LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 451

Introduced by Murante, 49.
Read first time January 17, 2017
Committee: Government, Military and Veterans Affairs

A BILL FOR AN ACT relating to elections; to amend sections 32-208, 32-404, 32-566, 32-573, 32-601, 32-802, 32-939.02, and 32-947, Reissue Revised Statutes of Nebraska, and section 49-1494, Revised Statutes Cumulative Supplement, 2016; to eliminate a restriction on an election commissioner becoming a candidate for elective office; to change provisions relating to deadlines for certifications, notifications, and published notice; to change provisions relating to filling certain vacancies; to provide a voter's oath for nonresidents and change provisions relating to ballot envelope instructions; to change provisions relating to the filing of a statement of financial interests by a candidate for elective office; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 32-208, Reissue Revised Statutes of Nebraska, is amended to read:

32-208 The election commissioner in counties having a population of more than one hundred thousand inhabitants shall be a registered voter, a resident of such county for at least one year, and of good moral character and integrity and capacity. No person who is a candidate for any elective office or is a deputy, clerk, or employee of any person who is a candidate for any elective office shall be eligible for the office of election commissioner. The election commissioner shall not hold any other elective office or become a candidate for an elective office during his or her term of office or within thirty days after leaving office. An election commissioner may be appointed to an elective office during his or her term of office as election commissioner, and acceptance of such appointment shall be deemed to be his or her resignation from the office of election commissioner.

Sec. 2. Section 32-404, Reissue Revised Statutes of Nebraska, is amended to read:

32-404 (1) When any political subdivision holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by a political subdivision shall be held as provided in the act unless otherwise provided by the charter, code, or bylaws of the political subdivision.

(2) No later than December 1 of each odd-numbered year, the election commissioner or county clerk shall give notice to each political subdivision of the filing deadlines for the statewide primary election. No later than January 5 of each even-numbered year, the governing board of each political subdivision which will hold an election in conjunction with a statewide primary election shall certify to the Secretary of State, the election commissioner, or the county clerk the name of the subdivision, the number of officers to be elected, the length of the
terms of office, the vacancies to be filled by election and length of
remaining term, and the number of votes to be cast by a registered voter
for each office.

(3) No later than June 15 July 1 of each even-numbered year, the
governing board of each reclamation district, county weed district,
village, county under township organization, public power district
receiving annual gross revenue of less than forty million dollars, or
educational service unit which will hold an election in conjunction with
a statewide general election shall certify to the Secretary of State, the
election commissioner, or the county clerk the name of the subdivision,
the number of officers to be elected, the length of the terms of office,
the vacancies to be filled by election and length of remaining term, and
the number of votes to be cast by a registered voter for each office.

(4) The Secretary of State shall prescribe the forms to be used for
certification to him or her, and the election commissioner or county
clerk shall prescribe the forms to be used for certification to him or
her.

Sec. 3. Section 32-566, Reissue Revised Statutes of Nebraska, is
amended to read:

32-566 When a vacancy occurs in the Legislature, the office shall be
filled by the Governor. The Governor shall appoint a suitable person
possessing the qualifications necessary for a member of the Legislature.
If the vacancy occurs on or after February 1 during a calendar year in
which within sixty days of a regular general election will be held and if
the term vacated expires on the first Tuesday following the first Monday
in the following January, the appointee shall serve until the first
Tuesday following the first Monday in January, and if the term extends
beyond the first Tuesday following the first Monday in the following
January, the appointee shall serve until the first Tuesday following the
first Monday in January following the second regular general election
next succeeding his or her appointment. If the vacancy occurs during the
first year of the term or before February 1 during a calendar year in which more than sixty days before a regular general election will be held, the appointee shall serve until the first Tuesday following the first Monday in January following such regular general election and at the regular general election a member of the Legislature shall be elected to serve the unexpired term.

Sec. 4. Section 32-573, Reissue Revised Statutes of Nebraska, is amended to read:

32-573 (1) When a vacancy occurs in the Board of Regents of the University of Nebraska, the office shall be filled by the Governor. The Governor shall appoint a suitable person possessing the qualifications necessary for a member of the Board of Regents.

