

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 130

FINAL READING

Introduced by Urban Affairs Committee: Wayne, 13, Chairperson; Crawford, 45; Hansen, 26; Howard, 9; Larson, 40; Quick, 35; Riepe, 12.

Read first time January 06, 2017

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to annexation; to amend sections 31-763,
- 2 31-764, 31-765, 31-766, and 35-514, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to annexation by
- 4 municipalities of a sanitary and improvement district, road
- 5 improvement district, or fire protection district; to harmonize
- 6 provisions; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-763, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 31-763 (1) Whenever any city or village annexes all the territory
4 within the boundaries of any sanitary and improvement district organized
5 under the provisions of sections 31-701 to 31-726.01 as such sections
6 existed prior to July 19, 1996, or under sections 31-727 to 31-762, ~~or~~
7 ~~any road improvement district organized under sections 39-1601 to~~
8 ~~39-1636, or any fire protection district authorized under Chapter 35,~~
9 ~~article 5,~~ the district shall merge with the city or village and the city
10 or village shall succeed to all the property and property rights of every
11 kind, contracts, obligations, and choses in action of every kind, held by
12 or belonging to the district, and the city or village shall be liable for
13 and recognize, assume, and carry out all valid contracts and obligations
14 of the district. All taxes, assessments, claims, and demands of every
15 kind due or owing to the district shall be paid to and collected by the
16 city or village. Any special assessments which the district was
17 authorized to levy, assess, re Levy, or reassess, but which were not
18 levied, assessed, re levied, or reassessed, at the time of the merger, for
19 improvements made by it or in the process of construction or contracted
20 for may be levied, assessed, re levied, or reassessed by the annexing city
21 or village to the same extent as the district may have levied or assessed
22 but for the merger. Nothing in this section shall authorize the annexing
23 city or village to revoke any resolution, order, or finding made by the
24 district in regard to special benefits or increase any assessments made
25 by the district, but such city or village shall be bound by all such
26 findings or orders and assessments to the same extent as the district
27 would be bound. No district so annexed shall have power to levy any
28 special assessments after the effective date of such annexation.

29 (2) Any contract entered into on or after August 30, 2015, by a
30 sanitary and improvement district for solid waste collection services
31 shall, upon annexation of such district by a city or village, be canceled

1 and voided.

2 Sec. 2. Section 31-764, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 31-764 The ~~trustees of a road improvement district or fire~~
5 ~~protection district or the~~ trustees or administrator of a sanitary and
6 improvement district shall, within thirty days after ~~of~~ the effective
7 date of the merger, submit to the city or village a written accounting of
8 all assets and liabilities, contingent or fixed, of the district. Unless
9 the city or village within six months thereafter brings an action against
10 the trustees or administrator of the district for an accounting or for
11 damages for breach of duty, the trustees or administrator shall be
12 discharged of all further duties and liabilities and their bonds
13 exonerated. If the city or village brings such an action and does not
14 recover judgment in its favor, the taxable costs may include reasonable
15 expenses incurred by the ~~trustees of a road improvement district or fire~~
16 ~~protection district or the~~ trustees or administrator ~~of a sanitary and~~
17 ~~improvement district~~ in connection with such suit and a reasonable
18 attorney's fee for the trustees' or administrator's attorney. The city or
19 village shall represent the district and all parties who might be
20 interested in such an action. The city or village and such trustees or
21 administrator shall be the only necessary parties to such action.
22 Nothing ; ~~Provided, nothing~~ contained in this section shall authorize the
23 trustees or administrator to levy any special assessments after the
24 effective date of the merger.

25 Sec. 3. Section 31-765, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 31-765 The merger shall be effective thirty days after the effective
28 date of the ordinance annexing the territory within the sanitary and
29 improvement district. If ; ~~Provided, if~~ the validity of the ordinance
30 annexing the territory is challenged by a proceeding in a court of
31 competent jurisdiction, the effective date of the merger shall be thirty

1 days after the final determination of the validity of the ordinance. The
2 ~~trustees of a road improvement district or fire protection district or~~
3 ~~the~~ trustees or administrator of the a sanitary and improvement district
4 shall continue in possession and conduct the affairs of the district
5 until the effective date of the merger, but shall not during such period
6 levy any special assessments after the effective date of annexation.

