

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 361

FINAL READING

Introduced by Avery, 28.

Read first time January 16, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public meetings; to amend sections 79-1218,
2 84-1411, and 84-1413, Reissue Revised Statutes of
3 Nebraska; to provide for videoconferencing and telephone
4 conferences by educational service unit boards; to change
5 provisions relating to telephone conferences by a risk
6 management pool; to authorize electronic voting devices
7 for certain public entities; to harmonize provisions; and
8 to repeal the original sections.

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

1 Section 1. Section 79-1218, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-1218 The board of each educational service unit shall
4 meet and organize by naming one of its members as president, one
5 as vice president, and one as secretary. The board shall employ a
6 treasurer who shall be paid a salary to be fixed by the board.

7 The board of the educational service unit shall determine
8 the participation of the educational service unit in providing
9 supplementary educational services. If the board of the educational
10 service unit does not provide supplementary educational services,
11 it shall meet during each succeeding January to determine the
12 participation in providing supplementary educational services
13 for that calendar year. Meetings may be held by means of
14 videoconferencing or telephone conference in accordance with
15 subsections (2) and (3) of section 84-1411.

16 Sec. 2. Section 84-1411, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 84-1411 (1) Each public body shall give reasonable
19 advance publicized notice of the time and place of each meeting
20 by a method designated by each public body and recorded in its
21 minutes. Such notice shall be transmitted to all members of the
22 public body and to the public. Such notice shall contain an
23 agenda of subjects known at the time of the publicized notice
24 or a statement that the agenda, which shall be kept continually
25 current, shall be readily available for public inspection at the

1 principal office of the public body during normal business hours.
2 Agenda items shall be sufficiently descriptive to give the public
3 reasonable notice of the matters to be considered at the meeting.
4 Except for items of an emergency nature, the agenda shall not
5 be altered later than (a) twenty-four hours before the scheduled
6 commencement of the meeting or (b) forty-eight hours before the
7 scheduled commencement of a meeting of a city council or village
8 board scheduled outside the corporate limits of the municipality.
9 The public body shall have the right to modify the agenda to
10 include items of an emergency nature only at such public meeting.

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

24 (a) Reasonable advance publicized notice is given;

25 (b) Reasonable arrangements are made to accommodate the

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

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

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

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

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

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

1 (a) The territory represented by the educational service
2 unit or member public agencies of the entity or pool covers more
3 than one county;

4 (b) Reasonable advance publicized notice is given
5 which identifies each telephone conference location at which an
6 educational service unit board member or a member of the entity's
7 or pool's governing body will be present;

8 (c) All telephone conference meeting sites identified in
9 the notice are located within public buildings used by members of
10 the educational service unit board or entity or pool or at a place
11 which will accommodate the anticipated audience;

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

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

21 (f) At least one member of the educational service unit
22 board or governing body of the entity or pool is present at each
23 site of the telephone conference call identified in the public
24 notice;

25 (g) The telephone conference call lasts no more than one

1 hour; and

2 (h) No more than one-half of the board's, entity's,
3 or pool's meetings in a calendar year are held by telephone
4 conference call, except that a governing body of a risk management
5 pool that meets at least quarterly and the advisory committees
6 of the governing body may each hold more than one-half of its
7 meetings by telephone conference call if the governing body's
8 quarterly meetings are not held by telephone conference call or
9 videoconferencing.

10 Nothing in this subsection shall prevent the
11 participation of consultants, members of the press, and
12 other nonmembers of the governing body at sites not identified in
13 the public notice. Telephone conference calls, emails, faxes, or
14 other electronic communication shall not be used to circumvent any
15 of the public government purposes established in the Open Meetings
16 Act.

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

22 (5) When it is necessary to hold an emergency meeting
23 without reasonable advance public notice, the nature of the
24 emergency shall be stated in the minutes and any formal action
25 taken in such meeting shall pertain only to the emergency.

1 Such emergency meetings may be held by means of electronic or
2 telecommunication equipment. The provisions of subsection (4)
3 of this section shall be complied with in conducting emergency
4 meetings. Complete minutes of such emergency meetings specifying
5 the nature of the emergency and any formal action taken at the
6 meeting shall be made available to the public by no later than the
7 end of the next regular business day.

8 (6) A public body may allow a member of the public or
9 any other witness other than a member of the public body to appear
10 before the public body by means of video or telecommunications
11 equipment.

12 Sec. 3. Section 84-1413, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 84-1413 (1) Each public body shall keep minutes of all
15 meetings showing the time, place, members present and absent, and
16 the substance of all matters discussed.

17 (2) Any action taken on any question or motion duly moved
18 and seconded shall be by roll call vote of the public body in
19 open session, and the record shall state how each member voted
20 or if the member was absent or not voting. The requirements of a
21 roll call or viva voce vote shall be satisfied by a municipality,
22 a county, a learning community, a joint entity created pursuant
23 to the Interlocal Cooperation Act, a joint public agency created
24 pursuant to the Joint Public Agency Act, or an agency formed
25 under the Municipal Cooperative Financing Act which utilizes an

1 electronic voting device which allows the yeas and nays of each
2 member of ~~the~~ such city council, ~~or~~ village board, county board, or
3 governing body to be readily seen by the public.

4 (3) The vote to elect leadership within a public body may
5 be taken by secret ballot, but the total number of votes for each
6 candidate shall be recorded in the minutes.

7 (4) The minutes of all meetings and evidence and
8 documentation received or disclosed in open session shall be
9 public records and open to public inspection during normal business
10 hours.

11 (5) Minutes shall be written and available for inspection
12 within ten working days or prior to the next convened meeting,
13 whichever occurs earlier, except that cities of the second class
14 and villages may have an additional ten working days if the
15 employee responsible for writing the minutes is absent due to a
16 serious illness or emergency.

17 Sec. 4. Original sections 79-1218, 84-1411, and 84-1413,
18 Reissue Revised Statutes of Nebraska, are repealed.