

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 149**

Introduced by Urban Affairs Committee: Crawford, 45, Chairperson; Coash, 27; Ebke, 32; Hansen, 26; Hughes, 44; Krist, 10; McCollister, 20.

Read first time January 09, 2015

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to sanitary and improvement districts; to
- 2 amend section 31-735, Revised Statutes Cumulative Supplement, 2014;
- 3 to change election procedures; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-735, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 31-735 (1) On the first Tuesday after the second Monday in September  
4 which is at least fifteen months after the judgment of the district court  
5 creating a sanitary and improvement district and on the first Tuesday  
6 after the second Monday in September each two years thereafter, the board  
7 of trustees shall cause a special election to be held, at which election  
8 a board of trustees of five in number shall be elected. Each member  
9 elected to the board of trustees shall be elected to a term of two years  
10 and shall hold office until such member's successor is elected and  
11 qualified. Any person desiring to file for the office of trustee may file  
12 for such office with the election commissioner, or county clerk in  
13 counties having no election commissioner, of the county in which the  
14 greater proportion in area of the district is located not later than  
15 fifty days before the election. If such person will serve on the board of  
16 trustees as a designated representative of a limited partnership, general  
17 partnership, limited liability company, public, private, or municipal  
18 corporation, estate, or trust which owns real estate in the district, the  
19 filing shall indicate that fact and shall include appropriate  
20 documentation evidencing such fact. No filing fee shall be required. A  
21 person filing for the office of trustee to be elected at the election  
22 held four years after the first election of trustees and each election  
23 thereafter shall designate whether he or she is a candidate for election  
24 by the resident owners of such district or whether he or she is a  
25 candidate for election by all of the owners of real estate located in the  
26 district. If a person filing for the office of trustee is a designated  
27 representative of a limited partnership, a general partnership, a limited  
28 liability company, a public, private, or municipal corporation, an  
29 estate, or a trust which owns real estate in the district, the name of  
30 such entity shall accompany the name of the candidate on the ballot in  
31 the following form: (Name of candidate) to represent (name of entity) as

1 a member of the board. The name of each candidate shall appear on only  
2 one ballot.

3 The name of a person may be written in and voted for as a candidate  
4 for the office of trustee, and such write-in candidate may be elected to  
5 the office of trustee. A write-in candidate for the office of trustee who  
6 will serve as a designated representative of a limited partnership, a  
7 general partnership, a limited liability company, a public, private, or  
8 municipal corporation, an estate, or a trust which owns real estate in  
9 the district shall not be elected to the office of trustee unless (a)  
10 each vote is accompanied by the name of the entity which the candidate  
11 will represent and (b) within ten days after the date of the election the  
12 candidate provides the county clerk or election commissioner with  
13 appropriate documentation evidencing his or her representation of the  
14 entity. Votes cast which do not carry such accompanying designation shall  
15 not be counted.

16 A trustee shall be an owner of real estate located in the district  
17 or shall be a person designated to serve as a representative on the board  
18 of trustees if the real estate is owned by a limited partnership, a  
19 general partnership, a limited liability company, a public, private, or  
20 municipal corporation, an estate, or a trust. Notice of the date of the  
21 election shall be mailed by the clerk of the district not later than  
22 sixty-five days prior to the election to each person who is entitled to  
23 vote at the election for trustees whose property ownership or lease  
24 giving a right to vote is of record on the records of the register of  
25 deeds as of a date designated by the election commissioner or county  
26 clerk, which date shall be not more than eighty ~~seventy-five~~ days prior  
27 to the election.

