

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1046

Introduced by Bostelman, 23.

Read first time January 18, 2022

Committee: Natural Resources

1 A BILL FOR AN ACT relating to public power districts; to amend sections
2 32-512, 70-610, 70-612, 70-615, 70-616, 70-619, and 70-620.01,
3 Reissue Revised Statutes of Nebraska; to change provisions relating
4 to qualifications, eligibility, and election of members of the board
5 of directors; to provide for creation of new election subdivisions
6 for certain districts as prescribed; to provide for appointment of
7 certain directors and chief executive officers by the Governor; to
8 harmonize provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-512, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 32-512 (1) After the selection of the original board of directors of
4 a public power district as provided for in sections 70-803 and 70-805 or
5 a district as provided for in sections 70-604 and 70-609, their elective
6 successors shall be nominated and elected on the nonpartisan ballot,
7 except that in districts receiving annual gross revenue of less than
8 forty million dollars, the candidates for the board of directors shall
9 not appear on the ballot in the primary election. The term of each
10 elected director shall be not more than six years or until his or her
11 successor is elected and qualified. Candidates for the board of directors
12 shall meet the qualifications found in sections 70-610 and 70-619.

13 (2) Registered voters residing within the chartered territory and
14 registered voters duly certified in accordance with section 70-604.03
15 shall be qualified to vote in the district as certified pursuant to
16 section 70-611. The registered voters of a subdivision created under
17 subsection (1) of section 70-612 may only cast their ballots for
18 candidates for directors to be elected from such subdivision and, if
19 applicable, for candidates for directors to be elected at large from the
20 whole district. The registered voters of a subdivision created under
21 subsection (2) or (3) of section 70-612 may only cast their ballots for
22 candidates for directors to be elected from such subdivision.

23 Sec. 2. Section 70-610, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 70-610 (1) After the selection of the original board of directors of
26 a district as provided for in sections 70-604 and 70-609, elective
27 successors shall be nominated and elected as provided in section 32-512.
28 Elections shall be conducted as provided in the Election Act.

29 (2) A candidate for director shall be a registered voter residing
30 within the chartered territory or subdivision as defined in the charter
31 of the district or a retail customer duly certified in accordance with

1 subsection (3) of section 70-604.03.

2 (3) Each public power district shall pay for the election expenses
3 of nominating and electing its directors as provided in this section.
4 Except as otherwise provided in this section, the district shall pay to
5 each county in which the name of one or more candidates appears upon the
6 ballot as follows: Counties having a population of less than three
7 thousand inhabitants, one hundred dollars; counties having a population
8 of at least three thousand but less than nine thousand inhabitants, one
9 hundred fifty dollars; counties having a population of at least nine
10 thousand but less than fourteen thousand inhabitants, two hundred
11 dollars; counties having a population of at least fourteen thousand but
12 less than twenty thousand inhabitants, two hundred fifty dollars;
13 counties having a population of at least twenty thousand but less than
14 sixty thousand inhabitants, three hundred dollars; counties having a
15 population of at least sixty thousand but less than one hundred thousand
16 inhabitants, fifteen hundred dollars; counties having a population of at
17 least one hundred thousand but less than two hundred thousand
18 inhabitants, three thousand dollars; and counties having a population of
19 two hundred thousand inhabitants or more, fifty-five hundred dollars. The
20 population of a county for purposes of this section shall be the
21 population as determined by the most recent federal decennial census.

22 When the name of one or more candidates of a district appears on
23 ballots in less than one-half of the precincts in a county, the cost to
24 the district shall be reduced fifty percent. Election expenses shall be
25 due and payable by each public power district within thirty days after
26 receipt of a statement from the county.

27 (4) In lieu of the payment of election expenses pursuant to
28 subsection (3) of this section, a district shall pay for the election
29 expenses of nominating and electing its board of directors pursuant to
30 subsection (2) of section 32-1203 upon request of a county. The election
31 expenses shall be due and payable by the district within thirty days

1 after receipt from the county of an itemized statement of election
2 expenses owed by the district. This subsection shall not be construed to
3 authorize reimbursement for expenses not directly attributable to
4 nominating and electing members of the board of directors.

