

LEGISLATIVE BILL 469

Approved by the Governor March 26, 1997

Introduced by Schellpeper, 18; Coordsen, 32; Cudaback, 36; Jones, 43;
Vrtiska, 1; Wickersham, 49

AN ACT relating to county agricultural societies; to amend sections 2-202, 2-204, 2-207, 2-209, 2-210, 2-220.02, 2-220.04, and 2-1204, Reissue Revised Statutes of Nebraska, and sections 2-203.01, 2-203.06, 2-206, 2-220.01, 2-238 to 2-245, 2-248, and 2-249, Revised Statutes Supplement, 1996; to adopt the County Agricultural Society Act; to change and eliminate formation, operation, security, dissolution, and reinstatement provisions; to eliminate obsolete provisions; to separate provisions; to transfer provisions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 2-203.04, 2-208, and 2-211 to 2-218, Reissue Revised Statutes of Nebraska, and sections 2-201, 2-203, 2-203.02, 2-203.03, 2-203.05, 2-205, 2-246, and 2-247, Revised Statutes Supplement, 1996.

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

Section 1. Sections 1 to 24 of this act shall be known and may be cited as the County Agricultural Society Act.

Sec. 2. All county agricultural societies existing, organized, or reinstated on or after January 1, 1998, shall comply with the County Agricultural Society Act and shall annually offer and award premiums and perform such other acts which such society deems will be for the improvement of agriculture, industry, homes, and communities of the state. For purposes of the act, county agricultural society means all county agricultural societies existing, organized, or reinstated on or after January 1, 1998.

Sec. 3. A county agricultural society shall adopt a constitution and bylaws and may, upon approval of its board of directors, file articles of incorporation with the Secretary of State pursuant to the Nebraska Nonprofit Corporation Act. Any agricultural society forming itself as a nonprofit corporation shall incorporate as a public benefit corporation as defined in section 21-1914.

Sec. 4. A county agricultural society shall hold an annual meeting open to all registered voters of the county for the purpose of electing a board of directors and conducting any other business of the county agricultural society. Only registered voters of the county are eligible to participate and vote at the annual meeting of the county agricultural society. The board of the directors of the county agricultural society shall give notice of the annual meeting in a newspaper of general circulation within the county once approximately one week before the scheduled annual meeting. The notice shall state the time and place of the annual meeting and that all registered voters of the county are eligible to participate and vote at the annual meeting. The vote for any election held in connection with the county agricultural society shall be cast personally and not by proxy vote. At the annual meeting of the county agricultural society, all questions upon motions made at the annual meeting shall be determined by a majority of the registered voters voting and the presiding officer shall ascertain and declare the result of the votes upon each question. If the result of a vote is questioned, the presiding officer shall make the vote certain by recount. If any person offering to vote at the annual meeting is challenged as an unqualified voter, the presiding officer shall proceed as a judge of general elections is required to do under sections 32-927 to 32-932 as applicable and the laws with regard to false swearing and illegal voting at general elections shall apply to false swearing and illegal voting at annual meetings of the county agricultural society.

Sec. 5. Subject to sections 18 to 24 of this act, the registered voters of a county may petition the county board to organize a county agricultural society in a county where a county agricultural society has not already been organized. The petition shall be signed by registered voters of the county equal in number to fifteen percent of the whole number of registered voters of the county who cast votes for Governor at the statewide general election next preceding the submission of the petition to the county board. The petition shall be in the form required by section 32-628 and the Secretary of State shall provide such forms upon request.

Sec. 6. Upon receipt of a petition to create a county agricultural society, the county board shall have the signatures verified by the election

commissioner or county clerk pursuant to section 32-631. The election commissioner or county clerk shall return the verified petition within fifteen days after receipt of the petition from the county board. If the number of signatures required under section 5 of this act are verified, the county board shall declare the petition approved at the next regularly scheduled meeting following the submission of the petition by the petitioners to the county board. If the petition is approved, the county board shall schedule an organizational meeting for the county agricultural society and shall give notice of the organizational meeting in a newspaper of general circulation within the county once each week for three weeks before the scheduled organizational meeting. The notice shall state the time and place of the organizational meeting and that all registered voters of the county are eligible to participate and vote at the organizational meeting. At the organizational meeting, the registered voters present shall, by majority vote, (1) determine the size of the board of directors for the county agricultural society, an odd number not less than five and not larger than nineteen, and (2) elect the board members.

Sec. 7. (1) The board of directors shall annually elect from its membership a chairperson and such other officers as may be necessary. The term of office for members of the board shall be for three years, except that the term of the members of the board first taking office shall be for one, two, or three years as determined by lot.

