

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1115

Introduced by Murante, 49.

Read first time January 18, 2018

Committee:

1 A BILL FOR AN ACT relating to government; to amend sections 32-540,
2 32-552, 32-553, 32-554, 32-555, and 79-1217.01, Reissue Revised
3 Statutes of Nebraska, and section 23-151, Revised Statutes
4 Cumulative Supplement, 2016; to provide requirements for
5 establishing district boundary lines for purposes of legislative
6 districts, Supreme Court judicial districts, and certain political
7 subdivisions; to harmonize provisions; and to repeal the original
8 sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of effectuating Article III, section 5, of
2 the Constitution of Nebraska to the greatest extent practical and for
3 purposes of providing consistent public policy across political
4 subdivisions, the boundaries of the legislative districts, the supreme
5 court districts, and districts or similar divisions for election purposes
6 of political subdivisions shall be established on the basis of the total
7 population as determined by the most recent federal decennial census by
8 the United States Bureau of the Census less the noncitizen population of
9 the state as estimated by the United States Bureau of the Census from the
10 most recent federal decennial census.

11 Sec. 2. Section 23-151, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 23-151 (1) Each county under commissioner organization having not
14 more than four hundred thousand inhabitants as determined by the most
15 recent federal decennial census shall be divided into (a) three districts
16 numbered respectively, one, two, and three, (b) five districts as
17 provided for in sections 23-148 and 23-149 numbered respectively, one,
18 two, three, four, and five, or (c) seven districts as provided for in
19 sections 23-292 to 23-299 numbered respectively, one, two, three, four,
20 five, six, and seven. Each county having more than four hundred thousand
21 inhabitants as determined by the most recent federal decennial census
22 shall be divided into seven districts numbered respectively, one, two,
23 three, four, five, six, and seven.

24 (2) Such districts shall consist of two or more voting precincts
25 comprising compact and contiguous territory and embracing a substantially
26 equal division of the population of the county subject to section 1 of
27 this act. District boundary lines shall not be subject to alteration more
28 than once every ten years unless the county has a change in population
29 requiring it to be redistricted pursuant to subdivision (3)(a) of this
30 section or unless there is a vote to change from three to five districts
31 as provided for in sections 23-148 and 23-149.

1 (3)(a) The establishment of district boundary lines pursuant to
2 subsection (1) of this section shall be completed within one year after a
3 county attains a population of more than four hundred thousand
4 inhabitants as determined by the most recent federal decennial census.
5 Beginning in 2001 and every ten years thereafter, the district boundary
6 lines of any county having more than four hundred thousand inhabitants as
7 determined by the most recent federal decennial census shall be redrawn,
8 if necessary to maintain substantially equal district populations subject
9 to section 1 of this act, by the date specified in section 32-553.

10 (b) The establishment of district boundary lines and any alteration
11 thereof under this subsection shall be done by the county board. If the
12 county board fails to do so by the applicable deadline, district
13 boundaries shall be drawn by the election commissioner within six months
14 after the deadline established for the drawing or redrawing of district
15 boundaries by the county board. If the election commissioner fails to
16 meet such deadline, the remedies established in subsection (3) of section
17 32-555 shall apply.

18 (4) The district boundary lines shall not be changed at any session
19 of the county board unless all of the commissioners are present at such
20 session.

21 (5) Commissioners shall be elected as provided in section 32-528.
22 Elections shall be conducted as provided in the Election Act.

23 Sec. 3. Section 32-540, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 32-540 (1) Except as otherwise provided in subsection (2) of this
26 section, in each metropolitan utilities district service area, two of the
27 members of the board of directors shall be chosen at large by the
28 registered voters within the district at the time of the statewide
29 primary and statewide general elections held in the even-numbered years,
30 except that at the primary and general elections held in 1978 and every
31 six years thereafter, three members, one of whom shall be known as the

1 outside member, shall be elected at large by the registered voters within
2 the district.

3 (2)(a) The board of directors of a metropolitan utilities district
4 may by resolution provide for the division of the territory of the
5 district into seven election subdivisions composed of substantially equal
6 population, subject to section 1 of this act, and compact and contiguous
7 territory and number the subdivisions consecutively. One member of the
8 board of directors shall be elected from each subdivision.