(2)(a) If the vacancy occurs during the first year of the term or before February 1 during a calendar year in which more than seventy-five days before a statewide general election will be held, the appointee shall serve until the first Thursday following the first Tuesday in January following such general election and at such general election a member of the Board of Regents shall be elected to serve the unexpired term if any.

(b) If the vacancy occurs on or after February 1 during a calendar year in which within seventy-five days before a statewide general election will be held and if the term vacated expires on the first Thursday following the first Tuesday in January following such general election, the appointee shall serve the unexpired term.

(c) If the vacancy occurs on or after February 1 during a calendar year in which within seventy-five days before a statewide general election will be held and if the term vacated extends beyond the first Thursday following the first Tuesday in January following such general election, the appointee shall serve until the first Thursday following the first Tuesday in January following the second general election next succeeding his or her appointment and at such election a member of the
Board of Regents shall be elected to serve the unexpired term if any.

Sec. 5. Section 32-601, Reissue Revised Statutes of Nebraska, is amended to read:

32-601 (1) Each political subdivision shall notify the election commissioner or county clerk of the offices to be filled no later than:

(a) January 5 of any election year as provided in subsection (2) of section 32-404; or

(b) June 15 of any election year as provided in subsection (3) of section 32-404.

(2) The election commissioner or county clerk shall give notice of the offices to be filled by election and the filing deadlines for such offices by publication in at least one newspaper of general circulation in the county once at least fifteen days prior to such deadlines.

Sec. 6. Section 32-802, Reissue Revised Statutes of Nebraska, is amended to read:

32-802 The notice of election for any election shall state the date on which the election is to be held and the hours the polls will be open and list all offices, candidates, and issues that will appear on the ballots. The notice of election shall be printed in English and in any other language required pursuant to the Voting Rights Act Language Assistance Amendments of 1992. In the case of a primary election, the notice of election shall list all offices and candidates that are being forwarded to the general election. The notice of election shall only state that amendments or referendums will be voted upon and that the Secretary of State will publish a true copy of the title and text of any amendments or referendums once each week for three consecutive weeks preceding the election. Such notice of election shall appear in at least one newspaper designated by the election commissioner, county clerk, city council, or village board no later than forty-five forty days prior to the election. The election commissioner or county clerk shall, not later than forty-five forty days prior to the election, (1) post in his or her
office the same notice of election published in the newspaper and (2)
provide a copy of the notice to the political subdivisions appearing on
the ballot. The election commissioner or county clerk shall correct the
ballot to reflect any corrections received within five ten days after
mailing the notice as provided in section 32-819. The notice of election
shall be posted in lieu of sample ballots until such time as sample
ballots are printed. If joint elections are held in conjunction with the
statewide primary or general election by a county, city, or village, only
one notice of election need be published and signed by the election
commissioner or county clerk.

Sec. 7. Section 32-939.02, Reissue Revised Statutes of Nebraska, is
amended to read:

32-939.02 (1) Upon request for a ballot, a ballot for early voting
shall be forwarded to each voter meeting the criteria of section 32-939
at least forty-five days prior to any election.

(2) An omission of required information, except the political party
affiliation of the applicant, may prevent the processing of an
application for and mailing of ballots. The request for any ballots and a
registration application shall be sent to the election commissioner or
county clerk of the county of the applicant's residence. The request may
be sent at any time in the same calendar year as the election, except
that the request shall be received by the election commissioner or county
clerk not later than the third Friday preceding an election to vote in
that election. If an applicant fails to indicate his or her political
party affiliation on the application, the applicant shall be registered
as nonpartisan.

(3) A person described in section 32-939 may register to vote
through the use of the Federal Post Card Application or a personal letter
which includes the same information as appears on the Federal Post Card
Application and may simultaneously make application for ballots for all
elections in a calendar year. The person may indicate a preference for
ballots and other election materials to be delivered via facsimile transmission or electronic mail by indicating such preference on the Federal Post Card Application. If the person indicates such a preference, the election commissioner or county clerk shall accommodate the voter's preference.