28 (2) For any sanitary and improvement district, persons whose  
29 ownership or right to vote becomes of record or is received after the  
30 date specified pursuant to subsection (1) of this section may vote when  
31 such person establishes their right to vote to the satisfaction of the

1 election board. At the first election and at the election held two years  
2 after the first election, any person may cast one vote for each trustee  
3 for each acre of unplatted land or fraction thereof and one vote for each  
4 platted lot which he or she may own in the district. At the election held  
5 four years after the first election of trustees, two members of the board  
6 of trustees shall be elected by the legal property owners resident within  
7 such sanitary and improvement district and three members shall be elected  
8 by all of the owners of real estate located in the district pursuant to  
9 this section. Every resident property owner may cast one vote for a  
10 candidate for each office of trustee to be filled by election of resident  
11 property owners only. Such resident property owners may also each cast  
12 one vote for each acre of unplatted land or fraction thereof and for each  
13 platted lot owned within the district for a candidate for each office of  
14 trustee to be filled by election of all property owners. For each office  
15 of trustee to be filled by election of all property owners of the  
16 district, every legal property owner not resident within such sanitary  
17 and improvement district may cast one vote for each acre of unplatted  
18 land or fraction thereof and one vote for each platted lot which he or  
19 she owns in the district. At the election held eight years after the  
20 first election of trustees and at each election thereafter, three members  
21 of the board of trustees shall be elected by the legal property owners  
22 resident within such sanitary and improvement district and two members  
23 shall be elected by all of the owners of real estate located in the  
24 district pursuant to this section, except that if more than fifty percent  
25 of the homes in any sanitary and improvement district are used as a  
26 second, seasonal, or recreational residence, the owners of such property  
27 shall be considered legal property owners resident within such district  
28 for purposes of electing trustees, and at the election held six years  
29 after the first election of trustees and at each election thereafter,  
30 three members of the board of trustees shall be elected by the legal  
31 property owners resident within such sanitary and improvement district

1 and two members shall be elected by all of the owners of real estate  
2 located in the district pursuant to this section. If there are not any  
3 legal property owners resident within such district or if not less than  
4 ninety percent of the area of the district is owned for other than  
5 residential uses, the five members shall be elected by the legal property  
6 owners of all property within such district as provided in this section.  
7 Any public, private, or municipal corporation owning any land or lot in  
8 the district may vote at such election the same as an individual. For  
9 purposes of voting for trustees, each condominium apartment under a  
10 condominium property regime established prior to January 1, 1984, under  
11 the Condominium Property Act or established after January 1, 1984, under  
12 the Nebraska Condominium Act shall be deemed to be a platted lot and the  
13 lessee or the owner of the lessee's interest, under any lease for an  
14 initial term of not less than twenty years which requires the lessee to  
15 pay taxes and special assessments levied on the leased property, shall be  
16 deemed to be the owner of the property so leased and entitled to cast the  
17 vote of such property. When ownership of a platted lot or unplatted land  
18 is held jointly by two or more persons, whether as joint tenants, tenants  
19 in common, limited partners, members of a limited liability company, or  
20 any other form of joint ownership, only one person shall be entitled to  
21 cast the vote of such property. The executor, administrator, guardian, or  
22 trustee of any person or estate interested shall have the right to vote.  
23 No corporation, estate, or irrevocable trust shall be deemed to be a  
24 resident owner for purposes of voting for trustees. Should two or more  
25 persons or officials claim the right to vote on the same tract, the  
26 election board shall determine the party entitled to vote. Such board  
27 shall select one of their number chairperson and one of their number  
28 clerk. In case of a vacancy on such board, the remaining trustees shall  
29 fill the vacancy on such board until the next election.

30 (3) The election commissioner or county clerk shall hold any  
31 election required by subsection (1) of this section by sealed mail ballot

1 by notifying the board of trustees on or before July 1 of a given year.  
2 The election commissioner or county clerk shall, at least twenty days  
3 prior to the election, mail a ballot and return envelope to each person  
4 who is entitled to vote at the election and whose property ownership or  
5 lease giving a right to vote is of record with the register of deeds as  
6 of the date designated by the election commissioner or county clerk,  
7 which date shall not be more than eighty ~~seventy-five~~ days prior to the  
8 election. The ballot and return envelope shall include: (a) The names and  
9 addresses of the candidates; (b) room for write-in candidates; and (c)  
10 instructions on how to vote and return the ballot. Such ballots shall be  
11 returned to the election commissioner or county clerk no later than 5  
12 p.m. on the date set for the election.

13 Sec. 2. Original section 31-735, Revised Statutes Cumulative  
14 Supplement, 2014, is repealed.