7 Sec. 4. Section 31-766, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 31-766 (1) If only a part of the territory within any sanitary and
10 improvement district, ~~any road improvement district, or any fire~~
11 ~~protection district~~ is annexed by a city or village, ~~the road improvement~~
12 ~~district or fire protection district acting through its trustees or the~~
13 sanitary and improvement district acting through its trustees or
14 administrator and the city or village acting through its governing body
15 may agree between themselves as to the division of the assets,
16 liabilities, maintenance, contracts, or other obligations of the district
17 for a change in the boundaries of the district so as to exclude the
18 portion annexed by the city or village or may agree upon a merger of the
19 district with the city or village. The division of assets, liabilities,
20 maintenance, contracts, or other obligations of the district shall be
21 equitable, shall be proportionate to the valuation of the portion of the
22 district annexed and to the valuation of the portion of the district
23 remaining following annexation, and shall, to the greatest extent
24 feasible, reflect the actual impact of the annexation on the ability of
25 the district to perform its duties and responsibilities within its new
26 boundaries following annexation. In the event a merger is agreed upon,
27 the city or village shall have all the rights, privileges, duties, and
28 obligations as provided in sections 31-763 to 31-765 ~~31-766~~ when the city
29 or village annexes the entire territory within the district, and the
30 trustees or administrator shall be relieved of all further duties and
31 liabilities and their bonds exonerated as provided in section 31-764. No

1 agreement between the district and the city or village shall be effective
2 until submitted to and approved by the district court of the county in
3 which the major portion of the district is located. No agreement shall be
4 approved which may prejudice the rights of any bondholder or creditor of
5 the district or employee under contract to the district. The court may
6 authorize or direct amendments to the agreement before approving the
7 same. If the district and city or village do not agree upon the proper
8 adjustment of all matters growing out of the annexation of a part of the
9 territory located within the district, the district, the annexing city or
10 village, any bondholder or creditor of the district, or any employee
11 under contract to the district may apply to the district court of the
12 county where the major portion of the district is located for an
13 adjustment of all matters growing out of or in any way connected with the
14 annexation of such territory, and after a hearing thereon the court may
15 enter an order or decree fixing the rights, duties, and obligations of
16 the parties. In every case such decree or order shall require a change of
17 the district boundaries so as to exclude from the district that portion
18 of the territory of the district which has been annexed. Such change of
19 boundaries shall become effective on the date of entry of such decree.
20 Only the district and the city or village shall be necessary parties to
21 such an action. Any bondholder or creditor of the district or any
22 employee under contract to the district whose interests may be adversely
23 affected by the annexation may intervene in the action pursuant to
24 section 25-328. The decree when entered shall be binding on the parties
25 the same as though the parties had voluntarily agreed thereto. Nothing
26 contained in this section shall authorize any district to levy any
27 special assessments within the annexed area after the effective date of
28 annexation.

29 (2) Any contract entered into on or after August 30, 2015, by a
30 sanitary and improvement district for solid waste collection services
31 shall, upon annexation of all or part of such district by a city or

1 village, be canceled and voided as to the annexed areas.

2 Sec. 5. Whenever any city or village annexes all the territory
3 within the boundaries of any rural or suburban fire protection district
4 authorized under Chapter 35, article 5, the district shall merge with the
5 city or village and the city or village shall succeed to all the property
6 and property rights of every kind, contracts, obligations, and choses in
7 action of every kind, held by or belonging to the district, and the city
8 or village shall be liable for and recognize, assume, and carry out all
9 valid contracts and obligations of the district. All taxes, assessments,
10 claims, and demands of every kind due or owing to the district shall be
11 paid to and collected by the city or village. Nothing in this section
12 shall authorize the annexing city or village to revoke any resolution,
13 order, or finding made by the district in regard to special benefits or
14 increase any assessments made by the district, but such city or village
15 shall be bound by all such findings or orders and assessments to the same
16 extent as the district would be bound.

