

LEGISLATIVE BILL 289

Approved by the Governor March 17, 2025

Introduced by Urban Affairs Committee: McKinney, 11, Chairperson; Cavanaugh, J., 9; Clouse, 37; Quick, 35; Rountree, 3; Sorrentino, 39.

A BILL FOR AN ACT relating to cities and villages; to amend sections 17-201, 17-202, and 19-911, Reissue Revised Statutes of Nebraska, and section 18-2709, Revised Statutes Cumulative Supplement, 2024; to change provisions relating to the incorporation of a village and the number, election, and term of members on a village board of trustees; to provide a procedure for changing the number of members on a village board of trustees; to allow certain city councils to constitute a board of adjustment; to redefine qualifying business under the Local Option Municipal Economic Development Act; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 17-201, Reissue Revised Statutes of Nebraska, is amended to read:

17-201 (1) Any municipality containing not less than one hundred nor more than eight hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census incorporated as a village under the laws of this state, any village that votes to retain village government as provided in section 17-312, and any city of the second class that has adopted village government as provided by sections 17-306 to 17-309 shall be a village and shall have the rights, powers, and immunities granted by law to villages. The population of a village shall consist of the people residing within the territorial boundaries of such village and the residents of any territory duly and properly annexed to such village.

(2) Whenever a majority of the inhabitants of any village, not incorporated under any laws of this state, present a petition to the county board of the county in which the petitioners reside, requesting that they may be incorporated as a village and designating the name they wish to assume, whether the village board of trustees will have three or five members, and the metes and bounds of the proposed village, and a majority of the members of such county board are satisfied that a majority of the inhabitants of the proposed village have signed such petition and that inhabitants to the number of one hundred or more are actual residents of the territory described in the petition, the county board shall declare the proposed village incorporated, enter the order of incorporation upon its records, and designate the metes and bounds of such village. Thereafter the village shall be governed by the provisions of law applicable to the government of villages. The county board shall, at the time of the incorporation of the village, appoint three or five persons pursuant to the number of members of the village board designated in the petition, having the qualifications provided in section 17-203, as the village board of trustees, who shall hold their offices and perform all the duties required of them by law until the election and qualification of their successors at the time and in the manner provided in section 17-202, except that the county board shall not declare a proposed village incorporated or enter an order of incorporation if any portion of the territory of such proposed village is within five miles of another incorporated municipality.

Sec. 2. Section 17-202, Reissue Revised Statutes of Nebraska, is amended to read:

17-202 The corporate powers and duties of every village shall be vested in a board of trustees which shall consist of three or five members. At the first statewide general election held after the incorporation of a village with five members, two trustees shall be elected to serve two years and three trustees shall be elected to serve four years. At the first statewide general election held after the incorporation of a village with three members, two trustees shall be elected to serve four years and one trustee shall be elected to serve two years. At the first statewide general election held after changing the number of trustees from five to three, one trustee shall be elected to serve two years and two trustees shall be elected to serve four years. The two trustees receiving the highest and second highest number of votes or tied for the highest number of votes shall serve the four-year terms, and the trustee receiving the next highest number of votes shall serve the two-year term. Thereafter the board members shall be elected as provided in the Election Act. The terms shall begin on the first regular meeting of the board in December following the statewide general election. The changes made to this section by Laws 1994, LB 76, and Laws 1995, LB 194, shall not change the staggering of the terms of the board members in villages established prior to January 1, 1995.

Sec. 3. (1) Pursuant to petitions filed or a vote of the village board of trustees under subsection (2) of this section, the registered voters in any village may vote at any statewide general election as to whether the village board of trustees shall consist of three or five members. Upon the completion of the canvass by the county canvassing board, the proposition shall be decided and, if the number of members is:

(a) Increased from three to five members, vacancies shall be deemed to exist and the procedures set forth in sections 32-568 and 32-569 shall be followed; or

(b) Decreased from five to three members, the procedures set forth in section 17-202 shall be followed.