(4) If the ballot for early voting has not been printed in sufficient time to meet the request and special requirements of a voter meeting the criteria of section 32-939, the election commissioner or county clerk may issue a special ballot at least sixty days prior to an election to such a voter upon a written request by such voter requesting the special ballot. For purposes of this subsection, a special ballot means a ballot prescribed by the Secretary of State which contains the titles of all offices being contested at such election and permits the voter to vote by writing in the names of the specific candidates or the decision on any issue. The election commissioner or county clerk shall include with the special ballot a complete list of the nominated candidates and issues to be voted upon by the voter which are known at the time of the voter's request.

(5) Any person meeting the criteria in section 32-939 may cast a ballot by the use of the Federal Write-In Absentee Ballot. The Federal Write-In Absentee Ballot may be used for all elections. If a person casting a ballot using the Federal Write-In Absentee Ballot is not a registered voter, the information submitted in the Federal Write-In Absentee Ballot transmission envelope shall be treated as a voter registration application.

(6)(a) Any person requesting a ballot under this section may receive and return the ballot and the oath prescribed in subdivision (b) of this subsection (2) of section 32-947 using any method of transmission authorized by the Secretary of State.

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

VOTER'S OATH

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

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

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

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

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

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

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

Signature ........................................

(7) The Secretary of State shall develop a process for a person casting a ballot under this section to check the status of his or her ballot via the Internet or a toll-free telephone call.

Sec. 8. Section 32-947, Reissue Revised Statutes of Nebraska, is amended to read:

32-947 (1) Upon receipt of an application or other request for a ballot to vote early, the election commissioner or county clerk shall determine whether the applicant is a registered voter and is entitled to
vote as requested. If the election commissioner or county clerk determines that the applicant is a registered voter entitled to vote early and the application was received not later than the close of business on the second Friday preceding the election, the election commissioner or county clerk shall deliver a ballot to the applicant in person or by mail, postage paid. The election commissioner or county clerk or any employee of the election commissioner or county clerk shall write or cause to be affixed his or her customary signature or initials on the ballot.

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

VOTER'S OATH

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

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

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

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

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

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

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO FIVE YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN
THOUSAND DOLLARS, OR BOTH.

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

Signature ..................................................

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

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

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

(b) A registration application and the oath pursuant to section 32-946, if the voter is without a residence address, with instructions that the residence address of the voter shall be deemed that of the office of the election commissioner or county clerk of the county of the voter's prior residence and that failure to return the completed and signed application and oath to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted; or

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

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

Sec. 9. Section 49-1494, Revised Statutes Cumulative Supplement, 2016, is amended to read:

49-1494 (1) An individual who files to appear on the ballot for election to an elective office specified in section 49-1493 shall file a statement of financial interests for the preceding calendar year with the commission as provided in this section.

(2) Candidates for the elective offices specified in section 49-1493 who qualify other than by filing shall file a statement for the preceding calendar year with the commission within five days after becoming a candidate or being appointed to that elective office.

(3) A statement of financial interests shall be preserved for a period of not less than five years by the commission.

(4) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election prior to January 1 of the year in which the election is held, the candidate shall file supplementary statements, covering the preceding calendar year, with the commission on or before March 1 of the year in which the election is held or, if the filing deadline for the elective office is after March 1 of the year in which the election is held, the candidate shall file such supplementary statements on or before the filing deadline for the elective office.

(4) If the candidate for an elective office specified in section 49-1493 files to appear on the ballot for election during the calendar year in which the election is held, the candidate shall file a statement of financial interests for the preceding calendar year with the commission on or before March 1 of the year in which the election is held.
or, if the filing deadline for the elective office is after March 1 of the year in which the election is held, the candidate shall file such statement on or before the filing deadline for the elective office.

(5) A candidate for an elective office specified in section 49-1493 who fails to file a statement of financial interests as required in subsection (1) or (2) of this section within five days after the deadline in subsection (3) or (4) of this section and section 49-1493 shall not appear on the ballot.

(6) A statement of financial interests shall be preserved for a period of not less than five years by the commission.

Sec. 10. Original sections 32-208, 32-404, 32-566, 32-573, 32-601, 32-802, 32-939.02, and 32-947, Reissue Revised Statutes of Nebraska, and section 49-1494, Revised Statutes Cumulative Supplement, 2016, are repealed.