

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 578

Introduced by Murante, 49.

Read first time January 21, 2015

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to elections; to amend sections 32-227,
2 32-228, 32-330, 32-813, 32-952, and 32-1032, Reissue Revised
3 Statutes of Nebraska, and sections 10-703.01, 32-208, 32-607,
4 32-941, and 32-1203, Revised Statutes Cumulative Supplement, 2014;
5 to change provisions relating to expenses of elections, election
6 commissioners, payment and service of election workers, the voter
7 registration register, candidate filings, statewide general election
8 ballots, early voting, special elections by mail, and inspection of
9 election materials; to harmonize provisions; and to repeal the
10 original sections.

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

1 Section 1. Section 10-703.01, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 10-703.01 In all special elections called for voting on the question
4 of issuing bonds of the school district, the county clerk or election
5 commissioner or, if the school district lies in more than one county, the
6 county clerk or election commissioner in the county having the greatest
7 number of electors entitled to vote on the question shall designate the
8 polling places and appoint the election officials, who need not be the
9 regular election officials, and otherwise conduct the election as
10 provided under the Election Act except as otherwise specifically provided
11 in this section. Any special election held under this section shall be
12 subject to section 32-405. The school district shall designate the form
13 of ballot and reimburse the county clerk or election official for the
14 expenses of conducting the election as provided in sections 32-1201 to
15 32-1208 and at the minimum rate as described in subdivision (2)(d) of
16 section 32-1203. The school district officers shall give notice of the
17 election at least twenty days prior to the election and cause the sample
18 ballot to be published in a newspaper of general circulation in the
19 school district one time not more than ten days nor less than three days
20 prior to the election, and no notice of the election shall be required to
21 be given by the county clerk or election commissioner. The notice of
22 election shall state where ballots for early voting may be obtained.

23 The ballots shall be counted by the county clerk or election
24 commissioner conducting the election and two disinterested persons
25 appointed by him or her. When the polls are closed, the receiving board
26 shall deliver the ballots to the county clerk or election commissioner
27 conducting the election who, with the two disinterested persons appointed
28 by him or her, shall proceed to count the ballots.

29 Ballots for early voting shall be furnished to the county clerk or
30 election commissioner and ready for distribution by the county clerk or
31 election commissioner conducting the election not less than fifteen days

1 prior to the election.

2 When a school district lies in more than one county, the county
3 clerk or election commissioner in any other county containing part of
4 such school district shall, upon request, certify its registration books
5 for those precincts in which the school district is located to the county
6 clerk or election commissioner conducting the election and shall
7 immediately forward all requests for ballots for early voting to the
8 county clerk or election commissioner charged with the issuing of such
9 ballots. Not less than five days prior to the election, the school
10 district officers shall certify to the county clerk or election
11 commissioner conducting the election a list of all registered voters of
12 the school district in any other county or counties qualified to vote on
13 the bond issue.

14 All ballots cast at the election shall be counted by the same board.
15 When all the ballots have been counted, the returns of such election
16 shall be turned over to the school board or board of education of the
17 district in which the election was held for the purpose of making a
18 canvass thereof.

19 The two disinterested persons appointed on the counting board shall
20 receive wages at no less than the minimum rate set in section 48-1203 for
21 each hour of service rendered.

22 Sec. 2. Section 32-208, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

24 32-208 The election commissioner in counties having a population of
25 more than one hundred thousand inhabitants shall be a registered voter, a
26 resident of such county for at least one year, and of good moral
27 character and integrity and capacity. No person who is a candidate for
28 any elective office or is a deputy, clerk, or employee of any person who
29 is a candidate for any elective office shall be eligible for the office
30 of election commissioner. The election commissioner shall not hold any
31 other elective office or become a candidate for an elective office during

1 his or her term of office ~~or within six months after leaving office~~. An
2 election commissioner may be appointed to an elective office during his
3 or her term of office as election commissioner, and acceptance of such
4 appointment shall be deemed to be his or her resignation from the office
5 of election commissioner.

