

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1114

Introduced by Hansen, M., 26.

Read first time January 22, 2020

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to sanitary and improvement districts; to
- 2 amend section 31-735, Reissue Revised Statutes of Nebraska; to
- 3 change provisions regarding the election of the board of trustees in
- 4 certain districts; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-735, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 31-735 (1) On the first Tuesday after the second Monday in September
4 which is at least fifteen months after the judgment of the district court
5 creating a sanitary and improvement district and on the first Tuesday
6 after the second Monday in September each two years thereafter, the board
7 of trustees shall cause a special election to be held, at which election
8 a board of trustees shall be elected. The board of trustees shall have
9 five members except as provided in subsection (2) of this section. Each
10 member elected to the board of trustees shall be elected to a term of two
11 years and shall hold office until such member's successor is elected and
12 qualified. Any person desiring to file for the office of trustee may file
13 for such office with the election commissioner, or county clerk in
14 counties having no election commissioner, of the county in which the
15 greater proportion in area of the district is located not later than
16 fifty days before the election. If such person will serve on the board of
17 trustees as a designated representative of a limited partnership, general
18 partnership, limited liability company, public, private, or municipal
19 corporation, estate, or trust which owns real estate in the district, the
20 filing shall indicate that fact and shall include appropriate
21 documentation evidencing such fact. No filing fee shall be required. A
22 person filing for the office of trustee to be elected at the election
23 held four years after the first election of trustees and each election
24 thereafter shall designate whether he or she is a candidate for election
25 by the resident owners of such district or whether he or she is a
26 candidate for election by all of the owners of real estate located in the
27 district. If a person filing for the office of trustee is a designated
28 representative of a limited partnership, a general partnership, a limited
29 liability company, a public, private, or municipal corporation, an
30 estate, or a trust which owns real estate in the district, the name of
31 such entity shall accompany the name of the candidate on the ballot in

1 the following form: (Name of candidate) to represent (name of entity) as
2 a member of the board. The name of each candidate shall appear on only
3 one ballot.

4 The name of a person may be written in and voted for as a candidate
5 for the office of trustee, and such write-in candidate may be elected to
6 the office of trustee. A write-in candidate for the office of trustee who
7 will serve as a designated representative of a limited partnership, a
8 general partnership, a limited liability company, a public, private, or
9 municipal corporation, an estate, or a trust which owns real estate in
10 the district shall not be elected to the office of trustee unless (a)
11 each vote is accompanied by the name of the entity which the candidate
12 will represent and (b) within ten days after the date of the election,
13 the candidate provides the ~~county clerk or~~ election commissioner or
14 county clerk with appropriate documentation evidencing his or her
15 representation of the entity. Votes cast which do not carry such
16 accompanying designation shall not be counted.

17 A trustee shall be an owner of real estate located in the district
18 or shall be a person designated to serve as a representative on the board
19 of trustees if the real estate is owned by a limited partnership, a
20 general partnership, a limited liability company, a public, private, or
21 municipal corporation, an estate, or a trust. Notice of the date of the
22 election shall be mailed by the clerk of the district not later than
23 sixty-five days prior to the election to each person who is entitled to
24 vote at the election for trustees whose property ownership or lease
25 giving a right to vote is of record on the records of the register of
26 deeds as of a date designated by the election commissioner or county
27 clerk, which date shall be not more than eighty days prior to the
28 election.

29 (2)(a) For any sanitary and improvement district, a person whose
30 ownership or right to vote becomes of record or is received after the
31 date specified pursuant to subsection (1) of this section may vote when

1 such person establishes his or her right to vote to the satisfaction of
2 the election board. At the first election and at the election held two
3 years after the first election, any person may cast one vote for each
4 trustee for each acre of unplatted land or fraction thereof and one vote
5 for each platted lot which he or she may own in the district.

6 (b)(i) ~~(b)~~ This subdivision applies to a district until the board of
7 trustees amends its articles of association pursuant to subdivision (2)
8 (d) of this section.

9 (ii) At the election held four years after the first election of
10 trustees, two members of the board of trustees shall be elected by the
11 legal property owners resident within such sanitary and improvement
12 district and three members shall be elected by all of the owners of real
13 estate located in the district pursuant to this section. Every resident
14 property owner may cast one vote for a candidate for each office of
15 trustee to be filled by election of resident property owners only. Such
16 resident property owners may also each cast one vote for each acre of
17 unplatted land or fraction thereof and for each platted lot owned within
18 the district for a candidate for each office of trustee to be filled by
19 election of all property owners. For each office of trustee to be filled
20 by election of all property owners of the district, every legal property
21 owner not resident within such sanitary and improvement district may cast
22 one vote for each acre of unplatted land or fraction thereof and one vote
23 for each platted lot which such property owner ~~he or she~~ owns in the
24 district. At the election held eight years after the first election of
25 trustees and at each election thereafter, three members of the board of
26 trustees shall be elected by the legal property owners resident within
27 such sanitary and improvement district and two members shall be elected
28 by all of the owners of real estate located in the district pursuant to
29 this section, ~~and at the election held six years after the first election~~
30 ~~of trustees and at each election thereafter, three members of the board~~
31 ~~of trustees shall be elected by the legal property owners resident within~~

