

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 412

Introduced by Geist, 25; Lowe, 37; Slama, 1.

Read first time January 18, 2019

Committee:

- 1 A BILL FOR AN ACT relating to the Joint Public Agency Act; to amend
- 2 sections 13-2501, 13-2504, 13-2509, 13-2510, and 13-2513, Reissue
- 3 Revised Statutes of Nebraska; to require an election to approve
- 4 creation of a joint public agency as prescribed; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-2501, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 13-2501 Sections 13-2501 to 13-2550 and section 2 of this act shall
4 be known and may be cited as the Joint Public Agency Act.

5 Sec. 2. (1) Beginning on the effective date of this act, before any
6 agreement is entered into regarding the creation of a joint public agency
7 which involves a political subdivision of this state that has authority
8 to levy a tax or issue bonds, the question of the creation of the joint
9 public agency shall be submitted to the registered voters of each such
10 political subdivision which intends to be a party to the agreement at an
11 election held in conjunction with the statewide primary election or
12 statewide general election as provided in subsection (2) of this section.
13 No agreement shall be entered into until the question has been submitted
14 to the registered voters of each such political subdivision and a
15 majority of all the voters voting on the question have voted in favor of
16 creating the joint public agency, at an election called for the purpose,
17 upon notice given by the governing body of each political subdivision at
18 least twenty days prior to such election. The same measure, either in
19 form or in essential substance, shall not be submitted to the people,
20 either affirmatively or negatively, for a period of six months from and
21 after the date of such election.

22 (2)(a) The governing body of each such political subdivision shall
23 order the question to be submitted to the voters by a resolution of a
24 majority of the members of the governing body, in writing, and filed with
25 the election commissioner or county clerk not less than fifty days prior
26 to the statewide primary or statewide general election. If the political
27 subdivision or political subdivisions are located in more than one
28 county, the order shall be filed with the election commissioner or county
29 clerk of the county having the greatest number of registered voters
30 entitled to vote on the question. The election commissioner or county
31 clerk receiving such order shall conduct the election for such political

1 subdivisions as provided in the Election Act. If the political
2 subdivisions have overlapping jurisdiction of any geographic area, the
3 registered voters residing in such geographic area shall only be entitled
4 to one vote on such question at such election.

5 (b) The governing body of each such political subdivision shall
6 publish a special notice of the election in a newspaper or newspapers of
7 general circulation within such political subdivisions stating the day of
8 the election, the hours during which the polls will be open, and any
9 other information deemed necessary in informing the public of the
10 question. The notice shall be made at least twenty days prior to the
11 election.

12 (c) If the question is voted upon in one or more counties and the
13 ballots have been certified across county lines, the election boards in
14 the counties where the ballots are cast shall count the ballots on
15 election day the same as all other ballots are counted and seal the same
16 in their ballots-cast container along with other ballots. The canvassing
17 boards in each county shall canvass the returns in the same manner as
18 other returns are canvassed.

19 (d) The election commissioner or county clerk in any other county
20 voting on the question shall certify the returns to the election
21 commissioner or county clerk of the county having the greatest number of
22 registered voters entitled to vote on the question. The election
23 commissioner or county clerk in such county shall enter the total returns
24 from any other county to the total votes recorded in his or her official
25 book of votes cast and shall certify the returns to the governing body
26 for which such election was held.

27 Sec. 3. Section 13-2504, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 13-2504 (1) Subject to section 2 of this act, any Any two or more
30 public agencies may enter into agreements with one another for joint or
31 cooperative action pursuant to the Joint Public Agency Act. Appropriate

1 action by ordinance, resolution, or otherwise pursuant to law of the
2 governing bodies of the participating public agencies shall be necessary
3 before any such agreement may enter into force.

4 (2) Any such agreement shall specify the following:

5 (a) Its duration;

6 (b) The general organization, composition, and nature of any joint
7 public agency created by the agreement together with the powers delegated
8 to the entity;

9 (c) Its purpose or purposes;

10 (d) The manner of financing the joint undertaking and of
11 establishing and maintaining a budget;

12 (e) The permissible method or methods to be employed in amending the
13 agreement or accomplishing the partial or complete termination of the
14 agreement and for disposing of property upon such partial or complete
15 termination consistent with section 13-2518;

16 (f) The manner of levying, collecting, and accounting for any tax
17 authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816 and any
18 allocation of tax authority under section 13-2507; and

19 (g) Any other necessary and proper matters.

20 (3) No agreement made pursuant to the Joint Public Agency Act shall
21 relieve any public agency of any obligation or responsibility imposed
22 upon it by law except to the extent of actual and timely performance by a
23 joint public agency created by an agreement made pursuant to the act,
24 which performance may be offered in satisfaction of the obligation or
25 responsibility.

26 (4) Participating public agencies may transfer property, other
27 assets, and employees to a joint public agency as provided in the
28 agreement. Notwithstanding other provisions of law, if employees are
29 transferred any vested employment rights shall be transferred with the
30 employee and the employee shall be vested with the joint public agency at
31 the time of transfer.

1 (5) Any governing body as defined in section 13-503 which is a party
2 to an agreement made pursuant to the Joint Public Agency Act shall
3 provide information to the Auditor of Public Accounts regarding such
4 agreements as required in section 13-513.