6 Sec. 3. Section 32-227, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 32-227 (1) Except as otherwise provided in subsections (2) and (3)
9 of this section, the The judges and clerks of election, precinct and
10 district inspectors, and other temporary election workers shall receive
11 wages at no less than the minimum rate set in section 48-1203 for each
12 hour of service rendered. The election commissioner shall determine the
13 rate of pay and may vary the rate based on the duties of each position.
14 Each such election worker shall sign an affidavit stating the number of
15 hours he or she has worked.

16 (2) Any judge or clerk of election, precinct or district inspector,
17 or other temporary election worker may choose not to be paid for the
18 hours he or she works. An election worker that chooses not to be paid
19 shall sign a waiver agreeing not to be paid for each election for which
20 he or she chooses not to be paid.

21 (3) Any judge or clerk of election, precinct or district inspector,
22 or other temporary election worker may choose to have his or her election
23 pay used by the election commissioner to contract with an organization
24 authorized by the election commissioner to recruit election workers if
25 the election commissioner contracts with such an organization.

26 Sec. 4. Section 32-228, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 32-228 (1) The election commissioner shall notify each person
29 appointed as a judge or clerk of election, precinct inspector, district
30 inspector, member of a counting board, or member of a canvassing board of
31 the appointment by letter. Such letter shall be mailed at least fifteen

1 days prior to the required reporting date for each statewide primary and
2 general election. Each appointee shall, at the time fixed in the notice
3 of appointment, report to the office of the election commissioner or
4 other designated location to complete any informational forms and receive
5 training regarding his or her duties. The training shall include
6 instruction as required by the Secretary of State and any other training
7 deemed necessary by the election commissioner. Each appointee, if found
8 qualified and unless excused by reason of ill health or other good and
9 sufficient reason, shall serve for the term of his or her appointment.

10 (2) No person who is a qualified prospective election worker is
11 exempt from being appointed for a term of election service, except that
12 any person who is seventy years of age or older and who requests to be
13 exempted from such service at the time the election worker questionnaire
14 form is filed with the election commissioner shall be exempt from
15 election service.

16 (3 2) An appointee who fails to serve for the such term of his or
17 her appointment, unless excused by reason of ill health or other good and
18 sufficient reason, is guilty of a Class V misdemeanor. The election
19 commissioner shall submit the names of appointees violating this
20 subsection to the local law enforcement agency for citation pursuant to
21 sections 32-1549 and 32-1550.

22 Sec. 5. Section 32-330, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 32-330 (1) The voter registration register shall be a public record.
25 Any person may examine the register at the office of the election
26 commissioner or county clerk, but no person other than the election
27 commissioner, county clerk, or law enforcement shall not be allowed to
28 make copies of the register. Copies of the register shall only be used
29 for list maintenance as provided in section 32-329 or law enforcement
30 purposes. The electronic records of the original voter registrations
31 created pursuant to section 32-301 may constitute the voter registration

1 register. The election commissioner or county clerk shall withhold
2 information in the register designated as confidential under section
3 32-331.

4 (2) The election commissioner or county clerk shall make available
5 for purchase a list of registered voters that contains the information
6 required under section 32-312 and, if requested, a list that only
7 contains registered voters who have voted in an election held more than
8 sixty days prior to the request for the list. The election commissioner
9 or county clerk shall establish the price of the lists at a rate that
10 fairly covers the actual production cost of the lists, not to exceed
11 three cents per name. Lists shall be used solely for purposes related to
12 elections, political activities, voter registration, law enforcement, or
13 jury selection. Lists shall not be used for commercial purposes.

14 (3) Any person who acquires a list of registered voters under
15 subsection (2) of this section shall take and subscribe to an oath in
16 substantially the following form:

17 I hereby swear that I will use the list of registered voters
18 of County, Nebraska, only for the purposes prescribed in section
19 32-330 and for no other purpose and that I will not permit the use or
20 copying of such list for unauthorized purposes.

