

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1061

Introduced by Lautenbaugh, 18.

Read first time January 22, 2014

Committee:

A BILL

1 FOR AN ACT relating to community college areas; to amend sections
2 32-608, 32-1301, 32-1302, 85-1506, 85-1507, 85-1514,
3 85-1541, and 85-1542, Reissue Revised Statutes of
4 Nebraska, and sections 32-604, 32-607, 32-811, 32-1203,
5 and 77-3445, Revised Statutes Cumulative Supplement,
6 2012; to provide for appointment of board members; to
7 eliminate provisions relating to election of board
8 members; to harmonize provisions; to repeal the original
9 sections; and to outright repeal section 32-514, Reissue
10 Revised Statutes of Nebraska, and section 85-1512,
11 Revised Statutes Supplement, 2013.

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

1 Section 1. Section 32-604, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 32-604 (1) Except as provided in subsection (2) or (4) of
4 this section, no person shall be precluded from being elected or
5 appointed to or holding an elective office for the reason that he or
6 she has been elected or appointed to or holds another elective
7 office.

8 (2) No person serving as a member of the Legislature or
9 in an elective office described in Article IV, section 1 or 20, or
10 Article VII, section 3 or 10, of the Constitution of Nebraska shall
11 simultaneously serve in any other elective office, except that such a
12 person may simultaneously serve in another elective office which is
13 filled at an election held in conjunction with the annual meeting of
14 a public body.

15 (3) Whenever an incumbent serving as a member of the
16 Legislature or in an elective office described in Article IV, section
17 1 or 20, or Article VII, section 3 or 10, of the Constitution of
18 Nebraska assumes another elective office, except an elective office
19 filled at an election held in conjunction with the annual meeting of
20 a public body, the office first held by the incumbent shall be deemed
21 vacant.

22 (4) No person serving in a high elective office shall
23 simultaneously serve in any other high elective office, except that a
24 county attorney may serve as the county attorney for more than one
25 county if appointed under subsection (2) of section 23-1201.01.

1 (5) Notwithstanding subsection (4) of this section, any
2 person holding more than one high elective office upon July 15, 2010,
3 shall be entitled to serve the remainder of all terms for which he or
4 she was elected or appointed.

5 (6) For purposes of this section, (a) elective office has
6 the meaning found in section 32-109 and includes an office which is
7 filled at an election held in conjunction with the annual meeting of
8 a public body created by an act of the Legislature but does not
9 include a member of a learning community coordinating council
10 appointed pursuant to subsection (5) or (7) of section 32-546.01 and
11 (b) high elective office means a member of the Legislature, an
12 elective office described in Article IV, section 1 or 20, or Article
13 VII, section 3 or 10, of the Constitution of Nebraska, or a county,
14 city, ~~community college area,~~ learning community, or school district
15 elective office.

16 Sec. 2. Section 32-607, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 32-607 All candidate filing forms shall contain the
19 following statement: I hereby swear that I will abide by the laws of
20 the State of Nebraska regarding the results of the primary and
21 general elections, that I am a registered voter and qualified to be
22 elected, and that I will serve if elected. Candidate filing forms
23 shall also contain the candidate's name; residence address; mailing
24 address if different from the residence address; telephone number;
25 office sought; and party affiliation if the office sought is a

1 partisan office. Candidate filing forms shall be filed with the
2 following filing officers:

3 (1) For candidates for national, state, or congressional
4 office, directors of public power and irrigation districts, directors
5 of reclamation districts, directors of natural resources districts,
6 members of the boards of educational service units, ~~members of~~
7 ~~governing boards of community colleges,~~ delegates to national
8 conventions, and other offices filled by election held in more than
9 one county and judges desiring retention, in the office of the
10 Secretary of State;

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

16 (3) For officers in school districts which include land
17 in adjoining counties, in the office of the election commissioner or
18 county clerk of the county in which the greatest number of registered
19 voters entitled to vote for the officers reside. If the candidate is
20 not a resident of the county, he or she shall submit a certificate of
21 registration obtained under section 32-316 with the candidate filing
22 form; and

