

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 33

Introduced by Jacobson, 42.

Read first time January 05, 2023

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to municipalities; to amend sections 16-312,
2 16-404, 16-503, 17-110, and 17-614, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to voting powers of mayors
4 of cities of the first class and cities of the second class; to
5 eliminate obsolete provisions relating to revised election district
6 boundaries; to harmonize provisions; and to repeal the original
7 sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 16-312, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 16-312 (1) The mayor of a city of the first class shall preside at
4 all the meetings of the city council. The mayor may vote on any matter
5 which requires either a majority vote of the city council or a majority
6 vote of all the elected members of the city council if (a) the mayor's
7 vote is required due to the city council being equally divided or (b) a
8 majority of the city council or majority vote of all the elected members
9 cannot be reached due to absence, vacancy, or abstention of one or more
10 city council members. For purposes of such vote, the mayor is deemed to
11 be a member of the city council.

12 ~~(2) The mayor and shall have the right to vote when his or her vote~~
13 ~~will provide the additional vote required to create a number of votes~~
14 ~~equal to a majority of the number of members elected to the city council.~~
15 ~~He or she shall have the superintending control of all the officers and~~
16 ~~affairs of the city and shall take care that the ordinances of the city~~
17 ~~and the provisions of law relating to cities of the first class are~~
18 ~~complied with. The mayor He or she may administer oaths and shall sign~~
19 ~~the commissions and appointments of all the officers appointed in the~~
20 ~~city.~~

21 Sec. 2. Section 16-404, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 16-404 (1) All ordinances and resolutions or orders for the
24 appropriation or payment of money in a city of the first class shall
25 require for their passage or adoption the concurrence of a majority of
26 all elected members of ~~elected to~~ the city council. The mayor may vote on
27 any such matter if (a) the mayor's vote is required due to the city
28 council being equally divided or (b) a majority vote of all the elected
29 members cannot be reached due to absence, vacancy, or abstention of one
30 or more city council members. For purposes of such vote, the mayor is
31 deemed to be a member of the city council ~~when his or her vote will~~

1 ~~provide the additional vote required to create a number of votes equal to~~
2 ~~a majority of the number of members elected to the city council, and the~~
3 ~~mayor shall, for the purpose of such vote, be deemed to be a member of~~
4 ~~the city council.~~

5 (2)(a) Ordinances of a general or permanent nature in a city of the
6 first class shall be read by title on three different days unless three-
7 fourths of the city council members vote to suspend this requirement,
8 except that in a city having a commission plan of government such
9 requirement may be suspended by a three-fifths majority vote.

10 (b) Regardless of the form of government, such requirement shall not
11 be suspended (i) for any ordinance for the annexation of territory or the
12 redrawing of boundaries for city council election districts or wards
13 except as otherwise provided in subsection (4) of this section or (ii) as
14 otherwise provided by law.

15 (c) In case such requirement is suspended, the ordinances shall be
16 read by title or number and then moved for final passage.

17 (d) Three-fourths of the city council members may require a reading
18 of any such ordinance in full before enactment under either procedure set
19 out in this section, except that in a city having a commission plan of
20 government, such reading may be required by a three-fifths majority vote.

21 (3) Ordinances in a city of the first class shall contain no subject
22 which is not clearly expressed in the title, and, except as provided in
23 section 19-915, no ordinance or section thereof shall be revised or
24 amended unless the new ordinance contains the entire ordinance or section
25 as revised or amended and the ordinance or section so amended is
26 repealed, except that:

27 (a) For an ordinance revising all the ordinances of a city of the
28 first class, the only title necessary shall be An ordinance of the city
29 of, revising all the ordinances of the city. Under such title
30 all the ordinances may be revised in sections and chapters or otherwise,
31 may be corrected, added to, and any part suppressed, and may be repealed

1 with or without a saving clause as to the whole or any part without other
2 title; and

3 (b) For an ordinance used solely to revise ordinances or code
4 sections or to enact new ordinances or code sections in order to adopt
5 statutory changes made by the Legislature which are specific and
6 mandatory and bring the ordinances or code sections into conformance with
7 state law, the title need only state that the ordinance revises those
8 ordinances or code sections affected by or enacts ordinances or code
9 sections generated by legislative changes. Under such title, all such
10 ordinances or code sections may be revised, repealed, or enacted in
11 sections and chapters or otherwise by a single ordinance without other
12 title.

13 ~~(4) Following the release of the 2020 Census of Population data by~~
14 ~~the United States Department of Commerce, Bureau of the Census, as~~
15 ~~required by Public Law 94-171, the city council of any city of the first~~
16 ~~class requesting the adjustment of the boundaries of election districts~~
17 ~~shall provide to the election commissioner or county clerk (a) written~~
18 ~~notice of the need and necessity of his or her office to perform such~~
19 ~~adjustments and (b) a revised election district boundary map that has~~
20 ~~been approved by the requesting city council and subjected to all public~~
21 ~~review and challenge ordinances of the city by December 30, 2021. The~~
22 ~~revised election district boundary map shall be adopted by ordinance.~~
23 ~~Such ordinance shall be read by title on three different days unless~~
24 ~~three-fourths of the city council members vote to suspend this~~
25 ~~requirement.~~

26 Sec. 3. Section 16-503, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 16-503 On the passage or adoption of every resolution or order to
29 enter into a contract, or accepting of work done under contract, by the
30 mayor or city council of a city of the first class, the yeas and nays
31 shall be called and entered upon the record. To pass or adopt any bylaw

1 or ordinance or any such resolution or order, a concurrence of a majority
2 of all elected ~~the whole number of the members of~~ elected to the city
3 council shall be required. The mayor may vote on any such matter if (1)
4 the mayor's vote is required due to the city council being equally
5 divided or (2) a majority vote of all the elected members cannot be
6 reached due to absence, vacancy, or abstention of one or more city
7 council members. For purposes of such vote, the mayor is deemed to be a
8 member of the city council ~~when his or her vote will provide the~~
9 ~~additional vote required to create a number of votes equal to a majority~~
10 ~~of the number of members elected to the city council, and the mayor~~
11 ~~shall, for the purpose of such vote, be deemed to be a member of the city~~
12 ~~council.~~ The requirements of a roll call or viva voce vote shall be
13 satisfied by a city which utilizes an electronic voting device which
14 allows the yeas and nays of each city council member to be readily seen
15 by the public.

