

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 102

Introduced by Dorn, 30.

Read first time January 07, 2021

Committee:

1 A BILL FOR AN ACT relating to courts; to amend sections 22-417, 23-120,
2 23-121, 24-337.04, 24-507, 32-524, 33-106.02, and 43-512.05, Reissue
3 Revised Statutes of Nebraska; to authorize county boards to
4 eliminate the office of elected clerk of the district court as
5 prescribed; to change provisions relating to consolidation of county
6 offices, duties of counties to supply materials, and residency
7 requirements for elected clerks of the district courts; to provide
8 for transitioning the duties of clerk of the district court in
9 certain counties to clerk magistrates; to change certain county
10 employees to state employees; to change provisions relating to
11 elections for clerks of the district court; to harmonize provisions;
12 and to repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Beginning July 1, 2023, in any county that has an
2 elected clerk of the district court, the county board may vote to
3 eliminate the office of the clerk of the district court when a vacancy
4 occurs pursuant to section 32-560 or when the incumbent does not file for
5 reelection by the deadline in section 32-606.

6 (2) If such a vacancy occurs, the county board may vote to eliminate
7 such office within forty-five days after such vacancy occurs.

8 (3) If the incumbent does not file for reelection by the deadline in
9 section 32-606, the county board may vote to eliminate such office prior
10 to the filing deadline in section 32-606 for a candidate who is not the
11 incumbent.

12 (4) If such office is eliminated, the duties of the clerk of the
13 district court shall be performed by the clerk magistrate for such county
14 as provided in subdivision (6)(d) of section 24-507.

15 Sec. 2. Section 22-417, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 22-417 (1) Any county may consolidate the office of ~~clerk of the~~
18 ~~district court,~~ county assessor, county clerk, county engineer, county
19 surveyor, or register of deeds, except that the consolidated officeholder
20 shall meet the qualifications of each office as required by law. The
21 consolidated office shall have the powers and duties provided by law for
22 each office consolidated. The county board may adopt a resolution for the
23 consolidation of any of such offices and submit the issue of the
24 consolidated office to the registered voters for approval at the next
25 general election or at a special election called for such purpose. The
26 county board shall hold a public hearing prior to adoption of a
27 resolution for the consolidation of offices and shall give notice of the
28 hearing by publication in a newspaper of general circulation in the
29 county once each week for three consecutive weeks prior to the hearing.
30 Final publication shall be within seven calendar days prior to the
31 hearing. The notice shall describe the offices to be consolidated and

1 that the holder of the offices to be consolidated shall have his or her
2 term of office end on the first Thursday after the first Tuesday in
3 January following the general election in which the holder of the
4 consolidated office is elected.

5 (2) The county board shall adopt the resolution for the
6 consolidation of offices by majority vote of the board and shall submit
7 the issue of consolidation to the registered voters for approval at the
8 next general election or at a special election called for such purpose.
9 For each consolidated office submitted for approval, the question shall
10 be submitted to the voters in substantially the following form:

11 "Shall (name of each office proposed to be consolidated) be
12 consolidated into one consolidated office according to the resolution
13 adopted by the county board of (name of county) on (date of adoption of
14 the resolution by the county board)? Yes No".

15 (3) If the majority of the registered voters in the county voting on
16 the question vote in favor of consolidation, the consolidated office
17 shall be filled at the next general election, and the terms of the
18 incumbents shall end on the first Thursday after the first Tuesday in
19 January following the general election in which the holder of the
20 consolidated office is elected.

21 (4) The term of a consolidated officer shall be four years or until
22 his or her successor is elected and qualified, except that the term of a
23 consolidated officer elected in the year 2000 or any fourth year
24 thereafter shall be two years or until his or her successor is elected
25 and qualified.

26 (5) Any election under this section shall be in accordance with the
27 Election Act.