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

25 Sec. 3. Section 32-608, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 32-608 (1) Except as provided in subsection (4) or (5) of
3 this section, a filing fee shall be paid by or on behalf of each
4 candidate prior to filing for office. For candidates who file in the
5 office of the Secretary of State as provided in subdivision (1) of
6 section 32-607, the filing fee shall be paid to the Secretary of
7 State who shall remit the fee to the State Treasurer for credit to
8 the Election Administration Fund. For candidates for any city or
9 village office, the filing fee shall be paid to the city or village
10 treasurer of the city or village in which the candidate resides. For
11 candidates who file in the office of the election commissioner or
12 county clerk, the filing fee shall be paid to the election
13 commissioner or county clerk in the county in which the office is
14 sought. The election commissioner or county clerk shall remit the fee
15 to the county treasurer. The fee shall be placed in the general fund
16 of the county, city, or village. No candidate filing forms shall be
17 filed until the proper payment or the proper receipt showing the
18 payment of such filing fee is presented to the filing officer. On the
19 day of the filing deadline, the city or village treasurer's office
20 shall remain open to receive filing fees until the hour of the filing
21 deadline.

22 (2) Except as provided in subsection (4) or (5) of this
23 section, the filing fees shall be as follows:

24 (a) For the office of United States Senator, state
25 officers, including members of the Legislature, Representatives in

1 Congress, county officers, and city or village officers, except the
2 mayor or council members of cities having a home rule charter, a sum
3 equal to one percent of the annual salary such candidate will receive
4 if he or she is elected and qualifies for the office for which he or
5 she files as a candidate;

6 (b) For directors of public power and irrigation
7 districts in districts receiving annual gross revenue of forty
8 million dollars or more, twenty-five dollars, and in districts
9 receiving annual gross revenue of less than forty million dollars,
10 ten dollars;

11 (c) For directors of reclamation districts, ten dollars;
12 and

13 (d) For Regents of the University of Nebraska, members of
14 the State Board of Education, and directors of metropolitan utilities
15 districts, twenty-five dollars.

16 (3) All declared write-in candidates shall pay the filing
17 fees that are required for the office at the time that they present
18 the write-in affidavit to the filing officer. Any undeclared write-in
19 candidate who is nominated or elected by write-in votes shall pay the
20 filing fee required for the office within ten days after the canvass
21 of votes by the county canvassing board and shall file the receipt
22 with the person issuing the certificate of nomination or the
23 certificate of election prior to the certificate being issued.

24 (4) No filing fee shall be required for any candidate
25 filing for an office in which a per diem is paid rather than a salary

1 or for which there is a salary of less than five hundred dollars per
2 year. No filing fee shall be required for any candidate for
3 membership on a school board, on the board of an educational service
4 unit, ~~on the board of governors of a community college area,~~ on the
5 board of directors of a natural resources district, or on the board
6 of trustees of a sanitary and improvement district.

7 (5) No filing fee shall be required of any candidate
8 completing an affidavit requesting to file for elective office in
9 forma pauperis. A pauper shall mean a person whose income and other
10 resources for maintenance are found under assistance standards to be
11 insufficient for meeting the cost of his or her requirements and
12 whose reserve of cash or other available resources does not exceed
13 the maximum available resources that an eligible individual may own.
14 Available resources shall include every type of property or interest
15 in property that an individual owns and may convert into cash except:

16 (a) Real property used as a home;

17 (b) Household goods of a moderate value used in the home;

18 and

19 (c) Assets to a maximum value of three thousand dollars
20 used by a recipient in a planned effort directed towards self-
21 support.

22 (6) If any candidate dies prior to an election, the
23 spouse of the candidate may file a claim for refund of the filing fee
24 with the proper governing body prior to the date of the election.
25 Upon approval of the claim by the proper governing body, the filing

1 fee shall be refunded.

2 Sec. 4. Section 32-811, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 32-811 (1) If the names of candidates properly filed for
5 nomination at the primary election for directors of natural resources
6 districts, directors of public power districts, members of airport
7 authority boards elected pursuant to sections 32-547 to 32-549,
8 ~~members of the boards of governors of community college areas,~~
9 members of the boards of Class III or Class V school districts which
10 nominate candidates at a primary election, and officers of cities of
11 the first or second class and cities having a city manager plan of
12 government do not exceed two candidates for each position to be
13 filled, any such candidates shall be declared nominated and their
14 names shall not appear on any primary election ballots. The official
15 abstract of votes kept by the county or state shall show the names of
16 such candidates with the statement Nominated Without Opposition. The
17 election commissioner or county clerk shall place the names of such
18 automatically nominated candidates on the general election ballot as
19 provided in section 32-814.

20 (2) Candidates shall not appear on the ballot in the
21 primary election for the offices listed in subsection (2) of section
22 32-606.

23 (3) If the number of candidates for delegates to a county
24 or national political party convention are the same in number or less
25 than the number of candidates to be elected, the names shall not

1 appear on the primary election ballot and those so filed shall
2 receive a certificate of election.