21 I hereby declare under the penalty of election falsification that
22 the statements above are true to the best of my knowledge.

23 The penalty for election falsification is a Class IV felony.

24 (Signature of person acquiring list)

25 Subscribed and sworn to before me this day of 20.. .

26 (Name of officer)

27 (Official title of officer)

28 (4) The election commissioner or county clerk shall provide, upon
29 request and free of charge, a complete and current listing of all
30 registered voters and their addresses to the Clerk of the United States
31 District Court for the District of Nebraska. Such list shall be provided

1 no later than December 31 of each even-numbered year.

2 (5) The election commissioner or county clerk shall provide, upon
3 request and free of charge, a complete and current listing of all
4 registered voters and their addresses to the state party headquarters of
5 each political party and to the county chairperson of each political
6 party. Such list shall be provided no later than thirty-five days prior
7 to the statewide primary and statewide general elections.

8 Sec. 6. Section 32-607, Revised Statutes Cumulative Supplement,
9 2014, is amended to read:

10 32-607 All candidate filing forms shall contain the following
11 statement: I hereby swear that I will abide by the laws of the State of
12 Nebraska regarding the results of the primary and general elections, that
13 I am a registered voter and qualified to be elected, and that I will
14 serve if elected. Candidate filing forms shall also contain the
15 candidate's name; residence address; mailing address if different from
16 the residence address; telephone number; office sought; and party
17 affiliation if the office sought is a partisan office. Candidate filing
18 forms shall be filed with the following filing officers:

19 (1) For candidates for national, state, or congressional office,
20 directors of public power and irrigation districts, directors of
21 reclamation districts, directors of natural resources districts, members
22 of the boards of educational service units, members of governing boards
23 of community colleges, delegates to national conventions, and other
24 offices filled by election held in more than one county and judges
25 desiring retention, in the office of the Secretary of State;

26 (2) For officers elected within a county, in the office of the
27 election commissioner or county clerk. ~~If the candidate is not a resident~~
28 ~~of the county, he or she shall submit a certificate of registration~~
29 ~~obtained under section 32-316 with the candidate filing form;~~

30 (3) For officers in school districts which include land in adjoining
31 counties, in the office of the election commissioner or county clerk of

1 the county in which the greatest number of registered voters entitled to
2 vote for the officers reside. ~~If the candidate is not a resident of the~~
3 ~~county, he or she shall submit a certificate of registration obtained~~
4 ~~under section 32-316 with the candidate filing form; and~~

5 (4) For city or village officers, in the office of the election
6 commissioner or county clerk.

7 Sec. 7. Section 32-813, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 32-813 (1) The names of all candidates and all proposals to be voted
10 upon at the general election shall be arranged upon the ballot in parts
11 separated from each other by bold lines in the order the offices and
12 proposals are set forth in this section. If any office is not subject to
13 the upcoming election, the office shall be omitted from the ballot and
14 the remaining offices shall move up so that the same relative order is
15 preserved. The order of any offices may be altered to allow for the best
16 utilization of ballot space in order to avoid printing a second ballot
17 when one ballot would be sufficient if an optical-scan ballot is used.
18 All proposals on the ballot submitted by a political subdivision ~~shall~~
19 ~~remain separate from the offices, and the proposals shall follow all~~
20 ~~offices on the ballot~~ submitted by a political subdivision.

21 (2)(a) If the election is in a year in which a President of the
22 United States is to be elected, the names and spaces for voting for
23 candidates for President and Vice President shall be entitled
24 Presidential Ticket in boldface type.

25 (b) The names of candidates for President and Vice President for
26 each political party shall be grouped together, and each group shall be
27 enclosed with brackets with the political party name next to the brackets
28 and one square or oval opposite the names in which the voter indicates
29 his or her choice.