28 Sec. 3. Section 23-120, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 23-120 (1)(a) ~~(1)~~ The county board shall acquire, purchase,
31 construct, renovate, remodel, furnish, equip, add to, improve, or provide

1 a suitable courthouse, jail, and other county buildings and a site or
2 sites for such buildings ~~therefor~~ and for such purposes borrow money and
3 issue the bonds of the county to pay for the same. Agreements entered
4 into under section 25-412.03 shall be deemed to be in compliance with
5 this section. The board shall keep such buildings in repair and provide
6 suitable rooms, ~~and~~ offices, furniture, and equipment for the
7 accommodation of the:

8 (i) Several ~~several~~ courts of record, Nebraska Workers' Compensation
9 Court or any judge thereof, Commissioner of Labor for the conduct and
10 operation of the state free employment service, county board, county
11 clerk, county treasurer, county sheriff, ~~clerk of the district court,~~
12 county surveyor, and county agricultural agent; ~~and county~~

13 (ii) Clerk of the district court, including counties in which the
14 clerk magistrate is performing the duties of the clerk of the district
15 court pursuant to section 24-507 or 32-524; and

16 (iii) County attorney if the county attorney holds his or her office
17 at the county seat ~~and shall provide suitable furniture and equipment~~
18 ~~therefor.~~

19 (b) All such courts which desire such accommodation shall be
20 suitably housed in the courthouse.

21 (2) No levy exceeding (a) two million dollars in counties having in
22 excess of two hundred fifty thousand inhabitants, (b) one million dollars
23 in counties having in excess of one hundred thousand inhabitants and not
24 in excess of two hundred fifty thousand inhabitants, (c) three hundred
25 thousand dollars in counties having in excess of thirty thousand
26 inhabitants and not in excess of one hundred thousand inhabitants, or (d)
27 one hundred fifty thousand dollars in all other counties shall be made
28 within a one-year period for any of the purposes specified in subsection
29 (1) of this section without first submitting the proposition to a vote of
30 the people of the county at a general election or a special election
31 ordered by the board for that purpose and obtaining the approval of a

1 majority of the legal voters thereon.

2 (3)(a) The county board of any county in this state may, when
3 requested so to do by petition signed by at least a majority of the legal
4 voters in the county based on the average vote of the two preceding
5 general elections, make an annual levy of not to exceed seventeen and
6 five-tenths cents on each one hundred dollars upon the taxable value of
7 all the taxable property in the county for any of the purposes specified
8 in subsection (1) of this section.

9 (b) If a county on the day it first initiates a project for any of
10 the purposes specified in subsection (1) of this section had no bonded
11 indebtedness payable from its general fund levy, the county board may
12 make an annual levy of not to exceed five and two-tenths cents on each
13 one hundred dollars upon the taxable value of all the taxable property of
14 the county for a project or projects for any of the purposes specified in
15 subsection (1) of this section without the filing of a petition described
16 in subdivision (3)(a) of this section. The county board shall designate
17 the particular project for which such levy shall be expended, the period
18 of years, which shall not exceed twenty, for which the tax will be levied
19 for such project, and the number of cents of the levy for each year of
20 the levy thereof. The county board may designate more than one project
21 and levy a tax pursuant to this section for each such project,
22 concurrently or consecutively, as the case may be, if the aggregate levy
23 in each year and the duration of each levy will not exceed the
24 limitations specified in this subsection. Each levy for a project which
25 is authorized by this subdivision may be imposed for such duration
26 specified by the county board notwithstanding the contemporaneous
27 existence or subsequent imposition of any other levy or levies for
28 another project or projects imposed pursuant to this subdivision and
29 notwithstanding the subsequent issuance by the county of bonded
30 indebtedness payable from its general fund levy.

31 Sec. 4. Section 23-121, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 23-121 The county board shall provide and keep in repair, when the
3 finances of the county will permit, suitable fireproof safes for the
4 county clerk and county treasurer. It shall provide suitable books and
5 stationery for the use of the county board, county clerk, county
6 treasurer, county judge, county sheriff, clerk of the district court, if
7 elected, county school administrator, county surveyor, and county
8 attorney.

9 Sec. 5. Section 24-337.04, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 24-337.04 A clerk of the district court elected after 2008 need not
12 be a resident of the county when he or she files for election as clerk of
13 the district court, but an elected a clerk of the district court shall
14 reside in a county for which he or she holds office.

