

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 66

Introduced by Schilz, 47.

Read first time January 10, 2013

Committee:

A BILL

1 FOR AN ACT relating to cities of the first class; to amend sections
2 16-117, 16-120, and 16-130, Reissue Revised Statutes of
3 Nebraska; to authorize annexation of certain
4 noncontiguous property as prescribed; to change
5 provisions relating to the extension of city services;
6 and to repeal the original sections.

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

1 Section 1. Section 16-117, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 16-117 (1)(a) Except as provided in sections 13-1111 to
4 13-1120 and 16-130 and subject to this section, the mayor and city
5 council of a city of the first class may by ordinance at any time
6 include within the corporate limits of such city (i) any contiguous
7 or adjacent lands, lots, tracts, streets, or highways as are urban or
8 suburban in character and in such direction as may be deemed proper
9 and (ii) any noncontiguous lands, lots, or tracts that are owned by
10 such city.

11 (b) Such grant of power shall not be construed as
12 conferring power upon the mayor and city council to extend the limits
13 of a city of the first class over any agricultural lands which are
14 rural in character.

15 (2) Any owner of property which constitutes part of a
16 redevelopment project area so designated by a city of the first class
17 or its community redevelopment authority in accordance with the
18 provisions of the Community Development Law and sections 18-2145 to
19 18-2154 may by petition request that such property be included within
20 the corporate limits of such city if such annexation is for the
21 purpose of implementing a lawfully adopted redevelopment plan
22 containing a provision dividing ad valorem taxes as provided in
23 subsection (1) of section 18-2147 and which will involve any
24 construction or development of a commercial or industrial nature,
25 notwithstanding that such property is not contiguous or adjacent or

1 is not urban or suburban in character. Such city shall not, in
2 consequence of the annexation under this subsection of any
3 noncontiguous land, exercise the authority granted to it by statute
4 to extend its jurisdiction beyond its corporate boundaries for
5 purposes of planning, zoning, or subdivision development without the
6 agreement of any other city, village, or county currently exercising
7 such jurisdiction over the area surrounding the annexed redevelopment
8 project area. The annexation of any noncontiguous land undertaken
9 pursuant to this subsection shall not result in any change in the
10 service area of any electric utility without the express agreement of
11 the electric utility serving the annexed noncontiguous area at the
12 time of annexation, except that at such time following the annexation
13 of the noncontiguous area as the city lawfully annexes sufficient
14 intervening territory so as to directly connect the noncontiguous
15 area to the main body of the city, such noncontiguous area shall,
16 solely for the purposes of section 70-1008, be treated as if it had
17 been annexed by the city on the date upon which the connecting
18 intervening territory had been formally annexed.

19 ~~(2)~~(3) The invalidity of the annexation of any tract of
20 land in one ordinance shall not affect the validity of the remaining
21 tracts of land which are annexed by the ordinance and which otherwise
22 conform to state law.

23 ~~(3)~~(4) The city council proposing to annex land under
24 the authority of this section shall first adopt both a resolution
25 stating that the city is proposing the annexation of the land and a

1 plan for extending city services to the land. The resolution shall
2 state:

3 (a) The time, date, and location of the public hearing
4 required by subsection ~~(5)~~(6) of this section;

5 (b) A description of the boundaries of the land proposed
6 for annexation; and

7 (c) That the plan of the city for the extension of city
8 services to the land proposed for annexation is available for
9 inspection during regular business hours in the office of the city
10 clerk.

11 ~~(4)~~(5) The plan adopted by the city council shall
12 contain sufficient detail to provide a reasonable person with a full
13 and complete understanding of the proposal for extending city
14 services to the land proposed for annexation. The plan shall (a)
15 state the estimated cost impact of providing the services to such
16 land, (b) state the method by which the city plans to finance the
17 extension of services to the land and how any services already
18 provided to the land will be maintained, (c) include a timetable for
19 extending services to the land proposed for annexation, and (d)
20 include a map drawn to scale clearly delineating the land proposed
21 for annexation, the current boundaries of the city, the proposed
22 boundaries of the city after the annexation, and the general land-use
23 pattern in the land proposed for annexation.