30 (c) The names of candidates for President and Vice President who
31 have successfully petitioned on the ballot for the general election shall

1 be grouped together with the candidates appearing on the same petition
2 being grouped together, and each group shall be enclosed with brackets
3 with the words "By Petition" next to the brackets and one square or oval
4 opposite the names in which the voter indicates his or her choice.

5 (d) Beneath the names of the candidates for President and Vice
6 President certified by the officers of the national political party
7 conventions pursuant to section 32-712 and beneath the names of all
8 candidates for President and Vice President placed on the general
9 election ballot by petition, two write-in lines shall be provided in
10 which the voter may fill in the names of the candidates of his or her
11 choice. The lines shall be enclosed with brackets with one square or oval
12 opposite the names in which the voter indicates his or her choice. The
13 name appearing on the top line shall be considered to be the candidate
14 for President, and the name appearing on the second line shall be
15 considered to be the candidate for Vice President.

16 (3) The names and spaces for voting for candidates for United States
17 Senator if any are to be elected shall be entitled United States
18 Senatorial Ticket in boldface type.

19 (4) The names and spaces for voting for candidates for
20 Representatives in Congress shall be entitled Congressional Ticket in
21 boldface type. Above the candidates' names, the office shall be
22 designated For Representative in Congress District.

23 (5) The names and spaces for voting for candidates for the various
24 state officers shall be entitled State Ticket in boldface type. Each set
25 of candidates shall be separated by lines across the column, and above
26 each set of candidates shall be designated the office for which they are
27 candidates, arranged in the order prescribed by the Secretary of State.
28 The candidates for Governor of each political party receiving the highest
29 number of votes in the primary election shall be grouped together with
30 their respective candidates for Lieutenant Governor. Each group shall be
31 enclosed with brackets with the political party name next to the brackets

1 and one square or oval opposite the names in which the voter indicates
2 his or her choice for Governor and Lieutenant Governor jointly. The
3 candidates for Governor and Lieutenant Governor who have successfully
4 petitioned on the general election ballot shall be grouped together with
5 the candidates appearing on the same petition being grouped together.
6 Each group shall be enclosed with brackets with the words "By Petition"
7 next to the brackets and one square or oval opposite the names in which
8 the voter indicates his or her choice for Governor and Lieutenant
9 Governor jointly. Beneath the names of the candidates for Governor
10 nominated at a primary election by political party and their respective
11 candidates for Lieutenant Governor and beneath the names of all
12 candidates for Governor and Lieutenant Governor placed on the general
13 election ballot by petition, one write-in line shall be provided in which
14 the registered voter may fill in the name of the candidate for Governor
15 of his or her choice and one square or oval opposite the line in which
16 the voter indicates his or her choice for Governor.

17 (6) The names and spaces for voting for nonpartisan candidates shall
18 be entitled Nonpartisan Ticket in boldface type. The names of all
19 nonpartisan candidates shall appear in the order listed in this
20 subsection, except that when using an optical-scan ballot, the order of
21 offices may be altered to allow for the best utilization of ballot space
22 to avoid printing a second ballot when one ballot would be sufficient:

- 23 (a) Legislature;
- 24 (b) State Board of Education;
- 25 (c) Board of Regents of the University of Nebraska;
- 26 (d) Chief Justice of the Supreme Court;
- 27 (e) Judge of the Supreme Court;
- 28 (f) Judge of the Court of Appeals;
- 29 (g) Judge of the Nebraska Workers' Compensation Court;
- 30 (h) Judge of the District Court;
- 31 (i) Judge of the Separate Juvenile Court;

1 (j) Judge of the County Court; and

2 (k) County officers in the order prescribed by the election
3 commissioner or county clerk.

