

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 321

Introduced by Sanders, 45.

Read first time January 16, 2025

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to drainage; to amend section 31-735, Revised
- 2 Statutes Cumulative Supplement, 2024; to change provisions relating
- 3 to the election of the board of trustees; to harmonize provisions;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 31-735, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 31-735 (1) On the first Tuesday after the second Monday in September
4 which is at least fifteen months after the judgment of the district court
5 creating a sanitary and improvement district and on the first Tuesday
6 after the second Monday in September each two years thereafter, the board
7 of trustees shall cause a special election to be held, at which election
8 a board of trustees shall be elected. The board of trustees shall have
9 five members except as provided in subsection (2) of this section. Each
10 member elected to the board of trustees shall be elected to a term of two
11 years and shall hold office until such member's successor is elected and
12 qualified. Any person desiring to file for the office of trustee may file
13 for such office with the election commissioner, or county clerk in
14 counties having no election commissioner, of the county in which the
15 greater proportion in area of the district is located not later than
16 fifty days before the election. If such person will serve on the board of
17 trustees as a designated representative of a limited partnership, general
18 partnership, limited liability company, public, private, or municipal
19 corporation, estate, or trust which owns real estate in the district, the
20 filing shall indicate that fact and shall include appropriate
21 documentation evidencing such fact. No filing fee shall be required. A
22 person filing for the office of trustee to be elected at the election
23 held four years after the first election of trustees and each election
24 thereafter shall designate whether such person is a candidate for
25 election by the resident owners of such district or a candidate for
26 election by all of the owners of real estate located in the district. If
27 a person filing for the office of trustee is a designated representative
28 of a limited partnership, a general partnership, a limited liability
29 company, a public, private, or municipal corporation, an estate, or a
30 trust which owns real estate in the district, the name of such entity
31 shall accompany the name of the candidate on the ballot in the following

1 form: (Name of candidate) to represent (name of entity) as a member of
2 the board. The name of each candidate shall appear on only one ballot.

3 The name of a person may be written in and voted for as a candidate
4 for the office of trustee, and such write-in candidate may be elected to
5 the office of trustee. A write-in candidate for the office of trustee who
6 will serve as a designated representative of a limited partnership, a
7 general partnership, a limited liability company, a public, private, or
8 municipal corporation, an estate, or a trust which owns real estate in
9 the district shall not be elected to the office of trustee unless (a)
10 each vote is accompanied by the name of the entity which the candidate
11 will represent and (b) within ten days after the date of the election the
12 candidate provides the election commissioner or county clerk with
13 appropriate documentation evidencing the candidate's representation of
14 the entity. Votes cast which do not carry such accompanying designation
15 shall not be counted.

16 A trustee shall be an owner of real estate located in the district
17 or shall be a person designated to serve as a representative on the board
18 of trustees if the real estate is owned by a limited partnership, a
19 general partnership, a limited liability company, a public, private, or
20 municipal corporation, an estate, or a trust. Notice of the date of the
21 election shall be mailed by the clerk of the district not later than
22 sixty-five days prior to the election to each person who is entitled to
23 vote at the election for trustees whose property ownership or lease
24 giving a right to vote is of record on the records of the register of
25 deeds as of a date designated by the election commissioner or county
26 clerk, which date shall be not more than eighty days prior to the
27 election.

28 (2)(a) For any sanitary and improvement district, a person whose
29 ownership or right to vote becomes of record or is received after the
30 date specified pursuant to subsection (1) of this section may vote when
31 such person establishes the right to vote to the satisfaction of the

1 election board. At the first election and at the election held two years
2 after the first election, any person may cast one vote for each trustee
3 for each acre of unplatted land or fraction thereof and one vote for each
4 platted lot which such person may own in the district.

5 (b) This subdivision applies to a district until the board of
6 trustees amends its articles of association pursuant to subdivision (2)
7 (d) of this section. At the elections ~~election~~ held four years and six
8 years after the first election of trustees, two members of the board of
9 trustees shall be elected by the legal property owners resident within
10 such sanitary and improvement district and three members shall be elected
11 by all of the owners of real estate located in the district pursuant to
12 this section. Every resident property owner may cast one vote for a
13 candidate for each office of trustee to be filled by election of resident
14 property owners only. Such resident property owners may also each cast
15 one vote for each acre of unplatted land or fraction thereof and for each
16 platted lot owned within the district for a candidate for each office of
17 trustee to be filled by election of all property owners. For each office
18 of trustee to be filled by election of all property owners of the
19 district, every legal property owner not resident within such sanitary
20 and improvement district may cast one vote for each acre of unplatted
21 land or fraction thereof and one vote for each platted lot which such
22 legal property owner owns in the district. At the election held eight ~~six~~
23 years after the first election of trustees and at each election
24 thereafter, three members of the board of trustees shall be elected by
25 the legal property owners resident within such sanitary and improvement
26 district and two members shall be elected by all of the owners of real
27 estate located in the district pursuant to this section. If there are not
28 any legal property owners resident within such district or if not less
29 than ninety percent of the area of the district is owned for other than
30 residential uses, the five members shall be elected by the legal property
31 owners of all property within such district as provided in this section.

