

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 702

Final Reading

Introduced by Johnson, 23.

Read first time January 08, 2014

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities and villages; to amend sections 17-101,
2 17-201, 17-306, and 17-312, Reissue Revised Statutes of
3 Nebraska; to provide and change provisions relating to
4 organization of cities of the second class and villages;
5 to repeal the original sections; and to declare an
6 emergency.

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

1 Section 1. Section 17-101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 17-101 All cities, towns, and villages containing more
4 than eight hundred and not more than five thousand inhabitants shall
5 be cities of the second class and be governed by ~~the provisions of~~
6 sections 17-101 to 17-153 unless they adopt or retain a village
7 government as provided in sections 17-306 to ~~17-309.~~~~17-312.~~ The
8 population of a city of the second class shall consist of the people
9 residing within the territorial boundaries of such city and the
10 residents of any territory duly and properly annexed to such city.

11 Sec. 2. Section 17-201, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 17-201 (1) Any town or village containing not less than
14 one hundred nor more than eight hundred inhabitants incorporated as a
15 city, town, or village under the laws of this state, any village that
16 votes to retain village government as provided in section 17-312, and
17 any city of the second class that has adopted village government as
18 provided by ~~law~~~~sections 17-306 to 17-309~~ shall be a village and
19 shall have the rights, powers, and immunities ~~hereinafter~~~~granted in~~
20 sections 17-201 to 17-231, and none other, except that all county
21 seat towns shall have the powers and immunities ~~as~~~~hereinafter~~
22 granted in sections 17-201 to 17-231. The population of a village
23 shall consist of the people residing within the territorial
24 boundaries of such village and the residents of any territory duly
25 and properly annexed to such village.

1 (2) Whenever a majority of the taxable inhabitants of any
2 town or village, not incorporated under any laws of this state, shall
3 present a petition to the county board of the county in which the
4 petitioners reside, praying that they may be incorporated as a
5 village and designating the name they wish to assume and the metes
6 and bounds of the proposed village, and such county board or majority
7 of the members thereof shall be satisfied that a majority of the
8 taxable inhabitants of the proposed village have signed such petition
9 and that inhabitants to the number of one hundred or more are actual
10 residents of the territory described in the petition, the board shall
11 declare the proposed village incorporated, enter the order of
12 incorporation upon its records, and designate the metes and bounds
13 thereof. Thereafter the village shall be governed by the provisions
14 of law applicable to the government of villages. The county board
15 shall, at the time of the incorporation of the village, appoint five
16 persons, having the qualifications provided in section 17-203, as
17 trustees, who shall hold their offices and perform all the duties
18 required of them by law until the election and qualification of their
19 successors at the time and in the manner provided in section 17-202,
20 except that the county board shall not declare a proposed village
21 incorporated or enter an order of incorporation if any portion of the
22 territory of such proposed village is within five miles of a Nebraska
23 incorporated village or city of any class.

24 Sec. 3. Section 17-306, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 17-306 ~~Whenever any~~ (1) The registered voters of a city
2 of the second class desires may vote to discontinue its organization
3 as a city of the second class and organize as a village. The issue
4 may be placed before the voters by a resolution adopted by the city
5 council or by petition signed by , and one-fourth of the legal
6 registered voters of such city. shall petition the city council, the
7 council shall cause to be published, for at least thirty days, a
8 notice stating that the question of adopting village government will
9 be submitted at the next city election, or at a special election
10 announced in such notice.

11 (2) The petitions shall conform to section 32-628. The
12 Secretary of State shall design the form to be used for the
13 petitions. Petition signers and petition circulators shall conform to
14 the requirements of sections 32-629 and 32-630. The city council
15 shall submit the petitions to the election commissioner or county
16 clerk for signature verification pursuant to section 32-631. The
17 required number of signatures shall be one-fourth of the number of
18 voters registered in the city at the last statewide general election.
19 The election commissioner or county clerk shall notify the city
20 council within thirty days after receiving the petitions from the
21 city council whether the required number of signatures has been
22 gathered. The city shall reimburse the county for any costs incurred
23 by the election commissioner or county clerk.

24 (3) If the city council determines that the petitions are
25 in proper form and signed by the necessary number of registered

1 voters or after adoption of the resolution by the city council, the
2 city council shall submit the question to the voters of whether to
3 discontinue organization as a city of the second class and organize
4 as a village at a special election pursuant to section 32-559 or at
5 the same time as a local or statewide primary or general election
6 held in the city of the second class. The form of ballot shall be For
7 organization as a village, and Against organization as a village, and
8 at the same election the ~~qualified~~ voters shall vote for five
9 trustees for the village. If a majority of the votes cast are For
10 organization as a village, then such city shall within sixty days
11 after such election become a village and be governed under the
12 provisions of the law relating ~~laws~~ of this state applicable to a
13 village unless it shall at some future election adopt a city
14 government in the manner provided herein for the adoption of a
15 village government. such village votes to reorganize as a city of the
16 second class in the manner provided in section 4 of this act.

