

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 125

Final Reading

Introduced by Lautenbaugh, 18; Avery, 28; Chambers, 11; Ashford, 20;
Murante, 49.

Read first time January 11, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to school boards; to amend sections 32-545,
 2 32-552, 79-4,129, 79-552, and 79-559, Reissue Revised
 3 Statutes of Nebraska, and sections 32-570 and 32-606,
 4 Revised Statutes Cumulative Supplement, 2012; to change
 5 the number and procedures for nominating, electing, and
 6 filling vacancies of members of school boards for Class V
 7 school districts; to eliminate requirements relating to
 8 taking the oath of office and provisions for student
 9 members for such boards; to harmonize provisions; to
 10 repeal the original sections; and to declare an
 11 emergency.

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

1 Section 1. Section 32-545, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-545 (1) A member of the board of education of a Class
4 V school district shall be elected from each district provided for in
5 section 32-552. Such election shall be held on the date provided in
6 subsection (3) or (4) of this section. The members of such board of
7 education shall meet the qualifications found in ~~section~~ sections
8 79-543 and 79-552. ~~At each statewide general election, six~~

9 (2) The term of office of each member serving on the
10 effective date of this act expires on the fourth Monday after such
11 election in 2013.

12 (3) At the election on the date provided in section
13 14-201 for the election of elective officers of a city of the
14 metropolitan class for 2013, members of the board shall be elected to
15 serve for ~~four years~~ terms as provided in subsection (4) of this
16 section, from and including the ~~first~~ fourth Monday ~~of the~~ January
17 ~~following~~ after their election or until their successors are elected
18 and qualified.

19 (4)(a) In 2013, candidates from all districts for
20 election to such board of education ~~Candidates~~ shall be nominated at
21 the ~~statewide~~ primary election held for nomination of candidates for
22 city council pursuant to section 14-204. Candidates for election to
23 such board of education shall be nominated upon a nonpartisan ballot.
24 ~~At the statewide general election in 1976 and each four years~~
25 ~~thereafter, one member shall be elected from each even-numbered~~

1 ~~district. At the statewide general election in 1978 and each four~~
2 ~~years thereafter, one member shall be elected from each odd-numbered~~
3 ~~district. The members shall meet the qualifications found in section~~
4 ~~79-543.~~

5 (b) In 2014, candidates for election to such board of
6 education from even-numbered districts shall be nominated at the
7 statewide primary election and elected at the statewide general
8 election and shall take office on the first Monday in January 2015.
9 Terms of the members elected from such even-numbered districts in
10 2013 shall expire on such date. In 2016, candidates for election to
11 such board of education from odd-numbered districts shall be
12 nominated at the statewide primary election and elected at the
13 statewide general election and shall take office on the first Monday
14 in January 2017. Terms of the members elected from odd-numbered
15 districts in 2013 shall expire on such date. Thereafter, all members
16 shall be nominated at the statewide primary election and elected at
17 the statewide general election, shall take office on the first Monday
18 in January following their election, and shall serve terms of four
19 years or until their successors are elected and qualified. Candidates
20 for election to such board of education shall be nominated upon the
21 nonpartisan ballot.

22 Sec. 2. Section 32-552, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 32-552 (1) At least five months prior to an election, the
25 governing board of any political subdivision requesting the

1 adjustment of the boundaries of election districts shall provide
2 written notification to the election commissioner or county clerk of
3 the need and necessity of his or her office to perform such
4 adjustments.

5 (2) After the next federal decennial census, the election
6 commissioner of the county in which the greater part of a Class IV
7 school district is situated shall, subject to review by the school
8 board, divide the school district into seven numbered districts,
9 substantially equal in population as determined by the most recent
10 federal decennial census. The election commissioner shall consider
11 the location of schools within the district and their boundaries. The
12 election commissioner shall adjust the boundaries of the election
13 districts, subject to final review and adjustment by the school
14 board, to conform to changes in the territory and population of the
15 school district and also following each federal decennial census.
16 Except when specific procedures are otherwise provided, section
17 32-553 shall apply to all Class IV school districts.

