-2147 and which
29 will involve the construction or development of an agricultural
30 processing facility, notwithstanding that such lands, lots, tracts,
31 streets, or highways are not contiguous or adjacent or are not urban or

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

21 (4 3) For the purposes of subsection (3 2) of this section,
22 agricultural processing facility means a plant or establishment where
23 value is added to agricultural commodities through processing,
24 fabrication, or other means and where eighty percent or more of the
25 direct sales from the facility are to other than the ultimate consumer of
26 the processed commodities. A facility shall not qualify as an
27 agricultural processing facility unless its construction or development
28 involves the investment of more than one million dollars derived from
29 nongovernmental sources.

30 Sec. 6. Section 17-407, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 17-407 (1) The provisions of this section shall govern annexation by
2 a city of the second class or village located in whole or in part within
3 the boundaries of a county having a population in excess of one hundred
4 thousand inhabitants but less than two hundred thousand inhabitants.

5 (2) The mayor and council of any city of the second class or the
6 chairperson and members of the board of trustees of any village described
7 in subsection (1) of this section may by ordinance, except as provided in
8 sections 13-1111 to 13-1118, at any time include within the corporate
9 limits of such city or village any contiguous or adjacent lands, lots,
10 tracts, streets, or highways as are urban or suburban in character and in
11 such direction as may be deemed proper. Such grant of power shall not be
12 construed as conferring power to extend the limits of any such
13 municipality over any agricultural lands which are rural in character.

14 (3) When a sanitary and improvement district board of trustees or
15 the administrator of the district receives notice from the city council
16 of a city of the second class or the board of trustees of a village of
17 such city's or village's proposal to annex territory within the sanitary
18 and improvement district, the sanitary and improvement district is
19 prohibited from spending assets which were used to determine the
20 feasibility of the annexation.

21 (4 ~~3~~) Not later than fourteen days prior to the public hearing
22 before the planning commission on a proposed annexation by the city or
23 village, the city or village clerk shall send notice of the proposed
24 annexation by certified mail, return receipt requested, to any of the
25 following entities serving customers in such city or village or in the
26 area proposed for annexation: Any natural gas public utility as defined
27 in section 66-1802; any natural gas utility owned or operated by the city
28 or village; any metropolitan utilities district; any public power
29 district; any public power and irrigation district; any municipality; any
30 electric cooperative; and any other governmental entity providing
31 electric service. Such notice shall include a copy of the proposed

1 annexation ordinance, the date, time, and place of the public hearing
2 before the planning commission on the proposed annexation ordinance, and
3 a map showing the boundaries of the area proposed for annexation.

4 (5 4) Prior to the final adoption of the annexation ordinance, the
5 minutes of the city council or village board meeting at which such final
6 adoption was considered shall reflect formal compliance with the
7 provisions of subsection (4 3) of this section.

8 (6 5) No additional or further notice beyond that required by
9 subsection (4 3) of this section shall be necessary in the event (a) that
10 the scheduled city council or village board public hearing on the
11 proposed annexation is adjourned, continued, or postponed until a later
12 date or (b) that subsequent to providing such notice the ordinance
13 regarding such proposed annexation was amended, changed, or rejected by
14 action of the city council or village board prior to formal passage of
15 the annexation ordinance.

16 (7 6) Except for a willful or deliberate failure to cause notice to
17 be given, no annexation decision made by a city of the second class or
18 village either to accept or reject a proposed annexation, either in whole
19 or in part, shall be void, invalidated, or affected in any way because of
20 any irregularity, defect, error, or failure on the part of the city or
21 village or its employees to cause notice to be given as required by this
22 section if a reasonable attempt to comply with this section was made.

23 (8 7) Except for a willful or deliberate failure to cause notice to
24 be given, the city or village and its employees shall not be liable for
25 any damage to any person resulting from any failure to cause notice to be
26 given as required by this section when a reasonable attempt was made to
27 provide such notice. No action for damages resulting from the failure to
28 cause notice to be provided as required by this section shall be filed
29 more than one year following the date of the formal acceptance or
30 rejection of the proposed annexation, either in whole or in part, by the
31 city council or village board.

1 (9 8) No action to challenge the validity of the acceptance or
2 rejection of a proposed annexation on the basis of this section shall be
3 filed more than one year following the date of the formal acceptance or
4 rejection of the annexation by the city council or village board.

5 Sec. 7. Section 31-763, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 31-763 (1) Whenever any city or village annexes all the territory
8 within the boundaries of any sanitary and improvement district organized
9 under the provisions of sections 31-701 to 31-726.01 as such sections
10 existed prior to July 19, 1996 ~~31-726~~, or under sections 31-727 to
11 31-762, or any road improvement district organized under sections 39-1601
12 to 39-1636, or any fire protection district authorized under Chapter 35,
13 article 5, the district shall merge with the city or village and the city
14 or village shall succeed to all the property and property rights of every
15 kind, contracts, obligations and choses in action of every kind, held by
16 or belonging to the district, and the city or village shall be liable for
17 and recognize, assume, and carry out all valid contracts and obligations
18 of the district. All taxes, assessments, claims, and demands of every
19 kind due or owing to the district shall be paid to and collected by the
20 city or village. Any special assessments which the district was
21 authorized to levy, assess, relevel or reassess, but which were not
22 levied, assessed, relevelled or reassessed, at the time of the merger, for
23 improvements made by it or in the process of construction or contracted
24 for may be levied, assessed, relevelled or reassessed by the annexing city
25 or village to the same extent as the district may have levied or assessed
26 but for the merger. Nothing in this section ; ~~Provided, nothing herein~~
27 ~~contained~~ shall authorize the annexing city or village to revoke any
28 resolution, order, or finding made by the district in regard to special
29 benefits or increase any assessments made by the district, but such city
30 or village shall be bound by all such findings or orders and assessments
31 to the same extent as the district would be bound. No ; ~~and provided~~

1 further, that no district so annexed shall have power to levy any special
2 assessments after the effective date of such annexation.

3 (2) If a sanitary and improvement district board of trustees or the
4 administrator of the district receives notice from a city council or a
5 board of trustees that the city or village is proposing to annex
6 territory under the authority of sections 14-117, 15-104, 16-117, 16-130,
7 17-405.01, or 17-407 and such territory includes a sanitary and
8 improvement district or portion thereof, the sanitary and improvement
9 district shall be prohibited from spending assets that were used to
10 determine the feasibility of the annexation until the annexation is
11 approved by the city council or board of trustees.

12 Sec. 8. Original sections 14-117, 15-104, 16-117, 16-130,
13 17-405.01, 17-407, and 31-763, Reissue Revised Statutes of Nebraska, are
14 repealed.