17 Sec. 4. (1) The registered voters of a village which was
18 reorganized under section 17-306 from a city of the second class to a
19 village may vote to discontinue organization as a village and
20 reorganize as a city of the second class under this section if the
21 population exceeds eight hundred inhabitants. The issue may be placed
22 before the voters by a resolution adopted by the board of trustees of
23 the village or by petition signed by one-fourth of the registered
24 voters of the village.

25 (2) The petitions shall conform to section 32-628. The

1 Secretary of State shall design the form to be used for the
2 petitions. Petition signers and petition circulators shall conform to
3 the requirements of sections 32-629 and 32-630. The board of trustees
4 shall submit the petitions to the election commissioner or county
5 clerk for signature verification pursuant to section 32-631. The
6 required number of signatures shall be one-fourth of the number of
7 voters registered in the village at the last statewide general
8 election. The election commissioner or county clerk shall notify the
9 board of trustees within thirty days after receiving the petitions
10 from the board of trustees whether the required number of signatures
11 has been gathered. The village shall reimburse the county for any
12 costs incurred by the election commissioner or county clerk.

13 (3) If the board of trustees determines that the
14 petitions are in proper form and signed by the necessary number of
15 registered voters or after adoption of the resolution by the board of
16 trustees, the board of trustees shall submit the question to the
17 voters of whether to organize as a city of the second class at a
18 special election pursuant to section 32-559 or at the same time as a
19 local or statewide primary or general election held in the village.
20 The form of the ballot at such election shall be For reorganization
21 of the Village of as a city of the second class and Against
22 reorganization of the Village of as a city of the second
23 class.

24 (4) If the majority of the votes cast are for
25 reorganization as a city of the second class, the board of trustees

1 shall certify such fact to the Secretary of State who, upon the
2 filing of such a certificate, shall by proclamation so declare and
3 shall declare such village to have become a city of the second class.
4 Thereafter such village shall become a city of the second class and
5 such city shall be governed under the laws of this state applicable
6 to cities of the second class. The government of such city shall
7 continue as organized at the date of such proclamation until the
8 reorganization as a city of the second class.

9 (5) Upon such proclamation, the governing body of the
10 city shall call a special election for the purpose of electing new
11 members of the city's governing body to be held not more than eight
12 months after the proclamation is issued. At the initial election of
13 officers, the names of the candidates receiving the greatest number
14 of votes at the primary election if one is held shall be placed on
15 the general election ballot. One-half or the bare majority of the
16 candidates in each precinct or ward or at-large candidates, as the
17 case may be, receiving the greatest number of votes at the general
18 election, shall be elected to terms of the longest duration, and
19 those receiving the next greatest number of votes shall be elected to
20 the remaining term or terms. Thereafter all members shall be
21 nominated at the statewide primary election and elected at the
22 statewide general election for four-year terms as provided in section
23 32-533. The members of the board of trustees shall hold office only
24 until the newly elected city officials assume office.

25 (6) All ordinances, bylaws, acts, rules, regulations,

1 obligations, and proclamations existing and in force in or with
2 respect to any village at the time of its incorporation as a city of
3 the second class shall remain in full force and effect after such
4 incorporation as a city of the second class until repealed or
5 modified by such city within one year after the date of the filing of
6 the certificate pursuant to subsection (4) of this section.

7 Sec. 5. Section 17-312, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 17-312 (1) Whenever any village attains a population
10 exceeding eight hundred inhabitants, the registered voters of the
11 village may vote to retain a village form of government. The issue
12 may be placed before the voters by a resolution adopted by the board
13 of trustees of the village or by petition signed by ~~and~~ one-fourth of
14 the legal ~~registered~~ voters but not less than one hundred registered
15 voters of the village, ~~petition the board of trustees of such~~
16 village, the board of trustees shall cause to be published for at
17 least thirty days a notice stating that the question of retaining a
18 village form of government will be submitted at the next regularly
19 scheduled election or at a special election announced in such notice.
20 Thereupon there shall be submitted by the board of trustees at such
21 election the question of retaining a village form of government. Such
22 election shall be conducted in the manner provided for cities of the
23 second class.

24 (2) The petitions shall conform to section 32-628. The
25 Secretary of State shall design the form to be used for the

1 petitions. Petition signers and petition circulators shall conform to
2 the requirements of sections 32-629 and 32-630. The board of trustees
3 shall submit the petitions to the election commissioner or county
4 clerk for signature verification pursuant to section 32-631. The
5 required number of signatures shall be one-fourth of the number of
6 voters registered in the village at the last statewide general
7 election. The election commissioner or county clerk shall notify the
8 board of trustees within thirty days after receiving the petitions
9 from the board of trustees whether the required number of signatures
10 has been gathered. The village shall reimburse the county for any
11 costs incurred by the election commissioner or county clerk.

12 (3) If the board of trustees determines that the
13 petitions are in proper form and signed by the necessary number of
14 registered voters or after adoption of the resolution by the board of
15 trustees, the board of trustees shall submit the question to the
16 voters of whether to retain the village form of government at a
17 special election pursuant to section 32-559 or at the same time as a
18 local or statewide primary or general election held in the village.
19 The form of the ballot at such election shall be For retention of
20 village government and Against retention of village government. If
21 the majority of the votes cast are for retention of village
22 government, then such village shall remain a village and be governed
23 under the ~~provisions of the law relating~~ laws of this state
24 applicable to villages unless at some future election such village
25 ~~adopts votes to reorganize as a city government of the second class~~

1 in the manner provided ~~for the adoption of a village government.~~ in
2 section 6 of this act.

