

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 257

Introduced by McCoy, 39.

Read first time January 16, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to municipal counties; to amend sections 13-2801
2 and 13-2809, Reissue Revised Statutes of Nebraska; to
3 change provisions relating to the creation of municipal
4 counties; to change a restriction on annexation; and to
5 repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-2801, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2801 (1) One or more counties and at least one of the
4 municipalities in each county may create a municipal county to carry
5 out all county services and all municipal services. The process of
6 creating a municipal county shall begin by passage of a joint
7 resolution by the governing bodies of the counties and municipalities
8 involved. The joint resolution may be initiated by the governing
9 bodies or by petition as provided in subsection (2) of this section.

10 (2) Whenever registered voters of any county and of at
11 least one municipality in the county, equal in number to ten percent
12 of the total vote cast for Governor in the county or municipality at
13 the preceding election, petition the respective county board and city
14 council or village board of trustees to pass a resolution as
15 contemplated by this section, it shall be the duty of the county
16 board and city council or village board to pass a joint resolution
17 creating an interjurisdictional planning commission. Petitions shall
18 be filed with the county clerk, election commissioner, city clerk, or
19 other officer having charge of the records of the governing body. The
20 official shall ascertain the number of registered voters signing such
21 petitions and transmit his or her findings, along with the petition,
22 to the county board and city council or village board of trustees.

23 (3) Within ninety days after the passage of the joint
24 resolution or within ninety days after receipt of a petition by the
25 registered voters, the governing bodies of the counties and

1 municipalities involved shall create an interjurisdictional planning
2 commission. A commission may also be created by the district court
3 having jurisdiction over the counties and municipalities involved
4 upon the failure by the counties and municipalities to pass a joint
5 resolution after submission of a petition by the registered voters.
6 The commission shall have no less than nine members and no more than
7 twenty-one members ~~representing the counties and municipalities~~
8 ~~involved~~ as determined by the governing bodies of the counties and
9 municipalities involved in order to achieve proportionate
10 representation. The members shall represent the counties and
11 municipalities involved, except that one member shall represent
12 agricultural land owners and one member shall represent a fire
13 protection district if at least one such district exists within the
14 county. The governing bodies shall select the members. Representation
15 on the commission shall be prorated based upon population of the
16 counties and municipalities involved, except that (a) ~~each county and~~
17 ~~each municipality involved shall have at least one representative~~
18 ~~selected by its respective governing body. Not and (b) ~~not~~ more than~~
19 ~~forty percent of the total membership shall be public officials.~~
20 Meetings of the commission shall be subject to the Open Meetings Act.
21 (4)(a) The commission shall hold at least ~~one public~~
22 ~~hearing~~ three public hearings prior to preparing the plan for the
23 creation of the municipal county, and shall study all governmental
24 subdivisions in the affected area. The study shall include, but not
25 be limited to: , and then

1 (i) A complete study of governmental subdivision
2 functions and services in the affected area;

3 (ii) A determination of functions and services that are
4 duplicated;

5 (iii) A listing of current interlocal agreements and
6 joint public agency agreements that involve a governmental
7 subdivision in the affected area;

8 (iv) A determination of what offices, functions, and
9 services could be merged;

10 (v) The current number of full-time employees of the
11 government subdivisions in the affected area and the estimated number
12 of full-time employees after creation of the municipal county;

13 (vi) An actuarial analysis of changes to employee
14 benefits resulting from the creation of the municipal county;

15 (vii) An analysis of total cost for the creation of the
16 municipal county;

17 (viii) Any legislative changes that are required to
18 create the municipal county; and

19 (ix) Descriptions of possible ways the municipal county
20 could be structured.

21 (b) After completing the study, the commission shall make
22 a determination of whether creation of a municipal county is in the
23 public interest. If it is not in the public interest to do so, the
24 commission shall issue a report stating its findings, including, but
25 not limited to, any recommendations regarding (i) interlocal

1 agreements, (ii) agreements to provide for the joint delivery of
2 services, or (iii) any other such recommendations. If it is in the
3 public interest to do so, the commission shall prepare one plan for
4 the creation of the municipal county. Such plan shall be approved by
5 the governing body of each county and each municipality involved
6 prior to submission of the issue to a vote of the registered voters
7 unless the commission was created by a petition of the registered
8 voters.

9 ~~(b)~~(c) The plan shall specify (i) which counties and
10 municipalities will be dissolved upon creation of the municipal
11 county, (ii) the form of government, with an elected executive
12 officer, a professional municipal county manager or administrator
13 appointed by the commission, or both, to operate the executive
14 functions of the municipal county, (iii) the number of council
15 members of the municipal county and whether they will be elected by
16 district or at large, ~~and~~(iv) which elected officials, if any, will
17 be eliminated, (v) the functions and services that will be eliminated
18 as duplicate functions or services, (vi) any offices, functions, or
19 services that will be merged, (vii) the change in the number of full-
20 time employees resulting from creation of the municipal county,
21 (viii) the actuarial analysis of changes to employee benefits, (ix)
22 the total cost for the creation of the municipal county, and (ix) any
23 legislative changes that are required to create the municipal county.

24 ~~(e)~~(d) At least ninety days prior to submission of the
25 issue to a vote of the registered voters, the commission and the

1 governing body of each county and each municipality involved shall
2 hold at least ~~one public hearing~~ three public hearings in its
3 respective jurisdiction and make available for review by residents of
4 the county and municipality all material terms and conditions set
5 forth in the resolution to create the municipal county, including
6 information regarding the tax implications and quality and cost of
7 services to be provided by the proposed plan to create the municipal
8 county.

9 (5) Upon approval of the plan by the governing body of
10 each county and each municipality involved, if required, or upon the
11 governing bodies' approval or failure to approve if the commission
12 was created by a petition of the registered voters, the county clerks
13 or election commissioners shall place the issue on the ballot at the
14 next primary, general, or special election.

15 Sec. 2. Section 13-2809, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 13-2809 (1) An area within the boundaries of a
18 municipality which remains within the boundaries of a municipal
19 county and is not consolidated into the municipal county at the time
20 of the formation of the municipal county shall not be considered to
21 be part of the municipal county for any purpose. Such a municipality
22 shall not be annexed by the municipal county, and such a municipality
23 shall not annex any territory, for at least ~~four~~ ten years after the
24 date of creation of the municipal county. Such a municipality shall
25 retain:

1 (a) The authority to levy property taxes, not to exceed
2 ninety cents per one hundred dollars of taxable value except as
3 provided in sections 77-3442 and 77-3444; and

4 (b) All the other powers and duties applicable to a
5 municipality of the same population with the same form of government
6 in effect on the date of creation of the municipal county, including,
7 but not limited to, its zoning jurisdiction and the authority to
8 impose a tax as provided in the Local Option Revenue Act.

9 (2) In order to provide economical and efficient
10 services, a municipality within the boundaries of a municipal county
11 may annex adjacent territory within the municipal county if the
12 municipal county consents. Consent shall be granted if the services
13 will be provided by the municipality within the annexed territory at
14 less cost than similar services provided by the municipal county.

15 (3) All fire protection districts subject to municipal
16 county levy authority under section 77-3443 which are within the
17 boundaries of a municipal county shall continue to exist after
18 formation of the municipal county.

19 Sec. 3. Original sections 13-2801 and 13-2809, Reissue
20 Revised Statutes of Nebraska, are repealed.