9 (b) If the board of directors provides for seven election
10 subdivisions prior to February 1, 2016, the board of directors shall
11 assign each position on the board of directors to represent a numbered
12 election subdivision for the remainder of the term of office for which
13 the member is elected, regardless of whether the member resides in the
14 subdivision, and shall make such assignments so that members representing
15 election subdivisions numbered one and two hold office until the first
16 Tuesday after the first Monday in January 2019 or until their successors
17 are elected and qualified, members representing election subdivisions
18 numbered three, four, and five hold office until the first Tuesday after
19 the first Monday in January 2021 or until their successors are elected
20 and qualified, and members representing election subdivisions six and
21 seven hold office until the first Tuesday after the first Monday in
22 January 2023 or until their successors are elected and qualified.

23 (c) A successor who resides in the numbered election subdivision
24 shall be nominated and elected at the statewide primary and general
25 elections held in the calendar year prior to the expiration of the term
26 of the member who represents such numbered election subdivision.

27 (d) After each federal decennial census, the board of directors
28 shall create new boundaries for the election subdivisions. In
29 establishing the boundaries of the election subdivisions, the board of
30 directors shall follow county lines wherever practicable, shall provide
31 for the subdivisions to be composed of substantially equal population,

1 subject to section 1 of this act, and compact and contiguous territory,
2 and shall, as nearly as possible, follow the precinct lines created by
3 the election commissioner or county clerk after each federal decennial
4 census.

5 (3) Nomination and election of all directors shall be by nonpartisan
6 ballot. Except as provided in subsection (2) of this section, members of
7 the board shall hold office for a period of six years from the first
8 Tuesday after the first Monday in January following their election or
9 until their successors are elected and qualified. The directors shall
10 meet the qualifications found in sections 14-2102 and 14-2103.

11 Sec. 4. Section 32-552, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 32-552 (1) At least five months prior to an election, the governing
14 board of any political subdivision requesting the adjustment of the
15 boundaries of election districts shall provide written notification to
16 the election commissioner or county clerk of the need and necessity of
17 his or her office to perform such adjustments.

18 (2) After the next federal decennial census, the election
19 commissioner of the county in which the greater part of a Class IV school
20 district is situated shall, subject to review by the school board, divide
21 the school district into seven numbered districts, substantially equal in
22 population as determined by the most recent federal decennial census. The
23 election commissioner shall consider the location of schools within the
24 district and their boundaries. The election commissioner shall adjust the
25 boundaries of the election districts, subject to final review and
26 adjustment by the school board, to conform to changes in the territory
27 and population of the school district and also following each federal
28 decennial census. Except when specific procedures are otherwise provided,
29 section 32-553 shall apply to all Class IV school districts.

30 (3) For purposes of election of members to the board of education of
31 a Class V school district:

1 (a)(i) The Legislature hereby divides such school district into nine
2 numbered election districts of compact and contiguous territory and of as
3 nearly equal population as may be practical. Each election district shall
4 be entitled to one member on the board of education of such Class V
5 school district. The Legislature adopts the official population figures
6 and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/
7 Line Shapefiles published by the United States Department of Commerce,
8 Bureau of the Census. The numbers and boundaries of the election
9 districts are designated and established by a map identified and labeled
10 as OPS-13-002, filed with the Clerk of the Legislature, and incorporated
11 by reference as part of Laws 2013, LB125. Such districts are drawn using
12 the boundaries of the Class V school district as they existed on February
13 12, 2013; (ii) the Clerk of the Legislature shall transfer possession of
14 the map referred to in subdivision (a)(i) of this subsection to the
15 Secretary of State and the election commissioner of the county in which
16 the greater part of the school district is situated on February 12, 2013;
17 (iii) when questions of interpretation of such election district
18 boundaries arise, the map referred to in subdivision (a)(i) of this
19 subsection in possession of such election commissioner shall serve as the
20 indication of the legislative intent in drawing the election district
21 boundaries; (iv) the Secretary of State and such election commissioner
22 shall also have available for viewing on his or her web site the map
23 referred to in subdivision (a)(i) of this subsection identifying the
24 boundaries for such election districts; and (v) the twelve numbered
25 districts in existence on January 1, 2013, shall remain unchanged until
26 the terms of members elected at the election in May 2013 begin; and
27 (b) After the next federal decennial census after February 12, 2013,
28 the election commissioner of the county in which the greater part of a
29 Class V school district is situated shall divide the school district into
30 nine numbered districts of compact and contiguous territory and of as
31 nearly equal population as may be practical subject to section 1 of this

1 act. The election commissioner shall adjust the boundaries of such
2 districts, subject to final review and adjustment by the school board, to
3 conform to changes in the territory of the school district and also
4 following each federal decennial census.