3 ~~(2)~~(4) If the question is submitted at a special
4 election, such election shall be held not later than October 15 of an
5 odd-numbered year. If the question is rejected, city of the second
6 class officials shall be elected at the next regularly scheduled
7 election.

8 ~~(3)~~(5) If the question is submitted at a regularly
9 scheduled election, no village trustees shall be elected at such
10 election, but trustees whose terms are to expire following such
11 election shall hold office until either their successors or city
12 officials take office as follows:

13 (a) If the question is rejected, the village board shall
14 call a special election, to be held not more than eight months after
15 the election at which the question was rejected, for the purpose of
16 electing city officials under the provisions of law relating to
17 cities of the second class. The terms of office for such officials
18 shall be established pursuant to section 17-311. The members of the
19 board of trustees shall hold office only until the newly elected city
20 officials assume office; and

21 (b) If the question is approved, the village board shall
22 call a special election, to be held not more than eight months after
23 the election at which the question was approved, for the purpose of
24 electing successors to those members of the village board who held
25 office beyond the normal expiration of their terms. Such special

1 election shall be conducted under the provisions of law relating to
2 villages. Persons so elected shall take office as soon after the
3 completion of the canvass of the votes as is practicable, and their
4 terms of office shall be as if the holdovers had not occurred.

5 Sec. 6. (1) The registered voters of a village may vote
6 to discontinue organization as a village and organize as a city of
7 the second class under this section if the population of the village
8 exceeds eight hundred inhabitants and the prior vote pursuant to
9 section 17-312 was in favor of retaining the village form of
10 government. The issue may be placed before the voters by a resolution
11 adopted by the board of trustees of the village or by petition signed
12 by one-fourth of the registered voters of the village.

13 (2) The petitions shall conform to section 32-628. The
14 Secretary of State shall design the form to be used for the
15 petitions. Petition signers and petition circulators shall conform to
16 the requirements of sections 32-629 and 32-630. The board of trustees
17 shall submit the petitions to the election commissioner or county
18 clerk for signature verification pursuant to section 32-631. The
19 required number of signatures shall be one-fourth of the number of
20 voters registered in the village at the last statewide general
21 election. The election commissioner or county clerk shall notify the
22 board of trustees within thirty days after receiving the petitions
23 from the board of trustees whether the required number of signatures
24 has been gathered. The village shall reimburse the county for any
25 costs incurred by the election commissioner or county clerk.

1 (3) If the board of trustees determines that the
2 petitions are in proper form and signed by the necessary number of
3 registered voters or after adoption of the resolution by the board of
4 trustees, the board of trustees shall submit the question to the
5 voters of whether to organize as a city of the second class at a
6 special election pursuant to section 32-559 or at the same time as a
7 local or statewide primary or general election held in the village.
8 The form of the ballot at such election shall be For reorganization
9 of the Village of as a city of the second class and Against
10 reorganization of the Village of as a city of the second
11 class.

12 (4) If the majority of the votes cast are for
13 reorganization as a city of the second class, the board of trustees
14 shall certify such fact to the Secretary of State who, upon the
15 filing of such a certificate, shall by proclamation declare such
16 village to have become a city of the second class. Thereafter such
17 village is a city of the second class, and such city shall be
18 governed under the laws of this state applicable to cities of the
19 second class. The government of such city shall continue as organized
20 at the date of such proclamation until the reorganization as a city
21 of the second class.

22 (5) Upon such proclamation, the governing body of the
23 city shall call a special election for the purpose of electing new
24 members of the city's governing body to be held not more than eight
25 months after the proclamation is issued. At the initial election of

1 officers, the names of the candidates receiving the greatest number
2 of votes at the primary election if one is held shall be placed on
3 the general election ballot. One-half or the bare majority of the
4 candidates in each precinct or ward or at-large candidates, as the
5 case may be, receiving the greatest number of votes at the general
6 election, shall be elected to terms of the longest duration, and
7 those receiving the next greatest number of votes shall be elected to
8 the remaining term or terms. Thereafter all members shall be
9 nominated at the statewide primary election and elected at the
10 statewide general election for four-year terms as provided in section
11 32-533. The members of the board of trustees shall hold office only
12 until the newly elected city officials assume office.

13 (6) All ordinances, bylaws, acts, rules, regulations,
14 obligations, and proclamations existing and in force in or with
15 respect to any village at the time of its incorporation as a city of
16 the second class shall remain in full force and effect after such
17 incorporation as a city of the second class until repealed or
18 modified by such city within one year after the date of the filing of
19 the certificate pursuant to subsection (4) of this section.

20 Sec. 7. Original sections 17-101, 17-201, 17-306, and
21 17-312, Reissue Revised Statutes of Nebraska, are repealed.

22 Sec. 8. Since an emergency exists, this act takes effect
23 when passed and approved according to law.