

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 199**

Introduced By: Schimek, 27

Read first time: January 9, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public bodies; to amend sections 18-2420,  
2 18-2425, 18-2436, and 18-2439, Reissue Revised Statutes of  
3 Nebraska, and sections 18-2410, 18-2438, and 84-1411,  
4 Revised Statutes Cumulative Supplement, 2006; to change  
5 provisions relating to municipal cooperative financing and  
6 open meetings; to harmonize provisions; and to repeal the  
7 original sections.

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

1           Section 1. Section 18-2410, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           18-2410. Municipality shall mean (1) any city or village  
4 incorporated under the laws of this state, ~~or~~ any equivalent  
5 entity incorporated under the laws of another state, or any separate  
6 municipal utility which has autonomous control and was established by  
7 such a city, village, or equivalent entity or by the citizens thereof  
8 for the purpose of providing electric energy for such municipality  
9 or (2) any public entity organized under Chapter 70, article 6, and  
10 incorporated under the laws of this state for the sole purpose of  
11 providing wholesale electric energy to a single municipality which is  
12 incorporated under the laws of this state.

13           Sec. 2. Section 18-2420, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           18-2420. The governing body of each of the municipalities  
16 participating in the creation of such agency shall ~~adopt an ordinance~~  
17 ~~determining~~ by appropriate action by ordinance or resolution  
18 determine that there is a need for such agency and ~~setting~~ set  
19 forth the names of the proposed participating municipalities of the  
20 agency. Such an ~~ordinance may be adopted~~ action may be taken by a  
21 municipality's governing body on its own motion upon determining, in  
22 its discretion, that a need exists for an agency. In determining  
23 whether such a need exists, a governing body may take into  
24 consideration the present and future needs of the municipality with  
25 respect to the commodities and services which an agency may provide,  
26 the adequacy and suitability of the supplies of such commodities and  
27 services to meet such needs, and economic or other advantages or

1 efficiencies which may be realized by cooperative action through an  
2 agency. Upon the adoption of an ordinance or passage of a resolution  
3 as provided in this section, the mayor, in the case of a city, ~~or~~  
4 the chairperson of the board of trustees, in the case of a  
5 village, or the chairperson of the governing body, of each of the  
6 proposed participating municipalities, with the approval of the  
7 respective governing body, shall appoint a director who shall be an  
8 elector of the municipality for which he or she acts as director. The  
9 directors shall constitute the board in which shall be vested all  
10 powers of the agency.

11 Sec. 3. Section 18-2425, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 18-2425. After the creation of an agency, any other  
14 municipality may become a participating municipality therein upon (1)  
15 application to such agency, (2) the adoption of an ordinance or  
16 passage of a resolution by the governing body of the municipality  
17 setting forth the determination prescribed in section 18-2420 and  
18 authorizing such municipality to become a participating municipality,  
19 and (3) at least a majority vote of the directors, except that an  
20 agency's bylaws may require a greater percentage of approval for such  
21 authorization. Thereupon such municipality shall become a  
22 participating municipality entitled to appoint a director or directors  
23 of such agency in the manner prescribed by section 18-2420 and to  
24 otherwise participate in such agency to the same extent as if such  
25 municipality had participated in the creation of the agency. Upon the  
26 filing with the Secretary of State of certified copies of the  
27 ordinances and resolutions described in this section, the Secretary

1 of State shall issue an amended certificate of incorporation setting  
2 forth the names of the participating municipalities.

3 Sec. 4. Section 18-2436, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 18-2436. Each participating municipality shall be entitled  
6 to appoint one director, but with the approval of each of the  
7 participating municipalities as evidenced by an ordinance or  
8 resolution of the governing body thereof, an agency's bylaws may  
9 contain a provision entitling any of the participating municipalities  
10 to appoint more than one director and specifying the number of  
11 directors to be appointed by each of the participating municipalities  
12 of the agency. The number of directors may be increased or decreased  
13 from time to time by an amendment to the bylaws approved by each of  
14 the participating municipalities as evidenced by an ordinance or  
15 resolution of the governing body thereof. Each participating  
16 municipality shall at all times be entitled to appoint at least one  
17 director. Each director shall be entitled to one vote, but with the  
18 approval of each of the participating municipalities as evidenced by  
19 an ordinance or resolution of the governing body thereof, an  
20 agency's bylaws may contain a provision entitling any director or  
21 directors to cast more than one vote and specifying the number or  
22 numbers of votes such director or directors may cast. Unless the  
23 bylaws of the agency shall require a larger number, a quorum of the  
24 board shall be constituted for the purpose of conducting the business  
25 and exercising the powers of the agency and for all other purposes  
26 when directors are present who are entitled to cast a majority of the  
27 total votes which may be cast by all of the board's directors. Action