5 Sec. 3. Section 70-612, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 70-612 (1)(a) Except as provided in subdivision (1)(b) of this
8 section:

9 (i) (1)(a) Subject to the provisions of Chapter 70, article 6, and
10 subject to the approval of the Nebraska Power Review Board, the board of
11 directors of a district, other than a district with a service area
12 containing a city of the metropolitan class, may amend the petition for
13 its creation to provide for the division of the territory of such
14 district into two or more subdivisions for the nomination and election of
15 some or all of the directors. Each subdivision shall be composed of one
16 or more voting precincts, or divided voting precincts, and the total
17 population of each such subdivision shall be approximately the same.
18 Except in districts which contain a city of the metropolitan class, two
19 or more subdivisions may be combined for election purposes, and members
20 of the board of directors to be elected from such combined subdivisions
21 may be nominated and elected at large when not less than seventy-five
22 percent of the population of the combined subdivisions is within the
23 corporate limits of any city; and -

24 (ii) (b) In the event a district formed includes all or part of two
25 or more counties and is (A) (i) engaged in furnishing electric light and
26 power and more than fifty percent of its customers are rural customers or
27 (B) (ii) engaged in furnishing electric light and power and in the
28 business of owning and operating irrigation works, then and in that event
29 such subdivisions may be formed by following precinct or county boundary
30 lines without regard to population if in the judgment of the Nebraska
31 Power Review Board the interests of the rural users of electricity or of

1 users of irrigation water service in such district will not be prejudiced
2 thereby.

3 (b) For the elections beginning in 2024:

4 (i) The board of directors of a district whose chartered territory
5 comprises more than one-half of the counties in Nebraska, for purposes of
6 the nomination and election of members of the board of directors as
7 provided in this subdivision, shall divide the territory of the district
8 into four election subdivisions composed of substantially equal
9 population and compact and contiguous territory and number the
10 subdivisions consecutively and submit the maps to the Nebraska Power
11 Review Board;

12 (ii) The members elected to the board shall serve terms of six
13 years, except that of the members first elected, the members elected to
14 serve subdivisions one and two shall serve for terms of four years and
15 the members elected to subdivisions three and four shall serve for terms
16 of six years. Members serving on the board on January 1, 2024, shall
17 serve until their terms expire; and

18 (iii) In addition to the members elected pursuant to this
19 subdivision, the Governor shall appoint five members at large to the
20 board who shall be residents of the chartered territory of the district,
21 with at least one such member residing three miles or more outside the
22 corporate limits of any city of the metropolitan class, any city of the
23 primary class, and any city of the first class. The appointed members
24 shall serve terms of six years. Of the members first appointed, two
25 members shall serve for terms of two years, two members shall serve for
26 terms of four years, and one member shall serve for a term of six years,
27 with commencement of such terms to coincide with commencement of the
28 terms for members first duly elected pursuant to this subdivision. Each
29 member appointed shall be eligible for reappointment to one successive
30 term.

31 (2)(a) Except as provided in subdivision (2)(b) of this section:

1 *(i)* ~~(2)(a)~~ The board of directors of a district with a service area
2 containing a city of the metropolitan class may amend its charter to
3 provide for the division of the territory of the district into election
4 subdivisions composed of substantially equal population and compact and
5 contiguous territory and number the subdivisions consecutively and submit
6 the maps to the Nebraska Power Review Board.

7 *(ii)* ~~(b)~~ If the board of directors provides for eight election
8 subdivisions prior to January 1, 2014, the board of directors shall
9 assign each position on the board of directors to represent a numbered
10 election subdivision for the remainder of the term of office for which
11 the member is elected, regardless of whether the member resides in the
12 subdivision, and shall make such assignments so that the terms of members
13 representing election subdivisions numbered one, two, and three expire in
14 January 2015, the terms of members representing election subdivisions
15 numbered four and five expire in January 2017, and the terms of members
16 representing election subdivisions six, seven, and eight expire in
17 January 2019. If possible, each member shall be assigned to represent an
18 election subdivision that corresponds to the end of the term he or she is
19 serving.

