

LEGISLATIVE BILL 514

Approved by the Governor May 10, 1995

Introduced by Schimek, 27

AN ACT relating to elections; to amend sections 32-101, 32-330, 32-938, and 32-947, Revised Statutes Supplement, 1994; to provide for confidentiality of voter registration records as prescribed; to harmonize provisions; and to repeal the original sections. Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-101, Revised Statutes Supplement, 1994, is amended to read:

32-101. Sections 32-101 to 32-1550 and section 3 of this act shall be known and may be cited as the Election Act.

Sec. 2. Section 32-330, Revised Statutes Supplement, 1994, is amended to read:

32-330. (1) The permanent registration register shall be a public record. Any person may examine the register at the office of the election commissioner or county clerk but shall not be allowed to make copies of the register. The election commissioner or county clerk shall withhold information in the register designated as confidential under section 3 of this act.

(2) The election commissioner or county clerk shall make available for purchase a list of registered voters that contains the information required under section 32-312 and, if requested, a list that only contains registered voters who have voted in an election held more than sixty days prior to the request for the list. The election commissioner or county clerk shall establish the price of the lists at a rate that fairly covers the actual production cost of the lists, not to exceed three cents per name. Lists shall be used solely for purposes related to elections, political activities, voter registration, law enforcement, or jury selection. Lists shall not be used for commercial purposes. Lists shall only be made available under this subsection to:

- (a) Courts for jury selection;
- (b) Cities and villages;
- (c) Governmental agencies;
- (d) Candidates or their agents for purposes of campaigning;
- (e) Political party committees and other committees which have filed statements of organization with the Nebraska Accountability and Disclosure Commission; and
- (f) Incumbent officeholders for reporting to their constituents.

(3) Any person who acquires a list of registered voters under subsection (2) of this section shall take and subscribe to an oath in substantially the following form:

I hereby swear that I am a person authorized by section 32-330 to acquire a list of registered voters of ..... County, Nebraska, that the lists will be used only for the purposes prescribed in that section and for no other purpose, and that I will not permit the use or copying of such list by persons not authorized by that section to use such list.

I hereby declare under the penalty of election falsification that the statements above are true to the best of my knowledge.

The penalty for election falsification is a Class IV felony.

.....  
(Signature of person acquiring list)

Subscribed and sworn to before me this .... day of ..... 19.. .

.....  
(Name of officer)

.....  
(Official title of officer)

(4) The election commissioner or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters and their addresses to the Clerk of the United States District Court for the District of Nebraska. Such list shall be provided no later than December 31 of each even-numbered year.

(5) The election commissioner or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters and their addresses to the state party headquarters of each political party and to the county chairperson of each political party. Such list shall be provided no later than thirty-five days prior to the statewide primary and

statewide general elections.

Sec. 3. A registered voter may file an affidavit with the election commissioner or county clerk to have the information relating to his or her residence address and telephone number remain confidential. The affidavit shall state that the county court or district court has issued an order upon a showing of good cause that a life-threatening circumstance exists in relation to the voter or a member of his or her household. The registered voter shall vote as an absentee voter under sections 32-938 to 32-951 in elections held after the filing of the affidavit. To terminate the affidavit and withdraw the confidential designation, the registered voter shall notify the election commissioner or county clerk in writing. The registered voter shall provide a valid mailing address to be used in place of the residence address for election, research, and government purposes. The election commissioner or county clerk may use the mailing address or the word "confidential" or a similar designation in place of the residence address in producing any list, roster, or register required under the Election Act. Those records declared confidential under this section shall be kept in a separate file from the other registered voter information. A county, election commissioner, or county clerk shall be liable in an action for negligence as a result of the disclosure of the confidential information if there is a showing of gross negligence or willfulness.

Sec. 4. Section 32-938, Revised Statutes Supplement, 1994, is amended to read:

32-938. (1) A registered voter shall be permitted to vote absentee for any one of the following reasons:

(a) The registered voter expects to be absent from his or her county at the time the election is to be held;

(b) The registered voter is physically unable to go to the polling place;

(c) The registered voter will be unable to go to the polling place on the day of the election due to his or her hospitalization for medical or surgical treatment;

(d) The registered voter cannot go to the polling place on the day of the election because of the tenets of his or her religion;

(e) The registered voter will be unable to go to the polling place on the day of the election because he or she is confined by public order under the laws of this state or of the United States;

(f) The registered voter is legally blind; or

(g) The registered voter has requested that his or her residence address remain confidential under section 3 of this act; or

(h) The registered voter is unable to go to the precinct polling place during the hours the precinct polling place is open.

(2) Any person excluded from voting under section 32-313 or 32-314 and any person who fails to register to vote by the voter registration deadline shall not be allowed to vote under this section, except that any recently discharged federal service or overseas employee who was unable to register to vote by the voter registration deadline may vote pursuant to section 32-940.

Sec. 5. Section 32-947, Revised Statutes Supplement, 1994, is amended to read:

32-947. (1) Upon receipt of an application or other request for an absentee ballot, the election commissioner or county clerk shall deliver to the applicant in person or by mail, postage paid, an absentee ballot if he or she finds that the applicant is a registered voter and is entitled to vote an absentee ballot as applied for or requested. The election commissioner or county clerk or any employee of the election commissioner or county clerk shall write his or her customary signature on the absentee ballot.

(2) An unsealed identification envelope shall be delivered with the ballot, and upon the face of the envelope shall be printed a form substantially as follows:

ABSENTEE VOTER'S IDENTIFICATION

I, the undersigned voter, declare under penalty of election falsification that the enclosed ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in such envelope.

My voting residence in Nebraska is ..... (street and number or rural route and number) of ....., (city, village, or township) Nebraska. I am a registered voter of the State of Nebraska.

(Applicant must check the true statement concerning his or her reason for voting an absentee ballot.)

...I shall will be absent from the county at the time of the election.

...I am physically unable to go to the polling place.  
 ...I will be unable to go to the polling place on the day of election because of hospitalization.  
 ...I cannot go to the polling place on the day of the election because of the tenets of my religion.  
 ...I will be unable to go to the polling place on the day of election because of confinement by public order.  
 ...I am legally blind.  
...I have requested that my residence address remain confidential pursuant to law.

...I am unable to go to the precinct polling place during the hours the precinct polling place is open.

...I am a Nebraska resident and (a) a member of the armed forces of the United States or a spouse or dependent of such member, (b) a citizen temporarily residing outside of the United States or of the District of Columbia, or (c) an overseas citizen.

The primary election ballot, if any, within this envelope is a primary election ballot of the .... party.

Ballots contained in this envelope are for the .... (primary, general, or special) election to be held on the .... day of ..... 19..

I request absentee general election ballots be sent to me .... yes .... no.

I hereby declare, under penalty of election falsification, that the statements above are true to the best of my knowledge.

THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO FIVE YEARS OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

.....  
 (Signature of Voter)

(3) If the absentee ballot and identification envelope are delivered by mail or picked up at the office to be returned by mail, the election commissioner or county clerk shall include with the ballot and the identification envelope an unsealed return envelope upon the face of which shall be printed the official title and post office address of the election commissioner or county clerk. The return envelope shall be of such size that the identification envelope can be conveniently placed within it for returning such identification envelope. The election commissioner or county clerk shall include written instructions on marking and returning the absentee ballot, including notice that failure to sign the identification envelope and include his or her address on the identification envelope will result in the ballot not being counted.

Sec. 6. Original sections 32-101, 32-330, 32-938, and 32-947, Revised Statutes Supplement, 1994, are repealed.