1 may be taken upon a vote of a majority of the votes which the  
2 directors present are entitled to cast unless the bylaws of the agency  
3 shall require a larger number. The manner of scheduling regular board  
4 meetings and the method of calling special board meetings, including  
5 the giving or waiving notice thereof, shall be as provided in the  
6 bylaws. Such meetings may be held by any means permitted by the Open  
7 Meetings Act.

8 Sec. 5. Section 18-2438, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 18-2438. The board of an agency may create an executive  
11 committee the composition of which shall be set forth in the bylaws of  
12 the agency. The executive committee shall have and exercise the power  
13 and authority of the board during intervals between the board's  
14 meetings in accordance with the board's bylaws, rules, motions, or  
15 resolutions. The terms of office of the members of the executive  
16 committee and the method of filling vacancies shall be fixed by the  
17 bylaws of the agency. The board may also create one or more committees  
18 to which the board may delegate such powers and duties as the board  
19 shall specify. In no event shall any committee be empowered to  
20 authorize the issuance of bonds. The membership and voting  
21 requirements for action by a committee shall be specified by the  
22 board. An agency which contracts with municipalities outside the State  
23 of Nebraska may hold meetings outside the State of Nebraska if such  
24 meetings are held only in such contracting municipalities. Meetings  
25 of any committee which is a public body for purposes of the Open  
26 Meetings Act may be held by any means permitted by the act.

27 Sec. 6. Section 18-2439, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 18-2439. An agency shall be dissolved upon the adoption, by  
3 the governing bodies of at least half of the participating  
4 municipalities, of an ordinance or resolution setting forth the  
5 determination that the need for such municipality to act cooperatively  
6 through an agency no longer exists. An agency shall not be dissolved  
7 so long as the agency has bonds outstanding, unless provision for full  
8 payment of such bonds and interest thereon, by escrow or otherwise,  
9 has been made pursuant to the terms of such bonds or the ordinance,  
10 resolution, trust indenture, or security instrument securing such  
11 bonds. If the governing bodies of one or more, but less than a  
12 majority, of the participating municipalities adopt such an ordinance  
13 or resolution, such municipalities shall be permitted to withdraw  
14 from participation in the agency, but such withdrawal shall not  
15 affect the obligations of such municipality pursuant to any contracts  
16 or other agreements with such agency. Such withdrawal shall not impair  
17 the payment of any outstanding bonds or interest thereon. In the event  
18 of the dissolution of an agency, its board shall provide for the  
19 disposition, division, or distribution of the agency's assets among  
20 the participating municipalities by such means as such board shall  
21 determine, in its sole discretion, to be fair and equitable.

22 Sec. 7. Section 84-1411, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 84-1411. (1) Each public body shall give reasonable advance  
25 publicized notice of the time and place of each meeting by a method  
26 designated by each public body and recorded in its minutes. Such  
27 notice shall be transmitted to all members of the public body and to

1 the public. Such notice shall contain an agenda of subjects known at  
2 the time of the publicized notice or a statement that the agenda,  
3 which shall be kept continually current, shall be readily available  
4 for public inspection at the principal office of the public body  
5 during normal business hours. Agenda items shall be sufficiently  
6 descriptive to give the public reasonable notice of the matters to be  
7 considered at the meeting. Except for items of an emergency nature,  
8 the agenda shall not be altered later than (a) twenty-four hours  
9 before the scheduled commencement of the meeting or (b) forty-eight  
10 hours before the scheduled commencement of a meeting of a city council  
11 or village board scheduled outside the corporate limits of the  
12 municipality. The public body shall have the right to modify the  
13 agenda to include items of an emergency nature only at such public  
14 meeting.