24 ~~(5)~~(6) A public hearing on the proposed annexation shall
25 be held within sixty days following the adoption of the resolution

1 proposing to annex land to allow the city council to receive
2 testimony from interested persons. The city council may recess the
3 hearing, for good cause, to a time and date specified at the hearing.

4 ~~(6)-(7)~~ A copy of the resolution providing for the public
5 hearing shall be published in the official newspaper in the city at
6 least once not less than ten days preceding the date of the public
7 hearing. A map drawn to scale delineating the land proposed for
8 annexation shall be published with the resolution. A copy of the
9 resolution providing for the public hearing shall be sent by first-
10 class mail following its passage to the school board of any school
11 district in the land proposed for annexation.

12 ~~(7)-(8)~~ Any owner of property contiguous or adjacent to a
13 city of the first class may by petition request that such property be
14 included within the corporate limits of such city. The mayor and city
15 council may include such property within the corporate limits of the
16 city without complying with subsections ~~(3)-(4)~~ through ~~(6)-(7)~~ of
17 this section.

18 ~~(8)-(9)~~ Notwithstanding the requirements of this section,
19 the mayor and city council are not required to approve any petition
20 requesting annexation or any resolution or ordinance proposing to
21 annex land pursuant to this section.

22 Sec. 2. Section 16-120, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 16-120 ~~The~~ (1) Except as provided in subsection (2) of
25 this section, the inhabitants of territories annexed to such a city

1 of the first class shall receive substantially the services of other
2 inhabitants of such city as soon as practicable. Adequate plans and
3 necessary city council action to furnish such services shall be
4 adopted not later than one year after the date of annexation, ~~and~~
5 ~~such inhabitants shall be subject to the ordinances and regulations~~
6 ~~of such city,~~ except that the one-year period shall be tolled pending
7 final court decision in any court action to contest such annexation.

8 (2) For property annexed to a city of the first class
9 pursuant to subsection (2) of section 16-117 or subsection (3) of
10 section 16-130, the city and the owner of such property shall
11 negotiate and enter into an agreement to determine which city
12 services will be provided to such property and when such services
13 will be provided. The terms of the agreement shall be included within
14 the city ordinance authorizing such annexation.

15 (3) The inhabitants of territories annexed to a city of
16 the first class shall be subject to the ordinances and regulations of
17 such city.

18 Sec. 3. Section 16-130, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 16-130 (1) The provisions of this section shall govern
21 annexation by a city of the first class located in whole or in part
22 within the boundaries of a county having a population in excess of
23 one hundred thousand inhabitants but less than two hundred thousand
24 inhabitants.

25 (2)(a) Except as provided in sections 13-1111 to 13-1120

1 and subject to this section, the mayor and city council of a city of
2 the first class described in subsection (1) of this section may by
3 ordinance at any time include within the corporate limits of such
4 city (i) any contiguous or adjacent lands, lots, tracts, streets, or
5 highways as are urban or suburban in character and in such direction
6 as may be deemed proper and (ii) any noncontiguous lands, lots, or
7 tracts that are owned by such city.

8 (b) Such grant of power shall not be construed as
9 conferring power upon the mayor and city council to extend the limits
10 of such a city over any agricultural lands which are rural in
11 character.

12 (3) Any owner of property which constitutes part of a
13 redevelopment project area so designated by a city of the first class
14 described in subsection (1) of this section or its community
15 redevelopment authority in accordance with the provisions of the
16 Community Development Law and sections 18-2145 to 18-2154 may by
17 petition request that such property be included within the corporate
18 limits of such city if such annexation is for the purpose of
19 implementing a lawfully adopted redevelopment plan containing a
20 provision dividing ad valorem taxes as provided in subsection (1) of
21 section 18-2147 and which will involve any construction or
22 development of a commercial or industrial nature, notwithstanding
23 that such property is not contiguous or adjacent or is not urban or
24 suburban in character. Such city shall not, in consequence of the
25 annexation under this subsection of any noncontiguous land, exercise