4 (7) The names and spaces for voting for the various county offices
5 and for measures submitted to the county vote only or in only a part of
6 the county shall be entitled County Ticket in boldface type. If the
7 election commissioner or county clerk deems it advisable, the measures
8 may be submitted on a separate ballot if using a paper ballot or on
9 either side of an optical-scan ballot if the ballot is placed in a ballot
10 envelope or sleeve before being deposited in a ballot box.

11 (8) The candidates for office in the precinct only or in the city or
12 village only shall be printed on the ballot, except that if the election
13 commissioner or county clerk deems it advisable, candidates for these
14 offices may be submitted on a separate ballot if using a paper ballot or
15 on either side of an optical-scan ballot if the ballot is placed in a
16 ballot envelope or sleeve before being deposited in a ballot box.

17 (9) All proposals submitted by initiative or referendum and
18 proposals for constitutional amendments shall be placed on a separate
19 ballot when a paper ballot is used which requires that the ballot after
20 being voted be folded before being deposited in a ballot box. When an
21 optical-scan ballot is used which requires a ballot envelope or sleeve in
22 which the ballot after being voted is placed before being deposited in a
23 ballot box, initiative or referendum proposals and proposals for
24 constitutional amendments may be placed on either side of the ballot,
25 shall be separated by a bold line, and shall follow all other offices
26 placed on the same side of the ballot. Initiative or referendum proposals
27 and constitutional amendments so arranged shall constitute a separate
28 ballot. Proposals for constitutional amendments proposed by the
29 Legislature shall be placed on the ballot as provided in sections 49-201
30 to 49-211.

31 Sec. 8. Section 32-941, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 32-941 Any registered voter permitted to vote early pursuant to
3 section 32-938 may, not more than one hundred twenty days before any
4 election and not later than 4 p.m. on the Wednesday preceding the
5 election, request a ballot for the election to be mailed to a specific
6 address. A registered voter shall request a ballot in writing to the
7 election commissioner or county clerk in the county where the registered
8 voter has established his or her home and shall indicate his or her
9 residence address, the address to which the ballot is to be mailed if
10 different, and his or her ~~political party~~, telephone number if available,
11 ~~and precinct if known~~. The registered voter may use the form published by
12 the election commissioner or county clerk pursuant to section 32-808. The
13 registered voter shall sign the request. A registered voter may use a
14 facsimile machine for the submission of a request for a ballot. The
15 election commissioner or county clerk shall include a registration
16 application with the ballots if the person is not registered.
17 Registration applications shall not be mailed after the third Friday
18 preceding the election. If the person is not registered to vote, the
19 registration application shall be returned not later than the closing of
20 the polls on the day of the election. No ballot issued under this section
21 shall be counted unless such registration application is properly
22 completed and processed.

23 Sec. 9. Section 32-952, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 32-952 If a political subdivision decides to place an issue on the
26 ballot at a special election, the election commissioner or county clerk
27 may conduct the special election by mail as provided in section 32-953 or
28 conduct the special election as otherwise authorized in the Election Act.
29 In making a determination as to whether to conduct the election by mail,
30 the election commissioner or county clerk shall consider whether all of
31 the following conditions are met:

1 (1) All registered voters of the political subdivision are eligible
2 to vote on the issue or issues submitted to the voters;

3 (2) Only registered voters of the political subdivision are eligible
4 to vote on the issue or issues submitted to the voters;

5 (3) Only issues and not candidates are submitted to the registered
6 voters;

7 (4) A review has been conducted of the costs and the expected voter
8 turnout which may result from holding the election by mail;

9 (5) The election commissioner or county clerk has determined a date
10 for the election which is not the same date as another election in which
11 the registered voters of the political subdivision are eligible to vote;
12 and

13 ~~(6) The clerk of the political subdivision will certify the issue or~~
14 ~~issues to the election commissioner or county clerk at least fifty days~~
15 ~~prior to the date of the election; and~~

16 (6 7) The Secretary of State has approved a written plan for the
17 conduct of the election, including a written timetable for the conduct of
18 the election, submitted by the election commissioner or county clerk. The
19 written plan shall include provisions for the notice of election to be
20 published and for the application for ballots for early voting
21 notwithstanding other statutory provisions regarding the content and
22 publication of a notice of election or the application for ballots for
23 early voting.