15 (2) A meeting of a state agency, state board, state  
16 commission, state council, or state committee, of an advisory  
17 committee of any such state entity, of an organization created under  
18 the Interlocal Cooperation Act, the Joint Public Agency Act, or the  
19 Municipal Cooperative Financing Act, of the governing body of a public  
20 power district having a chartered territory of more than fifty  
21 counties in this state, or of the governing body of a risk management  
22 pool or its advisory committees organized in accordance with the  
23 Intergovernmental Risk Management Act may be held by means of  
24 videoconferencing or, in the case of the Judicial Resources Commission  
25 in those cases specified in section 24-1204, by telephone conference,  
26 if:

27 (a) Reasonable advance publicized notice is given;

1           (b) Reasonable arrangements are made to accommodate the  
2 public's right to attend, hear, and speak at the meeting, including  
3 seating, recordation by audio or visual recording devices, and a  
4 reasonable opportunity for input such as public comment or questions  
5 to at least the same extent as would be provided if videoconferencing  
6 or telephone conferencing was not used;

7           (c) At least one copy of all documents being considered is  
8 available to the public at each site of the videoconference or  
9 telephone conference;

10          (d) At least one member of the state entity, advisory  
11 committee, or governing body is present at each site of the  
12 videoconference or telephone conference; and

13          (e) No more than one-half of the state entity's, advisory  
14 committee's, or governing body's meetings in a calendar year are held  
15 by videoconference or telephone conference.

16          Videoconferencing, telephone conferencing, or conferencing  
17 by other electronic communication shall not be used to circumvent any  
18 of the public government purposes established in the Open Meetings  
19 Act.

20          (3) A meeting of the governing body of an entity formed  
21 under the Interlocal Cooperation Act, ~~or~~ the Joint Public Agency  
22 Act, or the Municipal Cooperative Financing Act or of the governing  
23 body of a risk management pool or its advisory committees organized in  
24 accordance with the Intergovernmental Risk Management Act may be held  
25 by telephone conference call if:

26          (a) The territory represented by the member public agencies  
27 of the entity or pool covers more than one county;



1           (b) Reasonable advance publicized notice is given which  
2 identifies each telephone conference location at which a member of the  
3 entity's or pool's governing body will be present;

4           (c) All telephone conference meeting sites identified in the  
5 notice are located within public buildings used by members of the  
6 entity or pool or at a place which will accommodate the anticipated  
7 audience;

8           (d) Reasonable arrangements are made to accommodate the  
9 public's right to attend, hear, and speak at the meeting, including  
10 seating, recordation by audio recording devices, and a reasonable  
11 opportunity for input such as public comment or questions to at least  
12 the same extent as would be provided if a telephone conference call  
13 was not used;

14           (e) At least one copy of all documents being considered is  
15 available to the public at each site of the telephone conference call;

16           (f) At least one member of the governing body of the entity  
17 or pool is present at each site of the telephone conference call  
18 identified in the public notice;

19           (g) The telephone conference call lasts no more than one  
20 hour; and

21           (h) No more than one-half of the entity's or pool's meetings  
22 in a calendar year are held by telephone conference call.

23           Nothing in this subsection shall prevent the participation  
24 of consultants, members of the press, and other nonmembers of the  
25 governing body at sites not identified in the public notice. Telephone  
26 conference calls, emails, faxes, or other electronic communication  
27 shall not be used to circumvent any of the public government purposes

1 established in the Open Meetings Act.

2 (4) The secretary or other designee of each public body  
3 shall maintain a list of the news media requesting notification of  
4 meetings and shall make reasonable efforts to provide advance  
5 notification to them of the time and place of each meeting and the  
6 subjects to be discussed at that meeting.

7 (5) When it is necessary to hold an emergency meeting  
8 without reasonable advance public notice, the nature of the emergency  
9 shall be stated in the minutes and any formal action taken in such  
10 meeting shall pertain only to the emergency. Such emergency meetings  
11 may be held by means of electronic or telecommunication equipment. The  
12 provisions of subsection (4) of this section shall be complied with in  
13 conducting emergency meetings. Complete minutes of such emergency  
14 meetings specifying the nature of the emergency and any formal action  
15 taken at the meeting shall be made available to the public by no later  
16 than the end of the next regular business day.

17 (6) A public body may allow a member of the public or any  
18 other witness other than a member of the public body to appear before  
19 the public body by means of video or telecommunications equipment.

20 Sec. 8. Original sections 18-2420, 18-2425, 18-2436, and  
21 18-2439, Reissue Revised Statutes of Nebraska, and sections 18-2410,  
22 18-2438, and 84-1411, Revised Statutes Cumulative Supplement, 2006,  
23 are repealed.