5 Sec. 5. Section 32-553, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 32-553 (1) When any political subdivision except a public power
8 district nominates or elects members of the governing board by districts,
9 such districts shall be substantially equal in population as determined
10 by the most recent federal decennial census subject to section 1 of this
11 act. Any such political subdivision which has districts in place on the
12 date the census figures used in drawing district boundaries for the
13 Legislature are required to be submitted to the state by the United
14 States Department of Commerce, Bureau of the Census, shall, if necessary
15 to maintain substantial population equality as required by this
16 subsection, have new district boundaries drawn within six months after
17 the passage and approval of the legislative bill providing for
18 reestablishing legislative districts. Any such political subdivision in
19 existence on the date the census figures used in drawing district
20 boundaries for the Legislature are required to be submitted to the state
21 by the United States Department of Commerce, Bureau of the Census, and
22 which has not established any district boundaries shall establish
23 district boundaries pursuant to this section within six months after such
24 date. If the deadline for drawing or redrawing district boundary lines
25 imposed by this section is not met, the procedures set forth in section
26 32-555 shall be followed.

27 (2) The governing board of each such political subdivision shall be
28 responsible for drawing its own district boundaries and shall, as nearly
29 as possible, follow the precinct lines created by the election
30 commissioner or county clerk after each federal decennial census, except
31 that the election commissioner of any county in which a Class IV or V

1 school district is located shall draw district boundaries for such school
2 district as provided in this section and section 32-552.

3 Sec. 6. Section 32-554, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 32-554 (1)(a) Any city not under a home rule charter, village,
6 county, or school district nominating and electing members to its
7 governing board at large may, either by majority vote of the governing
8 body or by petition of registered voters pursuant to subsection (2) of
9 this section, submit, at a general election, the question of nominating
10 and electing members to its governing board by district or ward.

11 (b) Any city not under a home rule charter, village, county having
12 not more than four hundred thousand inhabitants as determined by the most
13 recent federal decennial census, or school district nominating and
14 electing members to its governing board by district or ward may, either
15 by majority vote of the governing body or by petition of registered
16 voters pursuant to subsection (2) of this section, submit, at a general
17 election, the question of nominating and electing members to its
18 governing board at large.

19 (c) Any city of the first class, except a city having adopted the
20 commissioner or city manager plan of government, nominating and electing
21 members to its governing body by ward may, either by ordinance by
22 majority vote of the governing body or by petition of registered voters
23 pursuant to subsection (2) of this section, submit, at a general
24 election, the question of nominating and electing some of the members to
25 its governing body by ward and some at large. No more than four members
26 of the city council may be elected on an at-large basis, and at least
27 four members of the city council shall be elected by ward. The ordinance
28 of the governing body or petition shall specify the number of at-large
29 members to be elected. At the first election in which one or more at-
30 large members are to be elected to the city council, the members shall be
31 elected to serve for initial terms of office of the following lengths:

1 (i) If one at-large member is to be elected, he or she shall serve for a
2 four-year term; (ii) if two at-large members are to be elected, the
3 candidate receiving the highest number of votes shall be elected to serve
4 for a four-year term and the other elected member shall be elected to
5 serve for a two-year term; (iii) if three at-large members are to be
6 elected, the two candidates receiving the highest number of votes shall
7 be elected to serve for four-year terms and the other elected member
8 shall be elected to serve for a two-year term; and (iv) if four at-large
9 members are to be elected, the two candidates receiving the highest
10 number of votes shall be elected to serve for four-year terms and the
11 other elected members shall be elected to serve for two-year terms.
12 Following the initial term of office, all at-large council members shall
13 be elected to serve for four-year terms. No candidate may file as both an
14 at-large candidate and a candidate by ward at the same election.

15 (2) Petitions for submission of the question shall be signed by
16 registered voters of the city, village, county, or school district
17 desiring to change the procedures for electing the governing board of the
18 city, village, county, or school district. The petition or petitions
19 shall be signed by registered voters equal in number to twenty-five
20 percent of the votes cast for the person receiving the highest number of
21 votes in the city, village, county, or school district at the preceding
22 general election for electing the last member or members to its governing
23 board. Each sheet of the petition shall have printed the full and correct
24 copy of the question as it will appear on the official ballot. The
25 petitions shall be filed with the county clerk or election commissioner
26 not less than seventy days prior to the date of the general election, and
27 no signatures shall be added or removed from the petitions after they
28 have been so filed. Petitions shall be verified as provided in section
29 32-631. If the petition or petitions are found to contain the required
30 number of valid signatures, the county clerk or election commissioner
31 shall place the question on a separate ballot to be issued to the

1 registered voters of the city, village, county, or school district
2 entitled to vote on the question.

