

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 544

Introduced by Watermeier, 1.

Read first time January 18, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to clerks of the district court; to amend
2 sections 22-417, 24-507, 32-524, and 32-567, Reissue Revised
3 Statutes of Nebraska; to provide for an agreement relating to duties
4 in a county without an elected clerk of the district court; to
5 provide for elimination of the office of clerk of the district court
6 by a vote of the county board; to change duties of clerk
7 magistrates; 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. In any county that does not have an elected clerk of the
2 district court, the duties of the clerk of the district court shall be
3 performed pursuant to an agreement between the State Court Administrator
4 and the county board, except as provided in section 2 of this act.

5 In any county that does have an elected clerk of the district court,
6 the county board may vote to eliminate the office of the clerk of the
7 district court when a vacancy occurs pursuant to section 32-560 or the
8 incumbent does not file for reelection. If the incumbent does not file
9 for reelection by the filing deadline established in section 32-606, the
10 county board may vote to eliminate the office of the clerk of the
11 district court prior to the filing deadline established in section 32-606
12 for a nonincumbent candidate. If a vacancy occurs, the county board may
13 vote to eliminate the office of the clerk of the district court within
14 forty-five days. When the office of the clerk of the district court is
15 eliminated, the duties of the clerk of the district court shall be
16 transferred to the clerk magistrate for such county pursuant to an
17 agreement between the State Court Administrator and the county board.

18 Sec. 2. On and after July 1, 2018, in any county in which the
19 duties of the clerk of the district court are being performed by an ex
20 officio clerk of the district court, such duties shall be transferred to
21 the clerk magistrate for such county pursuant to an agreement between the
22 State Court Administrator and the county board.

23 Sec. 3. When a county board votes to eliminate the office of the
24 clerk of the district court pursuant to section 1 of this act, all
25 furniture, computers, equipment, and personal property owned by the
26 county to perform the district court function prior to the transfer shall
27 remain the property of the county. All books, files, and similar records
28 shall be transferred to the State Court Administrator. The county board
29 of any county may request in writing that the State Court Administrator
30 review office space provided by the county for the court to determine if
31 the court is able to reduce or eliminate office within the county-owned

1 buildings. The State Court Administrator shall respond in writing to such
2 request within thirty days after receiving the request. The final
3 decision with respect to maintaining, increasing, reducing, or
4 eliminating office space provided by such county shall be made by the
5 county board.

6 Upon the elimination of office of the clerk of the district court,
7 the employees of the office shall become state employees. No transferred
8 county employee shall incur a loss of income or benefits as a result of
9 becoming a state employee pursuant to this section.

10 Sec. 4. Section 22-417, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 22-417 (1) Any county may consolidate the office of ~~clerk of the~~
13 ~~district court,~~ county assessor, county clerk, county engineer, county
14 surveyor, or register of deeds, except that the consolidated officeholder
15 shall meet the qualifications of each office as required by law. The
16 consolidated office shall have the powers and duties provided by law for
17 each office consolidated. The county board may adopt a resolution for the
18 consolidation of any of such offices and submit the issue of the
19 consolidated office to the registered voters for approval at the next
20 general election or at a special election called for such purpose. The
21 county board shall hold a public hearing prior to adoption of a
22 resolution for the consolidation of offices and shall give notice of the
23 hearing by publication in a newspaper of general circulation in the
24 county once each week for three consecutive weeks prior to the hearing.
25 Final publication shall be within seven calendar days prior to the
26 hearing. The notice shall describe the offices to be consolidated and
27 that the holder of the offices to be consolidated shall have his or her
28 term of office end on the first Thursday after the first Tuesday in
29 January following the general election in which the holder of the
30 consolidated office is elected.

31 (2) The county board shall adopt the resolution for the

1 consolidation of offices by majority vote of the board and shall submit
2 the issue of consolidation to the registered voters for approval at the
3 next general election or at a special election called for such purpose.
4 For each consolidated office submitted for approval, the question shall
5 be submitted to the voters in substantially the following form:

6 "Shall (name of each office proposed to be consolidated) be
7 consolidated into one consolidated office according to the resolution
8 adopted by the county board of (name of county) on (date of adoption of
9 the resolution by the county board)? Yes No".

10 (3) If the majority of the registered voters in the county voting on
11 the question vote in favor of consolidation, the consolidated office
12 shall be filled at the next general election, and the terms of the
13 incumbents shall end on the first Thursday after the first Tuesday in
14 January following the general election in which the holder of the
15 consolidated office is elected.

16 (4) The term of a consolidated officer shall be four years or until
17 his or her successor is elected and qualified, except that the term of a
18 consolidated officer elected in the year 2000 or any fourth year
19 thereafter shall be two years or until his or her successor is elected
20 and qualified.

21 (5) Any election under this section shall be in accordance with the
22 Election Act.

23 Sec. 5. Section 24-507, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 24-507 (1) There shall be appointed a clerk magistrate to serve each
26 county. Clerk magistrates shall be appointed by the county judge, or
27 judges if the district has more than one county judge, and shall serve at
28 the pleasure of the county judge or judges, subject to personnel rules
29 adopted by the Supreme Court.

30 (2) The clerk magistrate shall be the clerk of the county court and
31 if appointed as clerk magistrate for more than one county shall be the

1 clerk of the county court for each county.