15 Sec. 6. Section 24-507, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 24-507 (1) There shall be appointed a clerk magistrate to serve each
18 county. Clerk magistrates shall be appointed by the county judge, or
19 judges if the district has more than one county judge, and shall serve at
20 the pleasure of the county judge or judges, subject to personnel rules
21 adopted by the Supreme Court.

22 (2) The clerk magistrate shall be the clerk of the county court and
23 if appointed as clerk magistrate for more than one county shall be the
24 clerk of the county court for each county.

25 (3) In counties when the district court clerk or staff is
26 temporarily unavailable, the clerk magistrate as clerk of the county
27 court shall, under the direction of the district court judge and in
28 cooperation and agreement with the Supreme Court, State Court
29 Administrator, and clerk of the district court, assist the clerk of the
30 district court in the provision of district court services which would
31 otherwise require the presence of district court staff. Any agreement

1 entered into under this subsection must be signed and stipulated to by
2 the State Court Administrator, the county board, and the clerk of the
3 district court after obtaining input from the clerk of the county court,
4 a district court judge, a county court judge, and the county attorney.
5 Any agreement entered into under this subsection may include, but is not
6 limited to, financial considerations and scheduling.

7 (4) For purposes of this section, transition date means:

8 (a) July 1, 2023, for district court judicial district numbers 8,
9 11, and 12; and

10 (b) July 1, 2024, for district court judicial district numbers 1, 2,
11 3, 4, 5, 6, 7, 9, and 10.

12 (5) Before the transition date:

13 (a) ~~(4)~~ When an agreement has been reached pursuant to subdivision
14 (1)(b) of section 32-524 ~~or subsection (3) of section 32-524~~ for a clerk
15 magistrate as clerk of the county court to be ex officio clerk of the
16 district court, the clerk magistrate shall perform the duties required by
17 law of the clerk of the district court under the direction of the
18 district court judge for the county and the State Court Administrator;
19 and -

20 (b) In any county in which the office of clerk of the district court
21 was eliminated as provided in subdivision (1)(d) of section 32-524, the
22 clerk magistrate shall perform the duties required by law of the clerk of
23 the district court under the direction of the district court judge for
24 the county and the State Court Administrator.

25 (6) On and after the transition date:

26 (a) In any county in which, as of the transition date, the duties of
27 the clerk of the district court were being performed by the county clerk
28 as ex officio clerk of the district court, such duties shall be
29 transferred to the clerk magistrate for such county, who shall perform
30 the duties required by law of the clerk of the district court under the
31 direction of the district court judge for the county and the State Court

1 Administrator;

2 (b) In any county in which, as of the transition date, an agreement
3 was in effect under this section between the county board of such county
4 and the State Court Administrator pursuant to which the clerk magistrate
5 acted as ex officio clerk of the district court and performed the duties
6 of such officer:

7 (i) The agreement shall terminate as of the transition date; and

8 (ii) The clerk magistrate for such county shall perform the duties
9 required by law of the clerk of the district court under the direction of
10 the district court judge for the county and the State Court
11 Administrator;

12 (c) In any county in which, as of the transition date, the duties of
13 the clerk of the district court were being performed by the clerk
14 magistrate pursuant to subdivision (5)(b) of this section and subdivision
15 (1)(d) of section 32-524, the clerk magistrate shall continue to perform
16 the duties required by law of the clerk of the district court under the
17 direction of the district court judge for the county and the State Court
18 Administrator; and

19 (d) In any county in which, on or after the transition date, the
20 office of clerk of the district court is eliminated as provided in
21 section 1 of this act or subsection (2) of section 32-524, the duties of
22 the clerk of the district court shall be transferred to the clerk
23 magistrate for such county, who shall perform the duties required by law
24 of the clerk of the district court under the direction of the district
25 court judge for the county and the State Court Administrator.

26 (7) Nothing in this section shall prevent a review and subsequent
27 reduction in staffing by the State Court Administrator or Supreme Court.