3 Sec. 5. Section 32-1203, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 32-1203 (1) Each city, village, school district, public
6 power district, sanitary and improvement district, metropolitan
7 utilities district, fire district, natural resources district,
8 ~~community college area,~~ learning community coordinating council,
9 educational service unit, hospital district, reclamation district,
10 and library board shall pay for the costs of nominating and electing
11 its officers as provided in subsection (2), (3), or (4) of this
12 section. If a special issue is placed on the ballot at the time of
13 the statewide primary or general election by any political
14 subdivision, the political subdivision shall pay for the costs of the
15 election as provided in subsection (2), (3), or (4) of this section.
16 The districts listed in this subsection shall furnish to the
17 Secretary of State and election commissioner or county clerk any maps
18 and additional information which the election commissioner or county
19 clerk may require in the proper performance of their duties in the
20 conduct of elections and certification of results.

21 (2) The charge for each primary and general election
22 shall be determined by (a) ascertaining the total cost of all
23 chargeable costs as described in section 32-1202, (b) dividing the
24 total cost by the number of precincts participating in the election
25 to fix the cost per precinct, (c) prorating the cost per precinct by

1 the inked ballot inch in each precinct for each political
2 subdivision, and (d) totaling the cost for each precinct for each
3 political subdivision, except that the minimum charge for each
4 primary and general election for each political subdivision shall be
5 fifty dollars.

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

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

14 Sec. 6. Section 32-1301, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 32-1301 For purposes of sections 32-1301 to 32-1309,
17 filing clerk shall mean the election commissioner or county clerk for
18 recall of elected officers of cities, villages, counties, irrigation
19 districts, natural resources districts, public power districts,
20 school districts, ~~community college areas,~~ educational service units,
21 hospital districts, and metropolitan utilities districts.

22 Sec. 7. Section 32-1302, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 32-1302 (1) Except for trustees of sanitary and
25 improvement districts, any elected official of a political

1 subdivision and any elected member of the governing bodies of cities,
2 villages, counties, irrigation districts, natural resources
3 districts, public power districts, school districts, ~~community~~
4 ~~college areas,~~ educational service units, hospital districts, and
5 metropolitan utilities districts may be removed from office by recall
6 pursuant to sections 32-1301 to 32-1309. A trustee of a sanitary and
7 improvement district may be removed from office by recall pursuant to
8 sections 31-786 to 31-793.

9 (2) If due to reapportionment the boundaries of the area
10 served by the official or body change, the recall procedure and
11 special election provisions of sections 32-1301 to 32-1309 shall
12 apply to the registered voters within the boundaries of the new area.

13 (3) The recall procedure and special election provisions
14 of such sections shall apply to members of the governing bodies
15 listed in subsection (1) of this section, other than sanitary and
16 improvement districts, who are elected by precinct, district, or
17 subdistrict of the political subdivision. Only registered voters of
18 such member's precinct, district, or subdistrict may sign a recall
19 petition or vote at the recall election. The recall election shall be
20 held within the member's precinct, district, or subdistrict. When an
21 elected member is nominated by precinct, district, or subdistrict in
22 the primary election and elected at large in the general election,
23 the recall provisions shall apply to the registered voters at the
24 general election.

25 (4) The recall procedure and special election provisions

1 shall apply to the mayor and members of the city council of
2 municipalities with a home rule charter notwithstanding any contrary
3 provisions of the home rule charter.

4 Sec. 8. Section 77-3445, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 77-3445 A council on public improvements and services may
7 be created within each county or for adjoining counties by
8 resolutions of county boards or by joint resolutions passed by at
9 least three different types of political subdivisions located in the
10 county which are authorized to levy property taxes or which may
11 benefit from property taxes affected by the levy limits imposed by
12 sections 77-3442 to 77-3444. Such councils shall include, but are not
13 limited to, one elected official from each school board, county
14 board, incorporated city or village, natural resources district,
15 ~~community college,~~ educational service unit, hospital district,
16 airport authority, fire protection district, and township taxing
17 property within the county or counties. The elected governing body of
18 each political subdivision which has the legal authority to request
19 property tax funding or a levy set by the county board within a
20 county may by resolution of the governing body appoint one elected
21 official from the governing board to the council on public
22 improvements and services.