17 Sec. 6. The board of directors of a rural or suburban fire
18 protection district shall, within thirty days after the effective date of
19 the merger, submit to the city or village a written accounting of all
20 assets and liabilities, contingent or fixed, of the district. Unless the
21 city or village within six months thereafter brings an action against the
22 board of directors of the district for an accounting or for damages for
23 breach of duty, the board of directors shall be discharged of all further
24 duties and liabilities and their bonds exonerated. If the city or village
25 brings such an action and does not recover judgment in its favor, the
26 taxable costs may include reasonable expenses incurred by the board of
27 directors in connection with such suit and a reasonable attorney's fee
28 for the board's attorney. The city or village shall represent the
29 district and all parties who might be interested in such an action. The
30 city or village and such board shall be the only necessary parties to
31 such action.

1 Sec. 7. The merger shall be effective thirty days after the
2 effective date of the ordinance annexing the territory within the rural
3 or suburban fire protection district. If the validity of the ordinance
4 annexing the territory is challenged by a proceeding in a court of
5 competent jurisdiction, the effective date of the merger shall be thirty
6 days after the final determination of the validity of the ordinance. The
7 board of directors of the district of the rural or suburban fire
8 protection district shall continue in possession and conduct the affairs
9 of the district until the effective date of the merger.

10 Sec. 8. If only a part of the territory within any rural or
11 suburban fire protection district is annexed by a city or village, the
12 fire protection district acting through its board of directors and the
13 city or village acting through its governing body may agree between
14 themselves as to the division of the assets, liabilities, maintenance,
15 contracts, or other obligations of the district for a change in the
16 boundaries of the district so as to exclude the portion annexed by the
17 city or village or may agree upon a merger of the district with the city
18 or village. The division of assets, liabilities, maintenance, contracts,
19 or other obligations of the district shall be equitable, shall be
20 proportionate to the valuation of the portion of the district annexed and
21 to the valuation of the portion of the district remaining following
22 annexation, and shall, to the greatest extent feasible, reflect the
23 actual impact of the annexation on the ability of the district to perform
24 its duties and responsibilities within its new boundaries following
25 annexation. In the event a merger is agreed upon, the city or village
26 shall have all the rights, privileges, duties, and obligations as
27 provided in sections 5 to 7 of this act when the city or village annexes
28 the entire territory within the district, and the board of directors
29 shall be relieved of all further duties and liabilities and their bonds
30 exonerated as provided in section 6 of this act. No agreement between the
31 district and the city or village shall be effective until submitted to

1 and approved by the district court of the county in which the major
2 portion of the district is located. No agreement shall be approved which
3 may prejudice the rights of any bondholder or creditor of the district or
4 employee under contract to the district. The court may authorize or
5 direct amendments to the agreement before approving the same. If the
6 district and city or village do not agree upon the proper adjustment of
7 all matters growing out of the annexation of a part of the territory
8 located within the district, the district, the annexing city or village,
9 any bondholder or creditor of the district, or any employee under
10 contract to the district may apply to the district court of the county
11 where the major portion of the district is located for an adjustment of
12 all matters growing out of or in any way connected with the annexation of
13 such territory, and after a hearing thereon the court may enter an order
14 or decree fixing the rights, duties, and obligations of the parties. In
15 every case such decree or order shall require a change of the district
16 boundaries so as to exclude from the district that portion of the
17 territory of the district which has been annexed. Such change of
18 boundaries shall become effective on the date of entry of such decree.
19 Only the district and the city or village shall be necessary parties to
20 such an action. Any bondholder or creditor of the district or any
21 employee under contract to the district whose interests may be adversely
22 affected by the annexation may intervene in the action pursuant to
23 section 25-328. The decree when entered shall be binding on the parties
24 the same as though the parties had voluntarily agreed thereto.

25 Sec. 9. Section 35-514, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 35-514 (1) Any territory which is outside the limits of any
28 incorporated city may be annexed to an adjacent district in the manner
29 provided in this section, whether or not the territory is in an existing
30 rural or suburban fire protection district.

31 (2) The proceedings for the annexation may be initiated by either

1 (a) the presentation to the county clerk of a petition signed by sixty
2 percent or more of the registered voters who are residing within the
3 boundaries of the territory to be annexed stating the desires and
4 purposes of such petitioners or (b) the presentation to the county clerk
5 of certified copies of resolutions passed by the board of directors of
6 the annexing district and any other district from which the property
7 would be annexed supporting the proposed annexation. The petition or
8 resolutions shall contain a description of the boundaries of the
9 territory proposed to be annexed. The petition or resolutions shall be
10 accompanied by a map or plat and a deposit for publication costs.