1 (c) Any public, private, or municipal corporation owning any land or
2 lot in the district may vote at an election the same as an individual. If
3 more than fifty percent of the homes in any sanitary and improvement
4 district are used as a second, seasonal, or recreational residence, the
5 owners of such property shall be considered legal property owners
6 resident within such district for purposes of electing trustees. For
7 purposes of voting for trustees, each condominium apartment under a
8 condominium property regime established prior to January 1, 1984, under
9 the Condominium Property Act or established after January 1, 1984, under
10 the Nebraska Condominium Act shall be deemed to be a platted lot and the
11 lessee or the owner of the lessee's interest, under any lease for an
12 initial term of not less than twenty years which requires the lessee to
13 pay taxes and special assessments levied on the leased property, shall be
14 deemed to be the owner of the property so leased and entitled to cast the
15 vote of such property. When ownership of a platted lot or unplatted land
16 is held jointly by two or more persons, whether as joint tenants, tenants
17 in common, limited partners, members of a limited liability company, or
18 any other form of joint ownership, only one person shall be entitled to
19 cast the vote of such property. The executor, administrator, guardian, or
20 trustee of any person or estate interested shall have the right to vote.
21 No corporation, estate, or irrevocable trust shall be deemed to be a
22 resident owner for purposes of voting for trustees. Should two or more
23 persons or officials claim the right to vote on the same tract, the
24 election board shall determine the party entitled to vote. Such board
25 shall select one of their number chairperson and one of their number
26 clerk. In case of a vacancy on such board, the remaining trustees shall
27 fill the vacancy on such board until the next election.

28 (d) For any sanitary and improvement district which has been in
29 existence for at least ten years, which has less than seventy property
30 owners entitled to vote for trustees, which has at least two resident
31 property owners, and in which less than ten percent of the area of the

1 district is owned for other than residential uses, the board of trustees
2 may amend its articles of association as provided in section 31-740.01 to
3 provide for a reduction in the number of trustees on the board from five
4 members to three members to be effective at the beginning of the term of
5 office for the board of trustees elected at the next election. At the
6 next election and at each election thereafter, two members of the board
7 of trustees shall be elected by the legal property owners resident within
8 such sanitary and improvement district and one member shall be elected by
9 all of the owners of real estate located in the district pursuant to this
10 section. Every resident property owner may cast one vote for a candidate
11 for each office of trustee to be filled by election of resident property
12 owners only. Such resident property owners may also each cast one vote
13 for each acre of unplatted land or fraction thereof and for each platted
14 lot owned within the district for a candidate for the office of trustee
15 to be filled by election of all property owners. For the office of
16 trustee to be filled by election of all property owners of the district,
17 every legal property owner not resident within such sanitary and
18 improvement district may cast one vote for each acre of unplatted land or
19 fraction thereof and one vote for each platted lot which such legal
20 property owner owns in the district.

21 (3) The election commissioner or county clerk shall hold any
22 election required by subsection (1) of this section by sealed mail ballot
23 by notifying the board of trustees on or before July 1 of a given year.
24 The election commissioner or county clerk shall, at least twenty days
25 prior to the election, mail a ballot and return envelope to each person
26 who is entitled to vote at the election and whose property ownership or
27 lease giving a right to vote is of record with the register of deeds as
28 of the date designated by the election commissioner or county clerk,
29 which date shall not be more than eighty days prior to the election. The
30 ballot and return envelope shall include: (a) The names and addresses of
31 the candidates; (b) room for write-in candidates; and (c) instructions on

1 how to vote and return the ballot. Such ballots shall be returned in the
2 return envelope to the election commissioner or county clerk no later
3 than 5 p.m. on the date set for the election. If the ballot is not
4 returned in the return envelope, such ballot shall not be counted. If
5 more than one ballot is included in the same return envelope, such
6 ballots shall not be counted and shall be reinserted into the return
7 envelope which shall be resealed and marked rejected.

8 **Sec. 2.** Original section 31-735, Revised Statutes Cumulative
9 Supplement, 2024, is repealed.