20 *(iii)* ~~(c)~~ A successor who resides in the numbered election
21 subdivision shall be nominated and elected at the statewide primary and
22 general elections held in the calendar year prior to the expiration of
23 the term of the member who represents such numbered election subdivision.

24 **(b) For the elections beginning in 2024:**

25 *(i)* The board of directors of a district with a service area
26 containing a city of the metropolitan class, for purposes of the
27 nomination and election of members of the board of directors as provided
28 in this subdivision, shall divide the territory of the district into four
29 election subdivisions composed of substantially equal population and
30 compact and contiguous territory and number the subdivisions
31 consecutively and submit the maps to the Nebraska Power Review Board;

1 (ii) The members elected to the board shall serve terms of six
2 years, except that of the members first elected, the members elected to
3 serve subdivisions one and two shall serve for terms of four years and
4 the members elected to subdivisions three and four shall serve for terms
5 of six years. Members serving on the board on January 1, 2024, shall
6 serve until their terms expire; and

7 (iii) In addition to the members elected pursuant to this
8 subdivision, the Governor shall appoint five members at large to the
9 board who shall be residents of the chartered territory of the district,
10 with at least one such member residing three miles or more outside the
11 corporate limits of any city of the metropolitan class, any city of the
12 primary class, and any city of the first class. The appointed members
13 shall serve terms of six years. Of the members first appointed, two
14 members shall serve for terms of two years, two members shall serve for
15 terms of four years, and one member shall serve for a term of six years,
16 with commencement of such terms to coincide with commencement of the
17 terms for members first duly elected pursuant to this subdivision. Each
18 member appointed shall be eligible for reappointment to one successive
19 term.

20 (3) After the each federal decennial census occurring in 2020, the
21 board of directors of a district with a service area containing a city of
22 the metropolitan class shall create new boundaries for the election
23 subdivisions. For the elections beginning in 2024, and after each federal
24 decennial census thereafter, the board of directors of any district
25 subject to subdivisions (1)(b) and (2)(b) of this section shall create
26 new boundaries for the election subdivisions. In establishing the
27 boundaries of the election subdivisions, the board of directors shall
28 follow county lines wherever practicable, shall provide for the
29 subdivisions to be composed of substantially equal population and compact
30 and contiguous territory, and shall, as nearly as possible, follow the
31 precinct lines created by the election commissioner or county clerk after

1 each federal decennial census.

2 (4) Any public power district or public power and irrigation
3 district owning and operating irrigation works may, with approval of the
4 Nebraska Power Review Board, add representation on its board of directors
5 from any county which is outside its chartered territory but in which is
6 located some or all of such irrigation works.

7 Sec. 4. Section 70-615, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 70-615 (1) In addition to the events listed in section 32-560, a
10 vacancy on the board of directors shall exist in the event of the (a)
11 removal from the chartered area of any director, (b) removal from the
12 subdivision from which such director was elected except as otherwise
13 provided in subsection (1), (2), or (3) of section 70-612, (c)
14 elimination or detachment from the chartered area of the territory in
15 which a director or directors reside, or (d) expiration of the term of
16 office of a director and failure to elect a director to fill such office
17 at the preceding general election. After notice and hearing, a vacancy
18 shall also exist in the event of the absence of any director from more
19 than two consecutive regular meetings of the board, unless such absences
20 are excused by a majority of the remaining board members.

21 (2) In the event of a vacancy from any of such causes, or otherwise,
22 such vacancy or vacancies shall, except in districts having within their
23 chartered area twenty-five or more cities and villages, be filled by the
24 board of directors. In districts having within their chartered area
25 twenty-five or more cities and villages, vacancies shall be filled by the
26 Governor.

27 (3) If a vacancy occurs during the term of any director prior to the
28 deadline for filing and the unexpired term extends beyond the first
29 Thursday after the first Tuesday in January following the next general
30 election, an appointment shall be until the first Thursday after the
31 first Tuesday in January following the next general election, and

1 candidates may file nomination papers as provided by law for the placing
2 of their names upon the ballot for election to the unexpired term. If a
3 vacancy occurs during the term of any director after the deadline for
4 filing for election, an appointment shall be until the first Thursday
5 after the first Tuesday in January following the next general election
6 for which candidates may file nomination papers as provided by law.

