

LEGISLATIVE BILL 726

Approved by the Governor April 12, 1993

Introduced by Hartnett, 45; Withem, 14

AN ACT relating to cities and villages; to amend sections 14-101, 15-101, 16-101, 17-101, 17-201, 18-2603, 39-2513, 39-2517, and 77-27,137.01, Reissue Revised Statutes of Nebraska, 1943; to provide calculations relating to changes in population resulting from annexation; to change provisions relating to population of cities and villages and calculation of state aid; to harmonize provisions; and to repeal the original sections.

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

Section 1. (1) Any city or village annexing territory which thereby adds additional population to the city or village shall report such annexation to the Tax Commissioner. The annexing city or village shall provide the Tax Commissioner with a copy of the ordinance annexing the territory and specify the effective date of the annexation. The annexing city or village shall provide its calculation of the number of additional residents added to the population of the city or village by reason of the annexation and the new combined total population of the city or village.

(2)(a) All calculations of additional population shall be based upon the most recent federal decennial census.

(b) If the boundaries of the territory annexed and those of federal census enumeration districts are the same, or if federal census enumeration districts are wholly contained within the boundaries of the area annexed, the most recent federal decennial census figures for such enumeration districts shall be added directly to the population of the city or village.

(c) If the federal census enumeration districts are partly within and partly without the boundaries of the territory annexed, the federal decennial census figures for such enumeration districts shall be adjusted by reasonable interpretation and supplemented by other evidence to arrive at a figure for the number of people residing in the area annexed as such population existed in that area at the time of the most recent federal decennial census. Reasonable interpretation shall include, but not be limited to, the following methods: An actual house count of the annexed territory multiplied by the average number of persons per household as this information existed at the time of the most recent federal decennial census, or multiplying the population that existed at the time of the most recent federal decennial census in the enumeration district by a ratio of the actual current population of the enumeration district divided in the same manner as the annexation.

(d) The population of the city or village following annexation shall be the population of the city or village as reported by the

most recent federal decennial census plus the population of the territory annexed as calculated in subdivisions (b) and (c) of this subsection.

Sec. 2. The Tax Commissioner shall review the report of the annexing city or village and its calculations as to the new population of the city or village as the result of the annexation. He or she shall determine if the methodology employed in determining such calculations has been made in conformity with section I of this act. Within sixty days of his or her receipt of a complete report from the annexing city or village, the Tax Commissioner shall certify the total new population of the city or village following the annexation as calculated in conformity with section I of this act. The certified population of the city or village shall be used for the purposes of calculations made pursuant to subdivision (3) of section 18-2603, section 39-2513, subdivision (1) of section 39-2517, and section 77-27,137.01. The Tax Commissioner shall transmit copies of such certification to all interested parties under those sections.

Sec. 3. That section 14-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

14-101. All cities in this state which ~~shall~~ have attained a population of three hundred thousand inhabitants or more; shall be cities of the metropolitan class and governed by this act. Whenever the words this act occur in sections 14-101 to 14-138, 14-201 to 14-229, 14-360 to 14-376, 14-501 to 14-556, 14-601 to 14-609, 14-702 to 14-704, and 14-804 to 14-816, they shall be construed as referring exclusively to those sections. The population of a city of the metropolitan class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city. Each city of the metropolitan class shall be a body corporate and politic and shall have power (1) to sue and be sued, (2) to purchase, lease, lease with option to buy, acquire by gift or devise, and hold real and personal property within or without the limits of the city for the use of the city, and real estate sold for taxes, (3) to sell, exchange, lease, and convey any real or personal estate owned by the city, in such manner and upon such terms as may be to the best interests of the city, ~~except~~ ;-**PROVIDED**, that real estate acquired for state armory sites shall be conveyed strictly in the manner provided in sections 18-1001 to 18-1006, (4) to make all contracts and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate or administrative powers, and (5) to exercise such other and further powers as may be conferred by law. The powers hereby granted shall be exercised by the mayor and council of such city, as hereinafter set forth, except when otherwise specially provided.