16 Sec. 4. Section 17-110, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 17-110 (1) The mayor shall preside at all meetings of the city
19 council of a city of the second class. The mayor may vote on any matter
20 which requires either a majority vote of the city council or a majority
21 vote of all the elected members of the city council if (a) the mayor's
22 vote is required due to the city council being equally divided or (b) a
23 majority of the city council or majority vote of all the elected members
24 cannot be reached due to absence, vacancy, or abstention of one or more
25 city council members. For purposes of such vote, the mayor is deemed to
26 be a member of the city council.

27 (2) ~~The mayor when his or her vote would provide the additional vote~~
28 ~~required to attain the number of votes equal to a majority of the number~~
29 ~~of members elected to the city council on any pending matter,~~
30 ~~legislation, or transaction, and the mayor shall, for the purpose of such~~
31 ~~vote, be deemed to be a member of the city council. He or she shall have~~

1 superintendence and control of all the officers and affairs of the city
2 and shall take care that the ordinances of the city and all laws
3 governing cities of the second class are complied with.

4 Sec. 5. Section 17-614, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 17-614 (1)(a) All ordinances and resolutions or orders for the
7 appropriation or payment of money shall require for their passage or
8 adoption the concurrence of a majority of all elected members of elected
9 ~~to~~ the city council in a city of the second class or village board of
10 trustees. The mayor of a city of the second class may vote on any such
11 matter if (i) the mayor's vote is required due to the city council being
12 equally divided or (ii) a majority vote of all the elected members cannot
13 be reached due to absence, vacancy, or abstention of one or more city
14 council members. For purposes of such vote, the mayor is deemed to be a
15 member of the city council when his or her vote would provide the
16 additional vote required to attain the number of votes equal to a
17 majority of the number of members elected to the city council, and the
18 mayor shall, for the purpose of such vote, be deemed to be a member of
19 the city council.

20 (b) Ordinances of a general or permanent nature shall be read by
21 title on three different days unless three-fourths of the city council or
22 village board of trustees vote to suspend this requirement. Such
23 requirement shall not be suspended (i) for any ordinance for the
24 annexation of territory or the redrawing of boundaries for city council
25 or village board of trustees election districts or wards except as
26 otherwise provided in subsection (3) of this section or (ii) as otherwise
27 provided by law.

28 (c) In case such requirement is suspended, the ordinances shall be
29 read by title and then moved for final passage.

30 (d) Three-fourths of the city council or village board of trustees
31 may require a reading of any such ordinance in full before enactment

1 under either procedure set out in this section.

2 (2) Ordinances shall contain no subject which is not clearly
3 expressed in the title, and, except as provided in section 19-915, no
4 ordinance or section of such ordinance shall be revised or amended unless
5 the new ordinance contains the entire ordinance or section as revised or
6 amended and the ordinance or section so amended is repealed, except that:

7 (a) For an ordinance revising all the ordinances of the city of the
8 second class or village, the title need only state that the ordinance
9 revises all the ordinances of the city or village. Under such title all
10 the ordinances may be revised in sections and chapters or otherwise, may
11 be corrected, added to, and any part suppressed, and may be repealed with
12 or without a saving clause as to the whole or any part without other
13 title; and

14 (b) For an ordinance used solely to revise ordinances or code
15 sections or to enact new ordinances or code sections in order to adopt
16 statutory changes made by the Legislature which are specific and
17 mandatory and bring the ordinances or code sections into conformance with
18 state law, the title need only state that the ordinance revises those
19 ordinances or code sections affected by or enacts ordinances or code
20 sections generated by legislative changes. Under such title, all such
21 ordinances or code sections may be revised, repealed, or enacted in
22 sections and chapters or otherwise by a single ordinance without other
23 title.

24 ~~(3) Following the release of the 2020 Census of Population data by~~
25 ~~the United States Department of Commerce, Bureau of the Census, as~~
26 ~~required by Public Law 94-171, the city council of any city of the second~~
27 ~~class or village board of trustees requesting the adjustment of the~~
28 ~~boundaries of election districts shall provide to the election~~
29 ~~commissioner or county clerk (a) written notice of the need and necessity~~
30 ~~of his or her office to perform such adjustments and (b) a revised~~
31 ~~election district boundary map that has been approved by the requesting~~

1 ~~city council or village board of trustees and subjected to all public~~
2 ~~review and challenge ordinances of the city or village by December 30,~~
3 ~~2021. The revised election district boundary map shall be adopted by~~
4 ~~ordinance. Such ordinance shall be read by title on three different days~~
5 ~~unless three-fourths of the members of the city council or village board~~
6 ~~of trustees vote to suspend this requirement.~~

7 Sec. 6. Original sections 16-312, 16-404, 16-503, 17-110, and
8 17-614, Reissue Revised Statutes of Nebraska, are repealed.