7 (4) At any time a vacancy is to be filled by election, the secretary
8 of the district shall give notice to the public by publishing the notice
9 of vacancy, length of term, and the deadline for filing, once in a
10 newspaper or newspapers of general circulation within the district.

11 (5) Any appointment shall be filed with the Secretary of State by
12 certified mail.

13 Sec. 5. Section 70-616, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 70-616 Before entering upon the duties of ~~his~~ office, every member
16 elected or appointed to membership on the board of directors shall take
17 and subscribe to an oath to support the Constitution of the United States
18 and the Constitution of the State of Nebraska, and faithfully and
19 impartially to perform the duties of such ~~his~~ office, which oath shall be
20 filed in the office of the Secretary of State.

21 Sec. 6. Section 70-619, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 70-619 (1) The corporate powers of the district shall be vested in
24 and exercised by the board of directors of the district. No person shall
25 be qualified to hold office as a member of the board of directors unless
26 (a) he or she is a registered voter (i) of such chartered territory, (ii)
27 of the subdivision from which a director is to be elected or appointed if
28 such chartered territory is subdivided for election purposes as provided
29 in subsection (1), (2), or (3) of section 70-612, or (iii) of one of the
30 combined subdivisions from which directors are to be elected at large, if
31 applicable, as provided in section 70-612 or (b) he or she is a retail

1 customer duly certified in accordance with subsection (3) of section
2 70-604.03.

3 (2)(a) No person who is a full-time or part-time employee of the
4 district shall be eligible to serve as a member of the board of directors
5 of that district and no high-level manager employed by a district may
6 serve as a member of the board of directors of any district unless such
7 person (i) resigns or (ii) assumes an unpaid leave of absence for the
8 term as a member. The employing district shall grant such leave of
9 absence when requested by any employee for the purpose of the employee
10 serving as a member of such board. A member of a governing body of any
11 one of the municipalities within the areas of the district may not serve
12 on the original board of directors under sections 70-603 to 70-609.

13 (b) For purposes of this subsection, high-level manager means a
14 person employed by a district who serves in a high-level managerial
15 position, including chief executive officer, president, vice president,
16 chief financial officer, chief operations officer, general manager, or
17 assistant general manager.

18 Sec. 7. Section 70-620.01, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 70-620.01 (1) In districts receiving annual gross revenue of less
21 than forty million dollars, a general manager may be employed on such
22 terms as the board deems advisable. He or she shall be chief executive
23 officer of the district and, subject to the control of the board of
24 directors, shall manage, conduct, and administer the affairs of the
25 district in an efficient and economical manner.

26 (2) Except as provided in subsection (3) of this section, in ~~In~~
27 those districts receiving annual gross revenue of forty million dollars
28 or more, a chief executive officer, who shall be designated as general
29 manager if the board appoints a president of the board or as president if
30 the board appoints a chairperson of the board, may be employed on such
31 terms as the board deems advisable and, subject to the control of the

1 board of directors, shall manage, conduct, and administer the affairs of
2 the district in an efficient and economical manner.

3 (3)(a) For a district whose chartered territory comprises more than
4 one-half of the counties in Nebraska, and for a district with a service
5 area containing a city of the metropolitan class, the Governor shall
6 appoint a chief executive officer designated as president who shall be
7 employed by the district but serve at the pleasure of the Governor. The
8 chief executive officer, subject to direction of the board of directors,
9 shall manage, conduct, and administer the affairs of the district in an
10 efficient and economical manner.

11 (b) If any contract of employment of a chief executive officer for a
12 district described in this subsection was entered into prior to the
13 effective date of this act, no appointment by the Governor under
14 subdivision (a) of this subsection shall be effective until the term of
15 such contract expires.

16 Sec. 8. Original sections 32-512, 70-610, 70-612, 70-615, 70-616,
17 70-619, and 70-620.01, Reissue Revised Statutes of Nebraska, are
18 repealed.