24 Sec. 10. Section 32-1032, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 32-1032 Upon the completion of the canvass by the county canvassing
27 board, all books shall again be sealed, and the election commissioner or
28 county clerk shall keep all election materials, including the ballots-
29 cast containers from each precinct, the sealed envelopes containing the
30 precinct list of registered voters, the precinct sign-in register, the
31 official summary or summaries of votes cast, and the container for early

1 voting materials, for not less than twenty-two months when statewide
2 primary, general, or special elections involve federal offices,
3 candidates, and issues and not less than fifty days for local elections
4 not held in conjunction with a statewide primary, general, or special
5 election. The election commissioner or county clerk shall keep on file
6 one copy of each ballot face used in each precinct of the official
7 partisan, nonpartisan, constitutional amendment, and initiative and
8 referendum ballots, as used for voting, and all election notices used at
9 each primary and general election for twenty-two months. The precinct
10 sign-in register, the record of early voters, and the official summary of
11 votes cast shall be subject to the inspection of any person who may wish
12 to examine the same after the primary, general, or special election. The
13 election commissioner or county clerk shall not allow any other election
14 materials to be inspected, including ballots and provisional ballot
15 envelopes, except when an election is contested or the materials become
16 necessary to be used in evidence in the courts. The election commissioner
17 or county clerk shall direct the destruction of such materials after such
18 time, except that the election commissioner or county clerk may retain
19 materials for the purposes of establishing voter histories.

20 Sec. 11. Section 32-1203, Revised Statutes Cumulative Supplement,
21 2014, is amended to read:

22 32-1203 (1) Each city, village, school district, public power
23 district, sanitary and improvement district, metropolitan utilities
24 district, fire district, natural resources district, community college
25 area, learning community coordinating council, educational service unit,
26 hospital district, reclamation district, and library board shall pay for
27 the costs of nominating and electing its officers as provided in
28 subsection (2), (3), or (4) of this section. If a special issue is placed
29 on the ballot at the time of the statewide primary or general election by
30 any political subdivision, the political subdivision shall pay for the
31 costs of the election as provided in subsection (2), (3), or (4) of this

1 section. The districts listed in this subsection shall furnish to the
2 Secretary of State and election commissioner or county clerk any maps and
3 additional information which the election commissioner or county clerk
4 may require in the proper performance of their duties in the conduct of
5 elections and certification of results.

6 (2) The charge for each primary and general election shall be
7 determined by (a) ascertaining the total cost of all chargeable costs as
8 described in section 32-1202, (b) dividing the total cost by the number
9 of precincts participating in the election to fix the cost per precinct,
10 (c) prorating the cost per precinct by the inked ballot inch in each
11 precinct for each political subdivision, and (d) totaling the cost for
12 each precinct for each political subdivision, except that the minimum
13 charge for each primary and general election for each political
14 subdivision shall be one hundred ~~fifty~~ dollars.

15 (3) In lieu of the charge determined pursuant to subsection (2) of
16 this section, the election commissioner or county clerk may charge public
17 power districts the fee for election costs set by section 70-610.

18 (4) In lieu of the charge determined pursuant to subsection (2) of
19 this section, the election commissioner or county clerk may bill school
20 districts directly for the costs of an election held under section
21 10-703.01.

22 Sec. 12. Original sections 32-227, 32-228, 32-330, 32-813, 32-952,
23 and 32-1032, Reissue Revised Statutes of Nebraska, and sections
24 10-703.01, 32-208, 32-607, 32-941, and 32-1203, Revised Statutes
25 Cumulative Supplement, 2014, are repealed.