5 Sec. 4. Section 13-2509, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 13-2509 (1) Prior to approval by the voters of any participating
8 political subdivisions pursuant to section 2 of this act, the The
9 governing body of each public agency participating in the creation of a
10 joint public agency shall adopt a resolution determining that there is a
11 need for a joint public agency and setting forth the names of the
12 proposed participating public agencies. The resolution shall be published
13 in three issues, not less than seven days between issues, of a legal
14 newspaper for each proposed participating public agency or a newspaper
15 having general circulation in the area served by a proposed participating
16 public agency if no legal newspaper exists for the participating public
17 agency and of one or more newspapers of general circulation in the area
18 to be served by the joint public agency. Any such resolution shall not be
19 adopted by a public agency prior to five days after the last publication
20 by the proposed participating public agency. In the case of a state
21 agency, the governing board shall adopt the resolution, or if there is no
22 governing board, the Governor shall issue a proclamation without notice
23 in lieu of a resolution. In the case of a federal agency, the governing
24 board shall adopt the resolution or, if there is no governing board, the
25 President of the United States shall issue a proclamation without notice
26 in lieu of a resolution. The resolution may be adopted by a governing
27 body on its own motion upon determining, in its discretion, that a need
28 exists for a joint public agency. In determining whether such a need
29 exists, a governing body may take into consideration the present and
30 future needs of the public agency with respect to the materials, goods,
31 property, and services which a joint public agency may utilize or

1 provide, the adequacy, suitability, and availability of such materials,
2 goods, property, and services to meet the needs of the participating
3 public agency if no joint public agency is formed, and economic or other
4 advantages or efficiencies which may be realized by cooperative action
5 through a joint public agency. Upon a determination of need and prior to
6 entering into an agreement involving a political subdivision of this
7 state, the question shall be submitted to the voters pursuant to section
8 2 of this act.

9 (2) Upon issuance of a certificate of creation by the Secretary of
10 State pursuant to section 13-2511, the Governor in the case of a
11 participating state agency which does not have a governing board, the
12 President of the United States or federal agency head in the case of a
13 federal agency, the mayor or city manager in the case of a city which has
14 not elected to be governed as a village, or the chairperson of the
15 governing body of each participating public agency shall appoint
16 representatives as provided by the agreement for creation of the joint
17 public agency. Representatives, other than representatives appointed by
18 the Governor, the President of the United States, or a federal agency
19 head, must be members of the governing body of the participating public
20 agency which they are appointed to represent. Upon issuance of an amended
21 certificate of creation pursuant to section 13-2513, a representative
22 shall be appointed by each additional participating public agency as
23 provided in this section. An alternate representative with the same
24 qualifications may be appointed in the same manner as a representative
25 and shall serve and exercise all powers of a representative in the
26 absence of the representative for whom he or she is the alternate. The
27 representatives shall constitute the board in which shall be vested all
28 powers of the joint public agency.

29 Sec. 5. Section 13-2510, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 13-2510 (1) Within thirty days after adoption of the resolutions

1 for creation of a joint public agency by the proposed participating
2 public agencies if approval by the voters is not required pursuant to
3 section 2 of this act, the board shall file with the Secretary of State a
4 statement signed by the representatives setting forth (a) ~~(1)~~ the names
5 of all the proposed participating public agencies, (b) ~~(2)~~ a certified
6 copy of each of the resolutions of the participating public agencies
7 determining the need for such a joint public agency, (c) ~~(3)~~ proof of
8 publication as required in subsection (1) of section 13-2509, (d) ~~(4)~~ a
9 brief description of the nature of the joint public agency's activities,
10 and (e) ~~(5)~~ the name of the joint public agency.

11 (2) Within thirty days after approval by the voters if required
12 pursuant to section 2 of this act and adoption of the resolutions for
13 creation of a joint public agency by the proposed participating public
14 agencies which are not required to submit the question to the voters
15 pursuant to section 2 of this act, the board shall file with the
16 Secretary of State a statement signed by the representatives setting
17 forth (a) the names of all the proposed participating public agencies,
18 (b) a certified copy of each of the resolutions of the participating
19 public agencies determining the need for such a joint public agency, (c)
20 proof of publication as required in subsection (1) of section 13-2509,
21 (d) proof of approval by the voters, (e) a brief description of the
22 nature of the joint public agency's activities, and (f) the name of the
23 joint public agency.

24 Sec. 6. Section 13-2513, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 13-2513 After the creation of a joint public agency, any other
27 public agency may become a participating public agency therein upon (1)
28 the adoption of a resolution by the governing body of the public agency
29 setting forth the determination prescribed in section 13-2509 and
30 authorizing the public agency to become a participating public agency
31 after notice as described in subsection (1) of section 13-2509, (2)

1 application to the joint public agency, ~~and~~ (3) adoption by a majority
2 vote of the representatives, unless the joint public agency's rules of
3 governance require a greater percentage, of a resolution by the board
4 admitting the public agency as a participating public agency, and (4)
5 approval by the registered voters of the joining public agency, if it is
6 a political subdivision of this state, pursuant to section 2 of this act.
7 Thereupon the public agency shall become a participating public agency
8 entitled to appoint a representative or representatives in the manner
9 prescribed by sections 13-2509 and 13-2515 and to otherwise participate
10 in the joint public agency to the same extent as if the public agency had
11 participated in the creation of the joint public agency. Upon the filing
12 with the Secretary of State of certified copies of the resolutions
13 described in this section and proof of publication of notice, the
14 Secretary of State shall issue an amended certificate of creation setting
15 forth the names of the participating public agencies, the date of
16 creation, and the name of the joint public agency. Notice shall be given
17 as provided in section 13-2511.

18 Sec. 7. Original sections 13-2501, 13-2504, 13-2509, 13-2510, and
19 13-2513, Reissue Revised Statutes of Nebraska, are repealed.