

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB744

Hearing Date: Monday January 22, 2018
Committee On: Executive Board
Introducer: Executive Board
One Liner: Adopt the Legislative Qualifications and Election Contests Act

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

| | | |
|----------------------------|---|---|
| Aye: | 8 | Senators Bolz, Crawford, Hughes, Kuehn, Larson, McCollister, Scheer, Watermeier |
| Nay: | | |
| Absent: | 1 | Senator Chambers |
| Present Not Voting: | | |

Verbal Testimony:

Proponents:

Senator Dan Watermeier
Patrick O'Donnell

Representing:

Introducer
Clerk of the Legislature

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB744 creates the Legislative Qualifications and Election Contests Act, which would apply only to members of the Legislature. Election contest provisions for other elected officials would remain in Chapter 32, which deals with elections, in general.

In addition to separating Legislative contests from other election contests, LB744 codifies certain substantive provisions that are currently in Legislative Rule 10 and proposes clarification that came about as a result of the recent qualifications challenge. These are found in Sections 8-22, and 27 and include:

- Clarifying that only an unsuccessful candidate whose name appeared on the ballot for that legislative district can file a challenge;
 - Clarifying that a challenge shall be considered at the next regular session following the general election;
 - Confirming that the respondent member may hold the office until the election contest or qualifications challenge is decided;
 - Providing that the burden of proof is on the petitioner and that the evidentiary standard is clear and convincing evidence;
 - Clarifying service of process between the parties;
 - Clarifying filing and jurisdictional requirements;
 - Clarifying amendments to a petition and that failure to meet all requirement of a filing makes the petition void;
 - Changing the bond amount from \$5,000 to \$10,000;
 - Clarifying that the respondent may file a response to the petition; and
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-Providing for the recovery of attorney fees by the prevailing party;

Sections 23-26 are a restatement of current law regarding election contests, but placed in the new Act so they apply to members of the Legislature.

Section 27 reiterates the Nebraska Constitution's provision that the Legislature is vested with the jurisdiction to hear any challenge to the qualifications of a member of the Legislature and is the judge of the elections, returns, and qualifications of its members.

A change to the Legislative Rules has been introduced that complements the statutory changes in LB744. It is currently being held by the Rules Committee.

Dan Watermeier, Chairperson