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

20 (a)(i) The Legislature hereby divides such school
21 district into nine numbered election districts of compact and
22 contiguous territory and of as nearly equal population as may be
23 practical. Each election district shall be entitled to one member on
24 the board of education of such Class V school district. The
25 Legislature adopts the official population figures and maps from the

1 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles
2 published by the United States Department of Commerce, Bureau of the
3 Census. The numbers and boundaries of the election districts are
4 designated and established by a map identified and labeled as
5 OPS-13-002, filed with the Clerk of the Legislature, and incorporated
6 by reference as part of this legislative bill. Such districts are
7 drawn using the boundaries of the Class V school district as they
8 existed on the effective date of this act; (ii) the Clerk of the
9 Legislature shall transfer possession of the map referred to in
10 subdivision (a)(i) of this subsection to the Secretary of State and
11 the election commissioner of the county in which the greater part of
12 the school district is situated on the effective date of this act;
13 (iii) when questions of interpretation of such election district
14 boundaries arise, the map referred to in subdivision (a)(i) of this
15 subsection in possession of such election commissioner shall serve as
16 the indication of the legislative intent in drawing the election
17 district boundaries; (iv) the Secretary of State and such election
18 commissioner shall also have available for viewing on his or her web
19 site the map referred to in subdivision (a)(i) of this subsection
20 identifying the boundaries for such election districts; and (v) the
21 twelve numbered districts in existence on January 1, 2013, shall
22 remain unchanged until the terms of members elected at the election
23 in May 2013 begin; and

24 ~~(3) The (b) After the next federal decennial census after~~
25 the effective date of this act, the election commissioner of the

1 county in which the greater part of a Class V school district is
2 situated shall divide the school district into ~~twelve~~nine numbered
3 districts of compact and contiguous territory and of as nearly equal
4 population as may be practical. The election commissioner shall
5 adjust the boundaries of such districts, subject to final review and
6 adjustment by the school board, to conform to changes in the
7 territory of the school district and also following each federal
8 decennial census.

9 Sec. 3. Section 32-570, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 32-570 (1) A vacancy in the membership of a school board
12 shall occur as set forth in section 32-560 or in the case of
13 absences, unless excused by a majority of the remaining members of
14 the board, when a member is absent from the district for a continuous
15 period of sixty days at one time or from more than two consecutive
16 regular meetings of the board. The resignation of a member or any
17 other reason for a vacancy shall be made a part of the minutes of the
18 school board. The school board shall give notice of the date the
19 vacancy occurred, the office vacated, and the length of the unexpired
20 term (a) in writing to the election commissioner or county clerk and
21 (b) by a notice published in a newspaper of general circulation in
22 the school district.

23 (2) A person appointed to fill a vacancy on the school
24 board of a Class I school district by the remaining members of the
25 board shall hold office until the beginning of the next school year.

1 A board member of a Class I school district elected to fill a vacancy
2 at a regular or special school district meeting shall serve for the
3 remainder of the unexpired term or until a successor is elected and
4 qualified.

5 (3) Except as provided in subsection (4) of this section,
6 a vacancy in the membership of a school board of a Class II, III, IV,
7 ~~V,~~ or VI school district resulting from any cause other than the
8 expiration of a term shall be filled by appointment of a qualified
9 registered voter by the remaining members of the board. If the
10 vacancy occurs in a Class II school district prior to July 1
11 preceding the general election in the middle of the vacated term, the
12 appointee shall serve until a registered voter is elected at such
13 general election for the remainder of the unexpired term. If the
14 vacancy occurs in a Class III, IV, ~~V,~~ or VI school district prior to
15 February 1 preceding the general election in the middle of the
16 vacated term, the appointee shall serve until a registered voter is
17 nominated at the next primary election and elected at the following
18 general election for the remainder of the unexpired term. If the
19 vacancy occurs on or after the applicable deadline, the appointment
20 shall be for the remainder of the unexpired term. A registered voter
21 appointed or elected pursuant to this subsection shall meet the same
22 requirements as the member whose office is vacant.

23 (4) Any vacancy in the membership of a school board of a
24 school district described in section 79-549 which does not nominate
25 candidates at a primary election and elect members at the following

1 general election shall be filled by appointment of a qualified
2 registered voter by the remaining members of the board. If the
3 vacancy occurs at least twenty days prior to the first regular caucus
4 to be held during the term that was vacated, the appointee shall
5 serve until a registered voter is nominated and elected to fill the
6 vacancy for the remainder of the term in the manner provided for
7 nomination and election of board members in the district. If the
8 vacancy occurred less than twenty days prior to the first regular
9 caucus and at least twenty days prior to the second regular caucus to
10 be held during the term that was vacated, the appointee shall serve
11 until a registered voter is nominated and elected to fill the vacancy
12 for the remainder of the term in the manner provided for nomination
13 and election of board members in the district. If the vacancy
14 occurred less than twenty days prior to the second regular caucus
15 held during the term that was vacated or after such caucus, the
16 appointment shall be for the remainder of the unexpired term.