(2) The bylaws adopted by a county agricultural society shall state whether the board of directors of the county agricultural society will nominate candidates for membership on the board from districts or from the county at large. The members of the board shall be elected by the registered voters of the entire county whether the candidates are nominated from districts or from the county at large. If nominating districts are used, the board of directors shall divide the county into districts of substantially equal population. Such districts shall be consecutively numbered. The boundaries and numbering of such districts shall be designated at least three months prior to the annual meeting.

(3) If the county agricultural society replaces an existing county fair board, the county fair board shall remain in existence until the county agricultural society has its first annual meeting. After the first annual meeting of the county agricultural society, any existing county fair board shall cease to exist.

Sec. 8. Section 2-203.01, Revised Statutes Supplement, 1996, is amended to read:

2-203.01: The county board may, at the time other levies and assessments for taxation are made and subject to section 77-3443, levy a tax upon all of the taxable property within the county for the operation of the county agricultural society. The tax shall be assessed, levied, and collected as other county taxes. The proceeds of such tax shall be paid by the county treasurer to the treasurer of the board of directors of such county agricultural society. (1) Except as provided in subsection (2) of this section, in counties having a population of more than sixty thousand inhabitants but not more than two hundred thousand inhabitants, the county board may, subject to section 77-3443, assess so much of the tax levy as will raise twenty thousand dollars.

(2) In counties having a population of more than sixty thousand inhabitants but not more than two hundred thousand inhabitants and also containing a city of the primary class, the county board may, subject to section 77-3443, assess so much of a levy of one and seven-tenths cents on each one hundred dollars of taxable valuation as will raise twenty-five thousand dollars.

Sec. 9. Section 2-202, Reissue Revised Statutes of Nebraska, is amended to read:

2-202: The money so raised by the operational tax levy authorized in section 8 of this act shall be used for the purpose of paying premiums and for permanent improvements for such fair, and for no other purpose whatsoever; PROVIDED, that the provisions of this section shall not prevent the use of enough of this levy for the purpose of purchasing the necessary fair supplies, advertising, and the paying of necessary labor in connection therewith, and for other necessary expenses for the operation of the fair. In counties where the county agricultural society received no gate admission revenue. In counties having a population of more than sixty thousand inhabitants but not more than three hundred fifty thousand inhabitants, and also containing a city of the primary class, the money so raised may be used for permanent improvements on the county fairgrounds or Nebraska State Fairgrounds, or for leasing, contracting for, or in any manner acquiring use of fairground facilities for such fair.

Sec. 10. Section 2-203.06, Revised Statutes Supplement, 1996, is amended to read:

~~2-203.06-~~ Pursuant to a request by a county agricultural society, the county board of any county may levy an additional levy of three and five-tenths cents on each one hundred dollars of taxable valuation, or any part thereof, for the purpose of capital construction on and renovation, repair, improvement, and maintenance of the county fairgrounds, over and above the operational tax levy and dollar limitations set forth authorized in section 8 of this act, sections 2-203 to 2-203.03 and 2-203.05 but such levy shall not exceed the amount actually required for such work. In counties having a population of more than sixty thousand inhabitants but not more than three hundred fifty thousand inhabitants and also containing a city of the primary class, such additional levy or any part thereof may be levied for the purpose of capital construction on and renovation, repair, improvement, and maintenance of the county fairgrounds or the Nebraska State Fairgrounds, over and above the levy and dollar limitations set forth in section 2-203.01.

Sec. 11. Section 2-204, Reissue Revised Statutes of Nebraska, is amended to read:

~~2-204-~~ If any an existing county agricultural society fails to hold a fair for at least three successive days, no money so levied for that year shall be paid to the use of such levy, but the same shall be paid into the general fund of the county and expended as other funds therein. Such money shall ~~said sum~~ to be paid by the county treasurer to the fair association board of directors of such county agricultural society only after a sworn statement has been filed with the county clerk of such county, which statement shall be signed by the president and secretary of such agricultural association, chairperson of the county agricultural society and shall set out when and where such county fair is to be held, and the total amount of premiums to be awarded.

Sec. 12. Section 2-206, Revised Statutes Supplement, 1996, is amended to read:

~~2-206-~~ (1) County agricultural societies are subject to the Nebraska Budget Act. County agricultural societies shall comply with the Records Management Act and with sections 84-1408 to 84-1414.