23 Councils on public improvements and services may meet as
24 often as necessary prior to the adoption of budgets and property tax
25 requests affected by the levy limits described in sections 77-3442 to

1 77-3444. The council shall jointly examine the budgets and property
2 tax requests of each governmental agency or quasi-governmental agency
3 with statutory authority to request a share of the property tax. The
4 county clerk of each county shall attend such meetings and keep a
5 public record of the proceedings. Each council on public improvements
6 and services which is created by resolution as provided in this
7 section shall hold at least one public meeting prior to the adoption
8 of public budgets affected by the levy limits imposed by sections
9 77-3442 to 77-3444. Such council may continue to meet to discuss
10 issues of public service provision in an effective and coordinated
11 manner, the impacts of levy limits, state and federal law, program,
12 or aid changes, and the joint provision or use of capital facilities
13 and equipment.

14 Sec. 9. Section 85-1506, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 85-1506 Each community college area shall be governed by
17 a board composed of eleven members appointed by the county boards
18 that comprise the community college area. The governing boards shall
19 be known as the Community College Board of Governors for the
20 community college area the board serves.

21 Sec. 10. Section 85-1507, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 85-1507 Each board shall annually elect from among its
24 members a chairperson and a vice-chairperson, each to serve for one
25 year. The board shall appoint a secretary and a treasurer, and one

1 person may hold both such offices. A majority of the members of the
2 board shall constitute a quorum, and no action shall be taken by less
3 than a majority of the members present and voting, except that
4 approval of employee contracts and the appropriation of money from
5 the funds of the community college area shall be by the affirmative
6 vote of a majority of ~~elected~~ members of the board. For purposes of
7 this section, appropriation shall mean the adoption or modification
8 of budgets for the community college area.

9 Sec. 11. Section 85-1514, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 85-1514 ~~(1) In addition to the events listed in section~~
12 ~~32-560, a~~ A vacancy on any board shall exist in the event of the
13 removal of a board member from the community college area, ~~for board~~
14 ~~members elected at large or community college district for board~~
15 ~~members elected by district.~~ After notice and hearing, a vacancy
16 shall also exist when any board member is absent from more than three
17 consecutive regular meetings of the board unless such absences are
18 excused by a majority of the remaining board members. In the event of
19 a vacancy from any of such causes or otherwise, such vacancy shall be
20 filled by the ~~remaining board members~~ county boards as provided in
21 section 85-1506 for the balance of the unexpired term. ~~Any person so~~
22 ~~named to fill a vacancy shall have the same qualifications as his or~~
23 ~~her immediate predecessor. Such appointment shall be made in writing~~
24 ~~and certified to the office of the Secretary of State.~~

25 ~~(2) If after a primary election there is a vacancy upon~~

1 ~~the ballot, such vacancy shall be filled by a petition candidate~~
2 ~~pursuant to section 32-625.~~

3 ~~(3) An incumbent shall not be permitted to hold over the~~
4 ~~term, but such office shall automatically become vacant and an~~
5 ~~appointment shall be made within one calendar month to fill such~~
6 ~~vacancy for the ensuing term. If there are vacancies in the offices~~
7 ~~of a majority of the members of the board, the Secretary of State~~
8 ~~shall conduct a special election to fill such vacancies.~~

9 Sec. 12. Section 85-1541, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 85-1541 For purposes of section 85-1542, volunteer shall
12 mean a person who is not an ~~elected or appointed~~ official or employee
13 of a community college area who, at the request or with the
14 permission of the board of governors of the community college area,
15 engages in activities related to the purposes and functions of the
16 community college area or for its general benefit.

17 Sec. 13. Section 85-1542, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 85-1542 The board of governors of any community college
20 area may authorize the issuance of a pass to any ~~elected or appointed~~
21 official, employee, retired employee, or volunteer of the community
22 college area, member of a senior citizens group, or city official
23 authorizing the admittance of the recipient of the pass and his or
24 her spouse to recognized college activities without the need for the
25 payment of any fee or charge. Such pass may be issued at no cost to

1 the recipient or at such cost as may be designated by the board of
2 governors.

3 Sec. 14. Original sections 32-608, 32-1301, 32-1302,
4 85-1506, 85-1507, 85-1514, 85-1541, and 85-1542, Reissue Revised
5 Statutes of Nebraska, and sections 32-604, 32-607, 32-811, 32-1203,
6 and 77-3445, Revised Statutes Cumulative Supplement, 2012, are
7 repealed.

8 Sec. 15. The following sections are outright repealed:
9 Section 32-514, Reissue Revised Statutes of Nebraska, and section
10 85-1512, Revised Statutes Supplement, 2013.