1 ~~such sanitary and improvement district and two members shall be elected~~
2 ~~by all of the owners of real estate located in the district pursuant to~~
3 ~~this section.~~

4 (iii) If there are not any legal property owners resident within
5 such district or if not less than ninety percent or more of the area of
6 the district is owned for other than residential uses as determined in
7 this subdivision, the five members shall be elected by the legal property
8 owners of all property within such district as provided in this section.
9 For purposes of determining whether ninety percent or more of the area of
10 the district is owned for other than residential uses:

11 (A) The election commissioner, or county clerk in counties having no
12 election commissioner, of the county in which the greater proportion in
13 area of the district is located, shall divide the number of platted lots
14 and number of unplatted land or fraction thereof with occupied
15 residential dwellings in the district by the total number of platted lots
16 and total number of unplatted land or fraction thereof in the district,
17 with unplatted land being expressed in acres; and

18 (B) Occupied residential dwelling means a building or part of a
19 building that is equipped as a single-family residence and that is
20 occupied as a full-time second, seasonal, or recreational residence.

21 (c) Any public, private, or municipal corporation owning any land or
22 lot in the district may vote at an election the same as an individual. If
23 more than fifty percent of the homes in any sanitary and improvement
24 district are used as a second, seasonal, or recreational residence, the
25 owners of such property shall be considered legal property owners
26 resident within such district for purposes of electing trustees. For
27 purposes of voting for trustees, each condominium apartment under a
28 condominium property regime established prior to January 1, 1984, under
29 the Condominium Property Act or established after January 1, 1984, under
30 the Nebraska Condominium Act shall be deemed to be a platted lot and the
31 lessee or the owner of the lessee's interest, under any lease for an

1 initial term of not less than twenty years which requires the lessee to
2 pay taxes and special assessments levied on the leased property, shall be
3 deemed to be the owner of the property so leased and entitled to cast the
4 vote of such property. When ownership of a platted lot or unplatted land
5 is held jointly by two or more persons, whether as joint tenants, tenants
6 in common, limited partners, members of a limited liability company, or
7 any other form of joint ownership, only one person shall be entitled to
8 cast the vote of such property. The executor, administrator, guardian, or
9 trustee of any person or estate interested shall have the right to vote.
10 No corporation, estate, or irrevocable trust shall be deemed to be a
11 resident owner for purposes of voting for trustees. ~~If Should~~ two or more
12 persons or officials claim the right to vote on the same tract, the
13 election board shall determine the party entitled to vote. Such board
14 shall select one of their number chairperson and one of their number
15 clerk. In case of a vacancy on such board, the remaining trustees shall
16 fill the vacancy on such board until the next election.

17 (d) For any sanitary and improvement district which has been in
18 existence for at least ten years, which has less than seventy property
19 owners entitled to vote for trustees, which has at least two resident
20 property owners, and in which less than ten percent of the area of the
21 district is owned for other than residential uses, the board of trustees
22 may amend its articles of association as provided in section 31-740.01 to
23 provide for a reduction in the number of trustees on the board from five
24 members to three members to be effective at the beginning of the term of
25 office for the board of trustees elected at the next election. At the
26 next election and at each election thereafter, two members of the board
27 of trustees shall be elected by the legal property owners resident within
28 such sanitary and improvement district and one member shall be elected by
29 all of the owners of real estate located in the district pursuant to this
30 section. Every resident property owner may cast one vote for a candidate
31 for each office of trustee to be filled by election of resident property

1 owners only. Such resident property owners may also each cast one vote
2 for each acre of unplatted land or fraction thereof and for each platted
3 lot owned within the district for a candidate for the office of trustee
4 to be filled by election of all property owners. For the office of
5 trustee to be filled by election of all property owners of the district,
6 every legal property owner not resident within such sanitary and
7 improvement district may cast one vote for each acre of unplatted land or
8 fraction thereof and one vote for each platted lot which such property
9 owner ~~he or she~~ owns in the district.

10 (3) The election commissioner or county clerk shall hold any
11 election required by subsection (1) of this section by sealed mail ballot
12 by notifying the board of trustees on or before July 1 of a given year.
13 The election commissioner or county clerk shall, at least twenty days
14 prior to the election, mail a ballot and return envelope to each person
15 who is entitled to vote at the election and whose property ownership or
16 lease giving a right to vote is of record with the register of deeds as
17 of the date designated by the election commissioner or county clerk,
18 which date shall not be more than eighty days prior to the election. The
19 ballot and return envelope shall include: (a) The names and addresses of
20 the candidates; (b) room for write-in candidates; and (c) instructions on
21 how to vote and return the ballot. Such ballots shall be returned in the
22 return envelope to the election commissioner or county clerk no later
23 than 5 p.m. on the date set for the election. If the ballot is not
24 returned in the return envelope, such ballot shall not be counted. If
25 more than one ballot is included in the same return envelope, such
26 ballots shall not be counted and shall be reinserted into the return
27 envelope which shall be resealed and marked rejected.

28 Sec. 2. Original section 31-735, Reissue Revised Statutes of
29 Nebraska, is repealed.