11 (3) The county clerk shall verify the petition as provided in
12 section 32-631 and determine and certify whether or not such petition or
13 resolution complies with the requirements of subsection (2) of this
14 section and that the persons signing the petition appear to reside at the
15 addresses indicated by such petition. Thereafter, the county clerk shall
16 forward any petition, map or plat, and certificate to the board of
17 directors of the districts concerned.

18 (4) Within thirty days after receiving the petition, map or plat,
19 and certificate of the county clerk, in accordance with subsection (3) of
20 this section, from the county clerk, the board of directors of all
21 affected districts shall transmit the same to the proper county board,
22 accompanied by a report in writing approving or disapproving the proposal
23 contained in the petition, or approving such proposal in part and
24 disapproving it in part. If the annexation is proposed by resolutions of
25 the affected districts, the resolutions shall be transmitted to the
26 proper county board.

27 (5) The county board shall promptly designate a time and place for a
28 hearing upon the annexation. Notice of such hearing shall be given by
29 publication two weeks in a newspaper of general circulation in the
30 county, the last publication appearing at least seven days prior to the
31 hearing. The notice shall be addressed to "all registered voters residing

1 in the following boundaries" and shall include a description of the
2 proposed boundaries as set forth in the petition or resolutions. At such
3 hearing, any person shall have the opportunity to be heard respecting the
4 proposed annexation.

5 (6) The county board shall, within forty-five days after the hearing
6 referred to in subsection (5) of this section, determine whether such
7 territory should be annexed and shall fix the boundaries of the territory
8 to be annexed. No annexation shall be approved which would leave any
9 district with less than the minimum valuation of two million eight
10 hundred sixty thousand dollars. The determination of the county board
11 shall be set forth in a written order which shall describe the boundaries
12 determined upon and shall be filed in the office of the county clerk.

13 (7) Any area annexed from a rural or suburban fire protection
14 district, except areas duly incorporated within the boundaries of a
15 municipality, shall be subject to assessment and be otherwise chargeable
16 for the payment and discharge of all the obligations of the rural or
17 suburban fire protection district outstanding at the time of the filing
18 of the petition or resolution for the annexation of the area as fully as
19 though the area had not been annexed. All procedures which could be used
20 to compel the annexed area, except for areas duly incorporated within the
21 boundaries of a municipality, to pay its portion of the outstanding
22 obligations had the annexation not occurred may be used to compel such
23 payment. Areas duly incorporated within the boundaries of a municipality
24 shall be automatically annexed from the boundaries of the district
25 notwithstanding the provisions of section 8 of this act ~~31-766~~ and shall
26 not be subject to further tax levy or other charges by the district,
27 except that before the annexation is complete, the municipality shall
28 assume and pay that portion of all outstanding obligations of the
29 district which would otherwise constitute an obligation of the area
30 annexed or incorporated. An area annexed from a rural or suburban fire
31 protection district shall not be subject to assessment or otherwise

1 chargeable for any obligation of any nature or kind incurred by the
2 district after the annexation of the area from the district.

3 Sec. 10. Whenever any city or village annexes all the territory
4 within the boundaries of any road improvement district organized under
5 sections 39-1601 to 39-1636.01, the district shall merge with the city or
6 village and the city or village shall succeed to all the property and
7 property rights of every kind, contracts, obligations, and choses in
8 action of every kind, held by or belonging to the district, and the city
9 or village shall be liable for and recognize, assume, and carry out all
10 valid contracts and obligations of the district. All taxes, assessments,
11 claims, and demands of every kind due or owing to the district shall be
12 paid to and collected by the city or village. Any special assessments
13 which the district was authorized to levy, assess, relevel, or reassess,
14 but which were not levied, assessed, relevelled, or reassessed, at the time
15 of the merger, for improvements made by it or in the process of
16 construction or contracted for may be levied, assessed, relevelled, or
17 reassessed by the annexing city or village to the same extent as the
18 district may have levied or assessed but for the merger. Nothing in this
19 section shall authorize the annexing city or village to revoke any
20 resolution, order, or finding made by the district in regard to special
21 benefits or increase any assessments made by the district, but such city
22 or village shall be bound by all such findings or orders and assessments
23 to the same extent as the district would be bound. No district so annexed
24 shall have power to levy any special assessments after the effective date
25 of such annexation.

