LB412
2019

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 412

Introduced by Geist, 25; Lowe, 37; Slama, 1.
Read first time January 18, 2019
Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Joint Public Agency Act; to amend
sections 13-2501, 13-2504, 13-2509, 13-2510, and 13-2513, Reissue
Revised Statutes of Nebraska; to require an election to approve
creation of a joint public agency 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 13-2501, Reissue Revised Statutes of Nebraska, is amended to read:

13-2501 Sections 13-2501 to 13-2550 and section 2 of this act shall be known and may be cited as the Joint Public Agency Act.

Sec. 2. (1) Beginning on the effective date of this act, before any agreement is entered into regarding the creation of a joint public agency which involves a political subdivision of this state that has authority to levy a tax or issue bonds, the question of the creation of the joint public agency shall be submitted to the registered voters of each such political subdivision which intends to be a party to the agreement at an election held in conjunction with the statewide primary election or statewide general election as provided in subsection (2) of this section. No agreement shall be entered into until the question has been submitted to the registered voters of each such political subdivision and a majority of all the voters voting on the question have voted in favor of creating the joint public agency, at an election called for the purpose, upon notice given by the governing body of each political subdivision at least twenty days prior to such election. The same measure, either in form or in essential substance, shall not be submitted to the people, either affirmatively or negatively, for a period of six months from and after the date of such election.

(2)(a) The governing body of each such political subdivision shall order the question to be submitted to the voters by a resolution of a majority of the members of the governing body, in writing, and filed with the election commissioner or county clerk not less than fifty days prior to the statewide primary or statewide general election. If the political subdivision or political subdivisions are located in more than one county, the order shall be filed with the election commissioner or county clerk of the county having the greatest number of registered voters entitled to vote on the question. The election commissioner or county clerk receiving such order shall conduct the election for such political
subdivisions as provided in the Election Act. If the political subdivisions have overlapping jurisdiction of any geographic area, the registered voters residing in such geographic area shall only be entitled to one vote on such question at such election.

(b) The governing body of each such political subdivision shall publish a special notice of the election in a newspaper or newspapers of general circulation within such political subdivisions stating the day of the election, the hours during which the polls will be open, and any other information deemed necessary in informing the public of the question. The notice shall be made at least twenty days prior to the election.

(c) If the question is voted upon in one or more counties and the ballots have been certified across county lines, the election boards in the counties where the ballots are cast shall count the ballots on election day the same as all other ballots are counted and seal the same in their ballots-cast container along with other ballots. The canvassing boards in each county shall canvass the returns in the same manner as other returns are canvassed.

(d) The election commissioner or county clerk in any other county voting on the question shall certify the returns to the election commissioner or county clerk of the county having the greatest number of registered voters entitled to vote on the question. The election commissioner or county clerk in such county shall enter the total returns from any other county to the total votes recorded in his or her official book of votes cast and shall certify the returns to the governing body for which such election was held.

Sec. 3. Section 13-2504, Reissue Revised Statutes of Nebraska, is amended to read:

13-2504 (1) Subject to section 2 of this act, any Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Joint Public Agency Act. Appropriate
action by ordinance, resolution, or otherwise pursuant to law of the
governing bodies of the participating public agencies shall be necessary
before any such agreement may enter into force.

(2) Any such agreement shall specify the following:

(a) Its duration;
(b) The general organization, composition, and nature of any joint
public agency created by the agreement together with the powers delegated
to the entity;
(c) Its purpose or purposes;
(d) The manner of financing the joint undertaking and of
establishing and maintaining a budget;
(e) The permissible method or methods to be employed in amending the
agreement or accomplishing the partial or complete termination of the
agreement and for disposing of property upon such partial or complete
termination consistent with section 13-2518;
(f) The manner of levying, collecting, and accounting for any tax
authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816 and any
allocation of tax authority under section 13-2507; and
(g) Any other necessary and proper matters.

(3) No agreement made pursuant to the Joint Public Agency Act shall
relieve any public agency of any obligation or responsibility imposed
upon it by law except to the extent of actual and timely performance by a
joint public agency created by an agreement made pursuant to the act,
which performance may be offered in satisfaction of the obligation or
responsibility.

(4) Participating public agencies may transfer property, other
assets, and employees to a joint public agency as provided in the
agreement. Notwithstanding other provisions of law, if employees are
transferred any vested employment rights shall be transferred with the
employee and the employee shall be vested with the joint public agency at
the time of transfer.
(5) Any governing body as defined in section 13-503 which is a party to an agreement made pursuant to the Joint Public Agency Act shall provide information to the Auditor of Public Accounts regarding such agreements as required in section 13-513.