17 (5) A vacancy in the membership of a school board of a
18 Class V school district resulting from any cause other than the
19 expiration of a term shall be filled by appointment of a qualified
20 registered voter by the remaining members of the board for the
21 remainder of the unexpired term. A registered voter appointed
22 pursuant to this subsection shall meet the same requirements as the
23 member whose office is vacant.

24 ~~(5)~~-(6) If any school board fails to fill a vacancy on
25 the board, the vacancy may be filled by election at a special

1 election or school district meeting called for that purpose. Such
2 election or meeting shall be called in the same manner and subject to
3 the same procedures as other special elections or school district
4 meetings.

5 ~~(6)-(7)~~ If there are vacancies in the offices of one-half
6 or more of the members of a school board, the Secretary of State
7 shall conduct a special school district election to fill such
8 vacancies.

9 Sec. 4. Section 32-606, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 32-606 (1) Any candidate may place his or her name on the
12 primary election ballot by filing a candidate filing form prescribed
13 by the Secretary of State as provided in section 32-607. If a
14 candidate for an elective office is an incumbent of any elective
15 office, the filing period for filing the candidate filing form shall
16 be between December 1 and February 15 prior to the date of the
17 primary election, except for candidates for election in 2013 to the
18 board of education of a Class V school district. No incumbent who
19 resigns from elective office prior to the expiration of his or her
20 term shall file for any office after February 15 of that election
21 year. All Incumbent and nonincumbent candidates for election in 2013
22 to the board of education of a Class V school district and all other
23 candidates shall file for office between December 1 and March 1 prior
24 to the date of the primary election. A candidate filing form may be
25 transmitted by facsimile for the offices listed in subdivision (1) of

1 section 32-607 if (a) the transmission is received in the office of
2 the filing officer by the filing deadline and (b) the original filing
3 form is mailed to the filing officer with a legible postmark bearing
4 a date on or prior to the filing deadline and is in the office of the
5 filing officer no later than seven days after the filing deadline.

6 (2) Any candidate for a township office in a county under
7 township organization, the board of trustees of a village, the board
8 of directors of a reclamation district, the county weed district
9 board, the board of directors of a public power district receiving
10 annual gross revenue of less than forty million dollars, the school
11 board of a Class II school district, or the board of an educational
12 service unit may place his or her name on the general election ballot
13 by filing a candidate filing form prescribed by the Secretary of
14 State as provided in section 32-607. If a candidate for an elective
15 office is an incumbent of any elective office, the filing period for
16 filing the candidate filing form shall be between December 1 and July
17 15 prior to the date of the general election. No incumbent who
18 resigns from elective office prior to the expiration of his or her
19 term shall file for any office after July 15 of that election year.
20 All other candidates shall file for office between December 1 and
21 August 1 prior to the date of the general election. A candidate
22 filing form may be transmitted by facsimile for the offices listed in
23 subdivision (1) of section 32-607 if (a) the transmission is received
24 in the office of the filing officer by the filing deadline and (b)
25 the original filing form is mailed to the filing officer with a

1 legible postmark bearing a date on or prior to the filing deadline
2 and is in the office of the filing officer no later than seven days
3 after the filing deadline.

4 (3) Any city having a home rule charter may provide for
5 filing deadlines for any person desiring to be a candidate for the
6 office of council member or mayor.

7 Sec. 5. Section 79-4,129, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 79-4,129 (1) Within thirty days after the classification
10 of the reorganized school districts by the county clerk under section
11 79-4,128, the state committee shall appoint from among the legal
12 voters of each new school district created the number of members
13 necessary to constitute a school board of the class in which the new
14 school district has been classified. A reorganized school district
15 shall be formed and organized and shall have a school board not later
16 than April 1 following the last legal action, as prescribed in
17 section 79-4,128, necessary to effect the changes in boundaries as
18 set forth in the plan of reorganization, although the physical
19 reorganization of such reorganized school district shall take effect
20 July 1 following the classification of the reorganized school
21 districts under section 79-4,128. The first board shall be appointed
22 on an at-large basis, and all boards shall be elected at large until
23 such time as election districts are established as provided in
24 section 32-554.