26 Sec. 11. The trustees of a road improvement district shall, within
27 thirty days after the effective date of the merger, submit to the city or
28 village a written accounting of all assets and liabilities, contingent or
29 fixed, of the district. Unless the city or village within six months
30 thereafter brings an action against the trustees of the district for an
31 accounting or for damages for breach of duty, the trustees shall be

1 discharged of all further duties and liabilities and their bonds
2 exonerated. If the city or village brings such an action and does not
3 recover judgment in its favor, the taxable costs may include reasonable
4 expenses incurred by the trustees of the road improvement district in
5 connection with such suit and a reasonable attorney's fee for the
6 trustees' attorney. The city or village shall represent the district and
7 all parties who might be interested in such an action. The city or
8 village and such trustees shall be the only necessary parties to such
9 action. Nothing contained in this section shall authorize the trustees to
10 levy any special assessments after the effective date of the merger.

11 Sec. 12. The merger shall be effective thirty days after the
12 effective date of the ordinance annexing the territory within the road
13 improvement district. If the validity of the ordinance annexing the
14 territory is challenged by a proceeding in a court of competent
15 jurisdiction, the effective date of the merger shall be thirty days after
16 the final determination of the validity of the ordinance. The trustees of
17 the road improvement district shall continue in possession and conduct
18 the affairs of the district until the effective date of the merger, but
19 shall not during such period levy any special assessments after the
20 effective date of annexation.

21 Sec. 13. If only a part of the territory within any road
22 improvement district is annexed by a city or village, the road
23 improvement district acting through its trustees and the city or village
24 acting through its governing body may agree between themselves as to the
25 division of the assets, liabilities, maintenance, contracts, or other
26 obligations of the district for a change in the boundaries of the
27 district so as to exclude the portion annexed by the city or village or
28 may agree upon a merger of the district with the city or village. The
29 division of assets, liabilities, maintenance, contracts, or other
30 obligations of the district shall be equitable, shall be proportionate to
31 the valuation of the portion of the district annexed and to the valuation

1 of the portion of the district remaining following annexation, and shall,
2 to the greatest extent feasible, reflect the actual impact of the
3 annexation on the ability of the district to perform its duties and
4 responsibilities within its new boundaries following annexation. In the
5 event a merger is agreed upon, the city or village shall have all the
6 rights, privileges, duties, and obligations as provided in sections 10 to
7 12 of this act when the city or village annexes the entire territory
8 within the district, and the trustees shall be relieved of all further
9 duties and liabilities and their bonds exonerated as provided in section
10 11 of this act. No agreement between the district and the city or village
11 shall be effective until submitted to and approved by the district court
12 of the county in which the major portion of the district is located. No
13 agreement shall be approved which may prejudice the rights of any
14 bondholder or creditor of the district or employee under contract to the
15 district. The court may authorize or direct amendments to the agreement
16 before approving the same. If the district and city or village do not
17 agree upon the proper adjustment of all matters growing out of the
18 annexation of a part of the territory located within the district, the
19 district, the annexing city or village, any bondholder or creditor of the
20 district, or any employee under contract to the district may apply to the
21 district court of the county where the major portion of the district is
22 located for an adjustment of all matters growing out of or in any way
23 connected with the annexation of such territory, and after a hearing
24 thereon the court may enter an order or decree fixing the rights, duties,
25 and obligations of the parties. In every case such decree or order shall
26 require a change of the district boundaries so as to exclude from the
27 district that portion of the territory of the district which has been
28 annexed. Such change of boundaries shall become effective on the date of
29 entry of such decree. Only the district and the city or village shall be
30 necessary parties to such an action. Any bondholder or creditor of the
31 district or any employee under contract to the district whose interests

1 may be adversely affected by the annexation may intervene in the action
2 pursuant to section 25-328. The decree when entered shall be binding on
3 the parties the same as though the parties had voluntarily agreed
4 thereto. Nothing contained in this section shall authorize any district
5 to levy any special assessments within the annexed area after the
6 effective date of annexation.

7 Sec. 14. Original sections 31-763, 31-764, 31-765, 31-766, and
8 35-514, Reissue Revised Statutes of Nebraska, are repealed.