2 (3) In counties when the district court clerk or staff is
3 temporarily unavailable, the clerk magistrate as clerk of the county
4 court shall, under the direction of the district court judge and in
5 cooperation and agreement with the Supreme Court, State Court
6 Administrator, and clerk of the district court, assist the clerk of the
7 district court in the provision of district court services which would
8 otherwise require the presence of district court staff. Any agreement
9 entered into under this subsection must be signed and stipulated to by
10 the State Court Administrator, the county board, and the clerk of the
11 district court after obtaining input from the clerk of the county court,
12 a district court judge, a county court judge, and the county attorney.
13 Any agreement entered into under this subsection may include, but is not
14 limited to, financial considerations and scheduling.

15 (4) When an agreement has been reached pursuant to section 1 of this
16 act subdivision (1)(b) of section 32-524 or subsection (3) of section
17 32-524 for a clerk magistrate as clerk of the county court to perform the
18 duties of ~~be ex officio~~ clerk of the district court, the clerk magistrate
19 shall perform the duties required by law of the clerk of the district
20 court under the direction of the district court judge for the county and
21 the State Court Administrator.

22 Sec. 6. Section 32-524, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 32-524 (1) Except as provided in section 1 of this act 22-417: ~~(a)~~
25 ~~In counties having a population of seven thousand inhabitants or more,~~
26 there shall be elected one clerk of the district court at the statewide
27 general election in 1962 and every four years thereafter. ; ~~and~~

28 ~~(b) In counties having a population of less than seven thousand~~
29 ~~inhabitants, there shall be elected a clerk of the district court at the~~
30 ~~first statewide general election following a determination by the county~~
31 ~~board and the district judge for the county that such officer should be~~

1 ~~elected and each four years thereafter. When such a determination is not~~
2 ~~made in such a county, the county clerk shall be ex officio clerk of the~~
3 ~~district court and perform the duties by law devolving upon that officer,~~
4 ~~unless there is an agreement between the State Court Administrator and~~
5 ~~the county board that the clerk of the county court for such county shall~~
6 ~~be the ex officio clerk of the district court and perform such duties.~~

7 ~~(2) In any county upon presentation of a petition to the county~~
8 ~~board (a) not less than sixty days before the statewide general election~~
9 ~~in 1976 or every four years thereafter, (b) signed by registered voters~~
10 ~~of the county equal in numbers to at least fifteen percent of the total~~
11 ~~vote cast for Governor at the most recent gubernatorial election in the~~
12 ~~county, secured in not less than two-fifths of the townships or precincts~~
13 ~~of the county, and (c) asking that the question of not electing a clerk~~
14 ~~of the district court in the county be submitted to the registered voters~~
15 ~~therein, the county board, at the next statewide general election, shall~~
16 ~~order the submission of the question to the registered voters of the~~
17 ~~county. The form of submission upon the ballot shall be as follows:~~

18 ~~For election of a clerk of the district court;~~

19 ~~Against election of a clerk of the district court.~~

20 ~~(3) If a majority of the votes cast on the question are against the~~
21 ~~election of a clerk of the district court in such county, the duties of~~
22 ~~the clerk of the district court shall be performed by the county clerk,~~
23 ~~unless there is an agreement between the State Court Administrator and~~
24 ~~the county board that the clerk of the county court for such county shall~~
25 ~~be the ex officio clerk of the district court and perform such duties,~~
26 ~~and the office of clerk of the district court shall either cease with the~~
27 ~~expiration of the term of the incumbent or continue to be abolished if no~~
28 ~~such office exists at such time.~~

29 ~~(4) If a majority of the votes cast on the question are in favor of~~
30 ~~the election of a clerk of the district court, the office shall continue~~
31 ~~or a clerk of the district court shall be elected at the next statewide~~

1 ~~general election as provided in subsection (1) of this section.~~

2 (2) (5) The term of the clerk of the district court shall be four
3 years or until his or her successor is elected and qualified. The clerk
4 of the district court shall meet the qualifications found in section
5 24-337.04. The clerk of the district court shall be elected on the
6 partisan ballot.

7 Sec. 7. Section 32-567, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 32-567 Vacancies in office shall be filled as follows:

10 (1) In state and judicial district offices and in the membership of
11 any board or commission created by the state when no other method is
12 provided, by the Governor;

13 (2) In county offices, by the county board, except as provided in
14 section 1 of this act;

15 (3) In the membership of the county board, by the county clerk,
16 county attorney, and county treasurer;

17 (4) In the membership of the city council, according to section
18 32-568 or 32-569, as applicable;

19 (5) In township offices, by the township board or, if there are two
20 or more vacancies on the township board, by the county board;

21 (6) In offices in public power and irrigation districts, according
22 to section 70-615;

23 (7) In offices in natural resources districts, according to section
24 2-3215;

25 (8) In offices in community college areas, according to section
26 85-1514;

27 (9) In offices in educational service units, according to section
28 79-1217;

29 (10) In offices in hospital districts, according to section 23-3534;

30 (11) In offices in metropolitan utilities districts, according to
31 section 14-2104;

1 (12) In membership on airport authority boards, according to section
2 3-502, 3-611, or 3-703, as applicable;

3 (13) In membership on the board of trustees of a road improvement
4 district, according to section 39-1607;

5 (14) In membership on the council of a municipal county, by the
6 council; and

7 (15) For learning community coordinating councils, according to
8 section 32-546.01.

9 Sec. 8. Original sections 22-417, 24-507, 32-524, and 32-567,
10 Reissue Revised Statutes of Nebraska, are repealed.