25 (2) In appointing the first school board of a Class II

1 school district, the members shall be appointed so that the terms of
2 three members expire on the date of the first regular meeting of the
3 board in January after the first even-numbered year following their
4 appointment and the terms of the three remaining members expire on
5 the date of the first regular meeting of the board in January after
6 the second even-numbered year following their appointment. At the
7 statewide general election in the first even-numbered year after the
8 reorganization, three board members in each Class II school district
9 shall be elected to terms of four years. Thereafter all candidates
10 shall be elected to terms of four years. Each member's term shall
11 begin on the date of the first regular meeting of the board in
12 January following his or her election.

13 (3) In appointing the first school board of a Class III
14 school district with a six-member board serving terms of four years,
15 the terms of three members shall expire on the first Thursday after
16 the first Tuesday in January after the first even-numbered year
17 following their appointment and the terms of the three remaining
18 members shall expire on the first Thursday after the first Tuesday in
19 January after the second even-numbered year following their
20 appointment. Thereafter all Class III district school boards with
21 six-member boards shall be elected to terms of four years.

22 (4) In appointing the first school board of a Class III
23 school district with a nine-member board serving terms of four years,
24 the terms of four members shall expire on the first Thursday after
25 the first Tuesday in January after the first even-numbered year

1 following their appointment and the terms of five members shall
2 expire on the first Thursday after the first Tuesday in January after
3 the second even-numbered year following their appointment. Thereafter
4 all Class III district school boards with nine-member boards shall be
5 elected to terms of four years.

6 (5) In appointing the first school board of a Class IV
7 school district, the members shall be appointed so that the terms of
8 three members shall expire on the third Monday in May of the first
9 odd-numbered year following their appointment and the terms of four
10 members shall expire on the third Monday in May of the second odd-
11 numbered year following their appointment. Thereafter all Class IV
12 district school boards shall be elected to terms of four years.

13 (6) In appointing the first school board of a Class V
14 school district after a reorganization under this section with a
15 ~~twelve member~~ nine-member board serving terms of four years, the
16 ~~terms of six members shall expire on the first Monday in January~~
17 ~~after the first even numbered year following their appointment and~~
18 ~~the terms of six members shall expire on the first Monday in January~~
19 ~~after the second even numbered year following their appointment.~~
20 Thereafter all Class V district terms of the members shall expire as
21 provided in section 32-545. All Class V district school boards shall
22 be elected to terms of four years.

23 (7) The school boards appointed under this section shall
24 proceed at once to organize in the manner prescribed by law.

25 Sec. 6. Section 79-552, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 79-552 The board of education of a Class V school
3 district shall consist of twelve members, ~~one until the fourth Monday~~
4 ~~after the date in 2013 of the election held pursuant to section~~
5 ~~14-201 and shall consist of nine members thereafter. One member shall~~
6 ~~be elected from each district pursuant to section 32-545., and also~~
7 ~~may include a nonvoting student member or members selected pursuant~~
8 ~~to section 79-559.~~ Each elected member shall be a resident of the
9 district for at least six months prior to the election. Each
10 candidate for election to and each member of the board of education
11 shall be a taxpayer in and a resident of the district of such school
12 district as designated pursuant to section 32-552. ~~All persons~~
13 ~~elected as members of the board of education shall take and subscribe~~
14 ~~to the usual oath of office before the first Monday in January~~
15 ~~following their election, and the student member shall take and~~
16 ~~subscribe to the usual oath of office before the first Monday in~~
17 ~~January following his or her designation. In case any person so~~
18 ~~elected fails so to do, his or her election shall be void and the~~
19 ~~vacancy shall be filled by the board.~~

20 Sec. 7. Section 79-559, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 79-559 (1) The school board or board of education of any
23 Class II, III, IV, V, ~~or VI~~ school district may include at least one
24 nonvoting member who is a public high school student from the
25 district. If the board elects to include such a nonvoting student

1 member, the student member shall serve for a term of one year,
2 beginning on September 1, and shall be the student body or student
3 council president, the senior class representative, or a
4 representative elected from and by the entire student body, as
5 designated by the voting members of the board.

6 (2) Any nonvoting student member of the board has the
7 privilege of attending all open meetings of the board but shall be
8 excluded from executive sessions.

9 Sec. 8. Original sections 32-545, 32-552, 79-4,129,
10 79-552, and 79-559, Reissue Revised Statutes of Nebraska, and
11 sections 32-570 and 32-606, Revised Statutes Cumulative Supplement,
12 2012, are repealed.

13 Sec. 9. Since an emergency exists, this act takes effect
14 when passed and approved according to law.