Sec. 4. That section 15-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-101. All cities having more than one hundred thousand and less than three hundred thousand inhabitants shall be known as cities of the primary class. The population of a city of the primary class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

Sec. 5. That section 16-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-101. All cities having more than five thousand and not more than one hundred thousand inhabitants, as may be ascertained and officially promulgated by the United States or under the authority of the State of Nebraska or by the authority of the mayor and city council of any such city, shall be known as cities of the first class. The population of a city of the first class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

Sec. 6. That section 17-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-101. All cities, towns, and villages containing more than eight hundred and not more than five thousand inhabitants shall be cities of the second class and be governed by the provisions of sections 17-101 to 17-153; unless they adopt a village government as provided in sections 17-306 to 17-309. The population of a city of the second class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

Sec. 7. That section 17-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-201. Any town or village containing not less than one hundred nor more than eight hundred inhabitants; incorporated as a city, town, or village; under the laws of this state; and any city of the second class that ~~shall have~~ has adopted village government as provided by law; shall be a village; and shall have the rights, powers, and immunities hereinafter granted, and none other, except that ; **PROVIDED**, all county seat towns shall have the powers and immunities as hereinafter granted. 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.

Whenever a majority of the taxable inhabitants of any town or village, not incorporated under any laws of this state, shall present a petition to the county board of the county in which ~~said~~ the petitioners reside, praying that they may be incorporated as a village; and designating the name they wish to assume; and the metes and bounds of the proposed village, and such county board or majority of the members thereof shall be satisfied that a majority of the taxable 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 board shall declare the proposed village incorporated, and enter the order of incorporation upon its records, and designate the metes and bounds thereof. Thereafter the ~~said~~ 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 ~~said~~ the village, appoint five persons, having the qualifications provided in section 17-203, as 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 ~~—PROVIDED~~, 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 a Nebraska incorporated village or city of any class.

Sec. 8. That section 18-2603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-2603. For purposes of the Municipal Infrastructure Redevelopment Fund Act:

(1) Fund shall mean the Municipal Infrastructure Redevelopment Fund;

(2) Infrastructure project shall mean any of the following projects, or any combination thereof, to be owned or operated by a municipality: Solid waste management facilities; wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; hazardous waste disposal systems; resource recovery systems; airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects as defined in section 18-2103; and mass transit and other transportation systems, including parking facilities and excluding public highways and bridges and municipal roads, streets, and bridges;

(3) Municipal allocation amount shall mean, for each municipality, the amount derived by multiplying the amount to be allocated by the fraction determined by dividing the total population of the municipality by the total population of the state living in municipalities, each as determined by the most recent federal decennial census and as calculated pursuant to sections 1 and 2 of this act; and

(4) Municipality shall mean any city of any class or any village in the state.

Sec. 9. That section 39-2513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2513. The incentive payment to the various municipalities shall be based on the population of each municipality, as determined by the most recent federal decennial census and as calculated pursuant to sections 1 and 2 of this act, according to the following table:

Population	Payment
Not more than 500	\$ 300.00
501 to 1,000	500.00
1,001 to 2,500	1,500.00
2,501 to 5,000	2,000.00
5,001 to 10,000	3,000.00
10,001 to 20,000	3,500.00
20,001 to 40,000	3,750.00
40,001 to 200,000	4,000.00
200,001 and more	4,250.00.

Sec. 10. That section 39-2517, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

39-2517. The following factors and weights shall be used in determining the amount to be allocated to each of the municipalities for street purposes ~~in the year 1972 and~~ each year; ~~thereafter:~~

(1) Total population of each incorporated municipality, as determined by the most recent federal decennial census and as calculated pursuant to sections 1 and 2 of this act, fifty percent;

(2) Total motor vehicle registrations, other than prorata commercial vehicles, in each incorporated municipality, as determined from the most recent information available from the Department of Motor Vehicles, thirty percent; and

(3) Total number of miles of traffic lanes of streets in each incorporated municipality, as determined by the most recent inventory available within the Department of Roads, twenty percent.

Sec. 11. That section 77-27,137.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,137.01. The appropriation provided for in section 77-27,136 for aid to incorporated municipalities shall be allocated by the Tax Commissioner to the various incorporated municipalities. The Tax Commissioner shall determine the amount to be distributed to the incorporated municipalities and certify such amounts by voucher to the Director of Administrative Services. Each amount shall be distributed in seven as nearly as possible equal monthly payments on the last business day of each month beginning ~~December 1983 and each~~ in December, ~~thereafter.~~ The State Treasurer shall, on the business day preceding the last business day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, on the last business day of each month, draw warrants against funds appropriated. The Tax Commissioner shall compute the amount due the incorporated municipalities on the ratio of the population of the particular incorporated municipality to the total population of all incorporated municipalities in the state as determined by the latest most recent federal decennial census and as calculated pursuant to sections 1 and 2 of this act, which amounts shall be placed in the general fund of such municipalities.

Sec. 12. That original sections 14-101, 15-101, 16-101, 17-101, 17-201, 18-2603, 39-2513, 39-2517, and 77-27,137.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.