1 the authority granted to it by statute to extend its jurisdiction
2 beyond its corporate boundaries for purposes of planning, zoning, or
3 subdivision development without the agreement of any other city,
4 village, or county currently exercising such jurisdiction over the
5 area surrounding the annexed redevelopment project area. The
6 annexation of any noncontiguous land undertaken pursuant to this
7 subsection shall not result in any change in the service area of any
8 electric utility without the express agreement of the electric
9 utility serving the annexed noncontiguous area at the time of
10 annexation, except that at such time following the annexation of the
11 noncontiguous area as the city lawfully annexes sufficient
12 intervening territory so as to directly connect the noncontiguous
13 area to the main body of the city, such noncontiguous area shall,
14 solely for the purposes of section 70-1008, be treated as if it had
15 been annexed by the city on the date upon which the connecting
16 intervening territory had been formally annexed.

17 ~~(3)~~(4) The invalidity of the annexation of any tract of
18 land in one ordinance shall not affect the validity of the remaining
19 tracts of land which are annexed by the ordinance and which otherwise
20 conform to state law.

21 ~~(4)~~(5) Any owner of property contiguous or adjacent to
22 such a city may by petition request that such property be included
23 within the corporate limits of such city.

24 ~~(5)~~(6) Notwithstanding the requirements of this section,
25 the mayor and city council are not required to approve any petition

1 requesting annexation or any resolution or ordinance proposing to
2 annex land pursuant to this section.

3 ~~(6)~~(7) Not later than fourteen days prior to the public
4 hearing before the planning commission on a proposed annexation by
5 the city, the city clerk shall send notice of the proposed annexation
6 by certified mail, return receipt requested, to any of the following
7 entities serving customers in such city or in the area proposed for
8 annexation: Any natural gas public utility as defined in section
9 66-1802; any natural gas utility owned or operated by the city; any
10 metropolitan utilities district; any public power district; any
11 public power and irrigation district; any municipality; any electric
12 cooperative; and any other governmental entity providing electric
13 service. Such notice shall include a copy of the proposed annexation
14 ordinance, the date, time, and place of the public hearing before the
15 planning commission on the proposed annexation ordinance, and a map
16 showing the boundaries of the area proposed for annexation.

17 ~~(7)~~(8) Prior to the final adoption of the annexation
18 ordinance, the minutes of the city council meeting at which such
19 final adoption was considered shall reflect formal compliance with
20 the provisions of subsection ~~(6)~~(7) of this section.

21 ~~(8)~~(9) No additional or further notice beyond that
22 required by subsection ~~(6)~~(7) of this section shall be necessary in
23 the event (a) that the scheduled city council public hearing on the
24 proposed annexation is adjourned, continued, or postponed until a
25 later date or (b) that subsequent to providing such notice the

1 ordinance regarding such proposed annexation was amended, changed, or
2 rejected by action of the city council prior to formal passage of the
3 annexation ordinance.

4 ~~(9)~~ (10) Except for a willful or deliberate failure to
5 cause notice to be given, no annexation decision made by a city
6 either to accept or reject a proposed annexation, either in whole or
7 in part, shall be void, invalidated, or affected in any way because
8 of any irregularity, defect, error, or failure on the part of the
9 city or its employees to cause notice to be given as required by this
10 section if a reasonable attempt to comply with this section was made.

11 ~~(10)~~ (11) Except for a willful or deliberate failure to
12 cause notice to be given, the city and its employees shall not be
13 liable for any damage to any person resulting from any failure to
14 cause notice to be given as required by this section when a
15 reasonable attempt was made to provide such notice. No action for
16 damages resulting from the failure to cause notice to be provided as
17 required by this section shall be filed more than one year following
18 the date of the formal acceptance or rejection of the proposed
19 annexation, either in whole or in part, by the city council.

20 ~~(11)~~ (12) No action to challenge the validity of the
21 acceptance or rejection of a proposed annexation on the basis of this
22 section shall be filed more than one year following the date of the
23 formal acceptance or rejection of the annexation by the city council.

24 Sec. 4. Original sections 16-117, 16-120, and 16-130,
25 Reissue Revised Statutes of Nebraska, are repealed.