28 (8) In a county in which the duties of the clerk of the district
29 court are performed by the clerk magistrate:

30 (a) The county board of such county may request in writing that the
31 State Court Administrator review office space provided by the county for

1 the court to determine if the court has adequate office space within the
2 county-owned buildings. The State Court Administrator shall respond in
3 writing to such request within thirty days after receiving the request.
4 The final decision with respect to maintaining, increasing, or reducing
5 office space provided by such county shall be made by the county board;

6 (b) All furniture, computers, equipment, and personal property owned
7 by the county to perform the district court function prior to the
8 transfer shall remain the property of the county. All books, files, and
9 similar records related to district court functions shall be transferred
10 to the State Court Administrator;

11 (c) All financial records and bank accounts related to district
12 court functions shall be transferred to the Supreme Court; and

13 (d) Employees of the office of the clerk of the district court shall
14 be given the option to terminate county employment and perform court
15 duties as state judicial branch employees. No such former county employee
16 shall incur a reduction in salary as a result of becoming a state
17 employee pursuant to this section.

18 Sec. 7. Section 32-524, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 32-524 (1) Before the transition date established in section 24-507
21 Except as provided in section 22-417:

22 (a) In counties having a population of seven thousand inhabitants or
23 more, there shall be elected one clerk of the district court at the
24 statewide general election in 1962 and every four years thereafter; and

25 (b) In counties having a population of less than seven thousand
26 inhabitants, there shall be elected a clerk of the district court at the
27 first statewide general election following a determination by the county
28 board and the district judge for the county that such officer should be
29 elected and each four years thereafter. When such a determination is not
30 made in such a county, the county clerk shall be ex officio clerk of the
31 district court and perform the duties of such by law devolving upon that

1 officer, unless there is an agreement between the State Court
2 Administrator and the county board that the clerk magistrate ~~of the~~
3 ~~county court~~ for such county shall be the ex officio clerk of the
4 district court and perform such duties; ~~τ~~

5 (c) ~~(2)~~ In any county upon presentation of a petition to the county
6 board (i) ~~(a)~~ not less than sixty days before the statewide general
7 election in 1976 or every four years thereafter, (ii) ~~(b)~~ signed by
8 registered voters of the county equal in numbers to at least fifteen
9 percent of the total vote cast for Governor at the most recent
10 gubernatorial election in the county, secured in not less than two-fifths
11 of the townships or precincts of the county, and (iii) ~~(c)~~ asking that
12 the question of not electing a clerk of the district court in the county
13 be submitted to the registered voters of the county ~~therein~~, the county
14 board, at the next statewide general election, shall order the submission
15 of the question to the registered voters of the county. The form of
16 submission upon the ballot shall be as follows:

17 For election of a clerk of the district court;

18 Against election of a clerk of the district court; ~~τ~~

19 (d) ~~(3)~~ If a majority of the votes cast on the question under
20 subdivision (1)(c) of this section are against the election of a clerk of
21 the district court in such county; ~~τ~~

22 (i) The clerk magistrate for such county shall perform the duties
23 required by law of the clerk of the district court under the direction of
24 the district court judge for the county and the State Court
25 Administrator; and

26 (ii) ~~The shall be performed by the county clerk, unless there is an~~
27 ~~agreement between the State Court Administrator and the county board that~~
28 ~~the clerk of the county court for such county shall be the ex officio~~
29 ~~clerk of the district court and perform such duties, and the office of~~
30 clerk of the district court shall either cease with the expiration of the
31 term of the incumbent or continue to be abolished if no such office

1 exists at such time; and -

2 (e) ~~(4)~~ If a majority of the votes cast on the question under
3 subdivision (1)(c) of this section are in favor of the election of a
4 clerk of the district court, the office shall continue or a clerk of the
5 district court shall be elected at the next statewide general election as
6 provided in subdivision (1)(a) or (b) subsection (1) of this section.