(2)(a) A registered voter of a village may file a petition or petitions for the submission of the question regarding the number of members on the village board of trustees. The petition or petitions shall be signed by registered voters equal in number to at least five percent of the electors registered to vote in the village at the preceding statewide general election. The petitions shall conform with the requirements of section 32-628 and be procured from the village clerk with assistance from the election commissioner or county clerk. The petitions shall be filed with the election commissioner or county clerk not less than seventy days prior to the date of the general election. No signatures shall be added or removed from the petitions after they have been filed. Petitions shall be verified as provided in section 32-631.

(b) A village board of trustees may, by majority vote of all members, adopt a resolution for the submission of the question regarding the number of members on the village board. The resolution shall be filed with the election commissioner or county clerk not less than seventy days prior to the date of the general election.

(3) If the resolution is so filed or the petition or petitions are found to contain the required number of valid signatures, the election commissioner or county clerk shall cause the question to be submitted to the voters of the village at such statewide general election and give notice thereof in the general notice of such election. The form of the ballot shall be respectively: For three members of the village board of trustees or for five members of the village board; and the same shall be printed upon the regular ballots cast for officers voted for at such election and shall be counted and canvassed in the same manner.

(4) If a majority of votes cast at the election favor the proposition for three members of the village board of trustees, thereafter the village shall have three members, and if a majority of the ballots cast at the election favor the proposition for five members of the village board, thereafter the village shall have five members.

Sec. 4. Section 18-2709, Revised Statutes Cumulative Supplement, 2024, is amended to read:

18-2709 (1) Qualifying business means any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from any of the following: The manufacture of articles of commerce; the conduct of research and development; the processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to eligible activities as listed in this section; telecommunications activities, including services providing advanced telecommunications capability; tourism-related activities; or the production of films, including feature, independent, and documentary films, commercials, and television programs.

(2) Qualifying business also means:

(a) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from the construction or rehabilitation of housing;

(b) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from early childhood care and education programs;

(c) A business that derives its principal source of income from retail trade, ~~except that no more than forty percent of the total revenue generated pursuant to the Local Option Municipal Economic Development Act for an economic development program in any twelve-month period and no more than twenty percent of the total revenue generated pursuant to the act for an economic development program in any five-year period, commencing from the date of municipal approval of an economic development program, shall be used by the city for or devoted to the use of retail trade businesses.~~ For purposes of this subdivision, retail trade means a business which is principally engaged in the sale of goods or commodities to ultimate consumers for their own use or consumption and not for resale; and

(d) In cities with a population of five thousand inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, a business shall be a qualifying business even though it derives its principal source of income from activities other than those set out in this section.

(3) If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its economic development program at a level not less than its average employment in such city over the twelve-month period preceding participation.

(4) A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance.

(5) Qualifying business does not include a political subdivision, a state agency, or any other governmental entity, except as allowed for cities of the first class, cities of the second class, and villages for rural infrastructure development as provided for in subdivision (3)(b) of section 18-2705.

Sec. 5. Section 19-911, Reissue Revised Statutes of Nebraska, is amended to read:

19-911 Notwithstanding the provisions of sections 19-907 and 19-908, the city council of a city of the first class, the city council of a city of the second class, or a ~~the~~ village board of trustees may, except as set forth in section 19-912.01, provide by ordinance that such city council or village board ~~it~~ shall constitute a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections 19-901 to 19-905 may provide that as such board of adjustment it may exercise only the powers granted to boards of adjustment by section 19-910. As such board of adjustment, the city council or ~~the~~ village board of trustees shall adopt rules and procedures that are in harmony with sections 19-907 to 19-910 and shall have the powers and duties of a board of adjustment provided for in such sections, and other parties shall have all the rights and privileges provided for in such sections. The concurring vote of two-thirds of the members of the city council or ~~the~~ village board of trustees acting as a board of adjustment shall decide any question upon which it is required to pass as such board of adjustment.

Sec. 6. Original sections 17-201, 17-202, and 19-911, Reissue Revised Statutes of Nebraska, and section 18-2709, Revised Statutes Cumulative Supplement, 2024, are repealed.