Sec. 4. Section 13-2509, Reissue Revised Statutes of Nebraska, is amended to read:

13-2509 (1) Prior to approval by the voters of any participating political subdivisions pursuant to section 2 of this act, the governing body of each public agency participating in the creation of a joint public agency shall adopt a resolution determining that there is a need for a joint public agency and setting forth the names of the proposed participating public agencies. The resolution shall be published in three issues, not less than seven days between issues, of a legal newspaper for each proposed participating public agency or a newspaper having general circulation in the area served by a proposed participating public agency if no legal newspaper exists for the participating public agency and of one or more newspapers of general circulation in the area to be served by the joint public agency. Any such resolution shall not be adopted by a public agency prior to five days after the last publication by the proposed participating public agency. In the case of a state agency, the governing board shall adopt the resolution, or if there is no governing board, the Governor shall issue a proclamation without notice in lieu of a resolution. In the case of a federal agency, the governing board shall adopt the resolution or, if there is no governing board, the President of the United States shall issue a proclamation without notice in lieu of a resolution. The resolution may be adopted by a governing body on its own motion upon determining, in its discretion, that a need exists for a joint public agency. In determining whether such a need exists, a governing body may take into consideration the present and future needs of the public agency with respect to the materials, goods, property, and services which a joint public agency may utilize or
provide, the adequacy, suitability, and availability of such materials, 
goods, property, and services to meet the needs of the participating 
public agency if no joint public agency is formed, and economic or other 
advantages or efficiencies which may be realized by cooperative action 
through a joint public agency. **Upon a determination of need and prior to 
entering into an agreement involving a political subdivision of this 
state, the question shall be submitted to the voters pursuant to section 
2 of this act.**

(2) Upon issuance of a certificate of creation by the Secretary of 
State pursuant to section 13-2511, the Governor in the case of a 
participating state agency which does not have a governing board, the 
President of the United States or federal agency head in the case of a 
federal agency, the mayor or city manager in the case of a city which has 
not elected to be governed as a village, or the chairperson of the 
governing body of each participating public agency shall appoint 
representatives as provided by the agreement for creation of the joint 
public agency. Representatives, other than representatives appointed by 
the Governor, the President of the United States, or a federal agency 
head, must be members of the governing body of the participating public 
agency which they are appointed to represent. Upon issuance of an amended 
certificate of creation pursuant to section 13-2513, a representative 
shall be appointed by each additional participating public agency as 
promised in this section. An alternate representative with the same 
qualifications may be appointed in the same manner as a representative 
and shall serve and exercise all powers of a representative in the 
absence of the representative for whom he or she is the alternate. The 
representatives shall constitute the board in which shall be vested all 
powers of the joint public agency.

Sec. 5. Section 13-2510, Reissue Revised Statutes of Nebraska, is 
amended to read:

13-2510  (1) Within thirty days after adoption of the resolutions
for creation of a joint public agency by the proposed participating
public agencies if approval by the voters is not required pursuant to
section 2 of this act, the board shall file with the Secretary of State a
statement signed by the representatives setting forth (a) (1) the names
of all the proposed participating public agencies, (b) (2) a certified
copy of each of the resolutions of the participating public agencies
determining the need for such a joint public agency, (c) (3) proof of
publication as required in subsection (1) of section 13-2509, (d) (4) a
brief description of the nature of the joint public agency's activities,
and (e) (5) the name of the joint public agency.

(2) Within thirty days after approval by the voters if required
pursuant to section 2 of this act and adoption of the resolutions for
creation of a joint public agency by the proposed participating public
agencies which are not required to submit the question to the voters
pursuant to section 2 of this act, the board shall file with the
Secretary of State a statement signed by the representatives setting
forth (a) the names of all the proposed participating public agencies,
(b) a certified copy of each of the resolutions of the participating
public agencies determining the need for such a joint public agency, (c)
proof of publication as required in subsection (1) of section 13-2509,
(d) proof of approval by the voters, (e) a brief description of the
nature of the joint public agency's activities, and (f) the name of the
joint public agency.

Sec. 6. Section 13-2513, Reissue Revised Statutes of Nebraska, is
amended to read:

13-2513 After the creation of a joint public agency, any other
public agency may become a participating public agency therein upon (1)
the adoption of a resolution by the governing body of the public agency
setting forth the determination prescribed in section 13-2509 and
authorizing the public agency to become a participating public agency
after notice as described in subsection (1) of section 13-2509, (2)
application to the joint public agency, and (3) adoption by a majority
vote of the representatives, unless the joint public agency's rules of
governance require a greater percentage, of a resolution by the board
admitting the public agency as a participating public agency, and (4)
approval by the registered voters of the joining public agency, if it is
a political subdivision of this state, pursuant to section 2 of this act.
Thereupon the public agency shall become a participating public agency
entitled to appoint a representative or representatives in the manner
prescribed by sections 13-2509 and 13-2515 and to otherwise participate
in the joint public agency to the same extent as if the public agency had
participated in the creation of the joint public agency. Upon the filing
with the Secretary of State of certified copies of the resolutions
described in this section and proof of publication of notice, the
Secretary of State shall issue an amended certificate of creation setting
forth the names of the participating public agencies, the date of
creation, and the name of the joint public agency. Notice shall be given
as provided in section 13-2511.

Sec. 7. Original sections 13-2501, 13-2504, 13-2509, 13-2510, and
13-2513, Reissue Revised Statutes of Nebraska, are repealed.