7 (2) On and after the transition date:

8 (a) In a county with a population of seven thousand inhabitants or
9 more, there shall be elected a clerk of the district court at the
10 statewide general election in 1962 and every four years thereafter;

11 (b) In a county with a population of less than seven thousand
12 inhabitants:

13 (i) If such county had an elected clerk of the district court as of
14 the transition date, there shall be elected a clerk of the district
15 court; and

16 (ii) If, as of the transition date, the duties of the clerk of the
17 district court were being performed by the county clerk or clerk
18 magistrate as described in subdivision (6)(a), (b), or (c) of section
19 24-507, the clerk magistrate shall perform the duties required by law of
20 the clerk of the district court under the direction of the district court
21 judge for the county and the State Court Administrator;

22 (c) In any county that has an elected clerk of the district court,
23 upon presentation of a petition to the county board (i) not less than
24 sixty days before the statewide general election in 1976 or every four
25 years thereafter, (ii) signed by registered voters of the county equal in
26 numbers to at least fifteen percent of the total vote cast for Governor
27 at the most recent gubernatorial election in the county, secured in not
28 less than two-fifths of the townships or precincts of the county, and
29 (iii) asking that the question of not electing a clerk of the district
30 court in the county be submitted to the registered voters of the county,
31 the county board, at the next statewide general election, shall order the

1 submission of the question to the registered voters of the county. The
2 form of submission upon the ballot shall be as follows:

3 For election of a clerk of the district court;

4 Against election of a clerk of the district court;

5 (d) If a majority of the votes cast on the question under
6 subdivision (2)(c) of this section are against the election of a clerk of
7 the district court in such county:

8 (i) The clerk magistrate for such county shall perform the duties
9 required by law of the clerk of the district court under the direction of
10 the district court judge for the county and the State Court
11 Administrator; and

12 (ii) The office of clerk of the district court shall either cease
13 with the expiration of the term of the incumbent; and

14 (e) If a majority of the votes cast on the question under
15 subdivision (2)(c) of this section are in favor of the election of a
16 clerk of the district court, the office shall continue.

17 (3) For an elected clerk of the district court:

18 (a) ~~(5)~~ The term of the clerk of the district court shall be four
19 years or until his or her successor is elected and qualified; -

20 (b) The clerk of the district court shall meet the qualifications
21 found in section 24-337.04; and -

22 (c) The clerk of the district court shall be elected on the partisan
23 ballot.

24 Sec. 8. Section 33-106.02, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 33-106.02 (1) The clerk of the district court of each county shall
27 not retain for his or her own use any fees, revenue, perquisites, or
28 receipts, fixed, enumerated, or provided in this or any other section of
29 the statutes of the State of Nebraska or any fees authorized by federal
30 law to be collected or retained by a county official.

31 (2) In a county that has an elected clerk of the district court:

1 (a) The clerk shall on or before the fifteenth day of each month
2 make a report to the county board, under oath, showing the different
3 items of such fees, revenue, perquisites, or receipts received, from
4 whom, at what time, and for what service, and the total amount received
5 by such officer since the last report, and also the amount received for
6 the current year; -

7 (b) ~~(2)~~ The clerk shall account for and pay any fees, revenue,
8 perquisites, or receipts not later than the fifteenth day of the month
9 following the calendar month in which such fees, revenue, perquisites, or
10 receipts were received in the following manner:

11 (i) ~~(a)~~ Of the forty-two-dollar docket fee imposed pursuant to
12 section 33-106, ~~through June 30, 2016, five dollars shall be remitted to~~
13 ~~the State Treasurer for credit to the General Fund and two dollars shall~~
14 ~~be remitted to the State Treasurer for credit to the Nebraska Retirement~~
15 ~~Fund for Judges, beginning July 1, 2016, through June 30, 2017, three~~
16 ~~dollars shall be remitted to the State Treasurer for credit to the~~
17 ~~General Fund and four dollars shall be remitted to the State Treasurer~~
18 ~~for credit to the Nebraska Retirement Fund for Judges, and beginning July~~
19 ~~1, 2017, one dollar shall be remitted to the State Treasurer for credit~~
20 to the General Fund and six dollars shall be remitted to the State
21 Treasurer for credit to the Nebraska Retirement Fund for Judges;

22 (ii) ~~(b)~~ Of the twenty-seven-dollar docket fee imposed for appeal of
23 a criminal case to the district court pursuant to section 33-106, two
24 dollars shall be remitted to the State Treasurer for credit to the
25 Nebraska Retirement Fund for Judges; and

26 (iii) ~~(c)~~ The remaining fees, revenue, perquisites, or receipts
27 shall be credited to the general fund of the county.