3 (3)(a) Any city, village, county, or school district voting to
4 change from nominating and electing the members of its governing board by
5 district or ward to nominating and electing some or all of such members
6 at large shall notify the public and instruct the filing officer to
7 accept the appropriate filings on an at-large basis. Candidates to be
8 elected at large shall be nominated and elected on an at-large basis at
9 the next primary and general election following submission of the
10 question.

11 (b) Any city, village, county, or school district voting to change
12 from nominating and electing the members of its governing board at large
13 to nominating and electing by district or ward shall notify the public
14 and instruct the filing officer to accept all filings by district or
15 ward. Candidates shall be nominated and elected by district or ward at
16 the next primary and general election following submission of the
17 question. When district or ward elections have been approved by the
18 majority of the electorate, the governing board of any city, village,
19 county, or school district approving such question shall establish
20 districts substantially equal in population as determined by the most
21 recent federal decennial census, subject to section 1 of this act, except
22 as provided in subsection (2) of section 32-553.

23 (4) Except as provided in section 14-201, each city not under a home
24 rule charter, village, county, and school district which votes to
25 nominate and elect members to its governing board by district or ward
26 shall establish districts or wards so that approximately one-half of the
27 members of its governing board may be nominated and elected from
28 districts or wards at each election. Districts or wards shall be created
29 not later than October 1 in the year following the general election at
30 which the question was voted upon. If the governing board fails to draw
31 district boundaries by October 1, the procedures set forth in section

1 32-555 shall be followed.

2 Sec. 7. Section 32-555, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 32-555 (1) Except as provided in subsection (4) of this section, if
5 the governing board of any city, village, county, or school district
6 which nominates or elects members to the board by district or ward fails
7 to draw district boundaries by the date established in subsection (1) of
8 section 32-553 or subsection (4) of section 32-554, the county attorney
9 of the county in which the board is located shall file an action in the
10 district court for the purpose of ordering the board to draw district
11 boundaries. If within six months after the receipt of such order the
12 board does not comply, the members of the board shall be subject to
13 removal and the court shall order the Secretary of State to draw district
14 boundaries in accordance with the most recent federal decennial census
15 subject to section 1 of this act. Any vacancy resulting from such removal
16 from office shall be filled as provided by law.

17 (2) If the county attorney fails to file the action required by
18 subsection (1) of this section, he or she shall be subject to removal
19 from office. If the county attorney fails to file such action, any
20 citizen within the jurisdiction of the governing board may file the
21 action. The court shall order the board to pay any costs and attorney's
22 fees involved in such action.

23 (3) If an election commissioner required to draw district boundaries
24 for any county having more than four hundred thousand inhabitants as
25 determined by the most recent federal decennial census pursuant to
26 sections 23-151 and 32-553 fails to do so, the election commissioner
27 shall be subject to (a) suit by the county attorney for the purpose of
28 ordering the drawing of district boundaries, (b) removal from office
29 pursuant to section 32-214 for failure to comply with an order to draw
30 district boundaries within six months of receipt of such order, and (c)
31 suit by any citizen for the purpose of ordering the drawing of district

1 boundaries and shall be obligated to pay any costs and attorney's fees
2 involved in any such action.

3 (4) If the county board of any county having more than four hundred
4 thousand inhabitants as determined by the most recent federal decennial
5 census fails to complete the process of drawing district boundaries as
6 provided for in sections 23-151 and 32-553, the procedures set forth in
7 subdivision (3)(b) of section 23-151 shall be followed.

8 Sec. 8. Section 79-1217.01, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 79-1217.01 By December 31, 2007, and after each decennial census
11 pursuant to section 32-553, each educational service unit board, except
12 boards of educational service units with only one member school district,
13 shall divide the territory of the educational service unit into at least
14 five and up to twelve numbered districts for the purpose of electing
15 members to the board in compliance with section 32-553. Such districts
16 shall be compact and contiguous and substantially equal in population
17 subject to section 1 of this act. The newly established election
18 districts shall apply beginning with the nomination and election of
19 educational service unit board members in 2008.

20 Sec. 9. Original sections 32-540, 32-552, 32-553, 32-554, 32-555,
21 and 79-1217.01, Reissue Revised Statutes of Nebraska, and section 23-151,
22 Revised Statutes Cumulative Supplement, 2016, are repealed.