28 (3) In a county in which the duties of the clerk of the district
29 court are being performed by the clerk magistrate pursuant to section
30 24-507 or 32-524, the clerk magistrate shall account for and pay any
31 fees, revenue, perquisites, or receipts not later than the fifteenth day

1 of the month following the calendar month in which such fees, revenue,
2 perquisites, or receipts were received in the following manner:

3 (a) Of the forty-two-dollar docket fee imposed pursuant to section
4 33-106, one dollar shall be remitted to the State Treasurer for credit to
5 the General Fund and six dollars shall be remitted to the State Treasurer
6 for credit to the Nebraska Retirement Fund for Judges;

7 (b) Of the twenty-seven-dollar docket fee imposed for appeal of a
8 criminal case to the district court pursuant to section 33-106, two
9 dollars shall be remitted to the State Treasurer for credit to the
10 Nebraska Retirement Fund for Judges; and

11 (c) The remaining fees, revenue, perquisites, or receipts shall be
12 remitted to the State Treasurer for credit to the General Fund.

13 Sec. 9. Section 43-512.05, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 43-512.05 (1) It shall be the duty of the clerks of the district
16 courts to furnish the Department of Health and Human Services monthly
17 statistical information and any other information required by the
18 department to properly account for child, spousal, and medical support
19 payments.

20 (2)(a) In a county that has an elected clerk of the district court,
21 the ~~The~~ clerk of the ~~each~~ district court shall negotiate and enter into a
22 written agreement with the department in order to receive reimbursement
23 for the costs incurred in carrying out sections 43-512 to 43-512.10 and
24 43-512.12 to 43-512.18.

25 (b) In a county in which the duties of the clerk of the district
26 court are being performed by the clerk magistrate pursuant to section
27 24-507 or 32-524, the State Court Administrator shall negotiate and enter
28 into a written agreement with the department in order to receive
29 reimbursement for the direct costs incurred by the clerk magistrate in
30 carrying out sections 43-512 to 43-512.10 and 43-512.12 to 43-512.18.

31 (3) ~~(2)~~ The department and the governing board of the county, county

1 attorney, or authorized attorney may enter into a written agreement
2 regarding the determination of paternity and child, spousal, and medical
3 support enforcement for the purpose of implementing ~~such~~ sections 43-512
4 to 43-512.10 and 43-512.12 to 43-512.18. Paternity shall be established
5 when it can be determined that the collection of child support is
6 feasible.

7 (4) ~~(3)~~ The department shall adopt and promulgate rules and
8 regulations regarding the rate and manner of reimbursement for costs
9 incurred in carrying out ~~such~~ sections 43-512 to 43-512.10 and 43-512.12
10 to 43-512.18, taking into account relevant federal law, available federal
11 funds, and any appropriations made by the Legislature.

12 (5)(a) In a county that has an elected clerk of the district court,
13 any Any reimbursement funds shall be added to the budgets of those county
14 officials who have performed the services as called for in the
15 cooperative agreements and carried over from year to year as required by
16 law.

17 (b) In a county in which the duties of the clerk of the district
18 court are being performed by the clerk magistrate pursuant to section
19 24-507 or 32-524, any reimbursement funds received for direct costs as
20 provided in subdivision (2)(b) of this section shall be remitted to the
21 State Treasurer for credit to the Supreme Court.

22 Sec. 10. Original sections 22-417, 23-120, 23-121, 24-337.04,
23 24-507, 32-524, 33-106.02, and 43-512.05, Reissue Revised Statutes of
24 Nebraska, are repealed.