(2) The budget of each county agricultural society is subject to annual review, audit, and approval by the county board of the county in which such society is located. It shall be the duty of each county society to publish annually an abstract of the treasurer's account, in such manner as the society may direct, to make a report of its proceedings during the year, and also to make a report of the condition of agriculture in that county, which report shall be made out in accordance with the rules and regulations of the State Board of Agriculture and shall be forwarded to the state board at its annual meeting.

Sec. 13. Section 2-207, Reissue Revised Statutes of Nebraska, is amended to read:

~~2-207-~~ Each county agricultural society shall have power to may acquire, take, hold, and appropriate so much real estate as may be necessary, not exceeding one hundred and sixty acres of land, for the purpose of holding county fairs. No appropriation of private property for the use of such society shall be made until full and just compensation therefor be first made to the owner thereof, and that not more than forty acres shall be taken without the consent of the owner. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. Any society organized for the profit of its members or for the payment of dividends upon its stock shall not be privileged to appropriate any real estate without the consent of the owner thereof.

Sec. 14. Section 2-209, Reissue Revised Statutes of Nebraska, is amended to read:

~~2-209-~~ Each society receiving such appropriation shall, through its secretary, make to the county board a detailed statement with vouchers showing the legal disbursement of all the money received. In all cases when such county agricultural societies shall neglect for the space of two years to discharge the duties devolving upon them by law, hold a county fair or cease to exist, in any county where payments have been made for real estate or improvements upon such real estate for the use of any a county agricultural society, then all such real estate and improvements shall vest in fee simple in the county, making such payment, and the district court of said the county, upon proof thereof, shall, upon petition of the county board, make a proper decree vesting the title to said of such property in said the county.

Sec. 15. Section 2-210, Reissue Revised Statutes of Nebraska, is amended to read:

~~2-210-~~ Any A county agricultural society receiving such

appropriation shall have the right to ~~may~~ exchange its real estate and improvements for other real estate or to sell its real estate for the purpose of acquiring other real estate for fairgrounds, and to ~~may~~ make, execute, deliver, and accept all proper or necessary conveyances in and about such exchange, sale, or purchase, and the right of the county in the original grounds and improvements as provided for in section 2-209 ~~14~~ of this act shall extend to the real estate derived from exchange or purchase. No such sale or exchange shall be made except with the approval of the district court of the proper county in a proceeding had for said purpose, and after due notice to all parties interested by publication for three successive weeks in the official paper of said county, and prior to the first day of the term of said court at which said approval is asked.

A county agricultural society may purchase real estate and improve the same. The payment of the purchase price may be secured by mortgage or deed of trust, with the approval of the district court of the proper county in a proceeding for such purpose under the same conditions as for the sale of real estate.

Sec. 16. (1) To dissolve a county agricultural society established or sought to be established under the County Agricultural Society Act, the county board shall, upon petition of not less than fifteen percent of the registered voters of the county as shown by the poll books of the last previous general election, submit to the people of the county to be voted upon at a general or special election called by the county board for that purpose, a proposition to dissolve such county agricultural society. Such proposition shall be submitted as provided in section 23-126.

(2) If a majority of all the votes cast on the proposition are in favor of the dissolution, the county board shall cause the record of such proposition and all the proceedings thereon to be entered upon the records of the county agricultural society and shall make an order that such county agricultural society is dissolved.

Sec. 17. Upon the dissolution and the abandonment under section 16 of this act:

(1) All the real and personal property which has been purchased for or by the county agricultural society may be sold or disposed of by the county board in whole or in part and from time to time in the same manner as other properties of the county may lawfully be sold or disposed of. If any of such property is appropriate or available for any other lawful use or purpose of such county, the county board may appropriate, use, and apply any of such property to any such other lawful use or purpose; and

(2) Such county agricultural society shall cease to exist as an official body of such county except for the purpose of making its final report and accounting and returning its records to the county board.

Sec. 18. Section 2-241, Revised Statutes Supplement, 1996, is amended to read:

~~2-241. Any A county agricultural society operating or organized under Chapter 2, article 2 the County Agricultural Society Act, which has become inoperative because of neglect in the discharge of its duties devolved upon it by law, or for any other reason, may at any time procure an extension, restoration, renewal, or revival of its corporate existence, together with all the rights, franchises, privileges, and immunities and subject to all of its duties, debts, and liabilities which had been secured or imposed by its original articles of incorporation and its amendments, by filing with the Secretary of State a certificate of its last acting president and secretary or treasurer, chairperson and other officers, or other officers to be elected or appointed as provided in sections 2-245 and 2-246 section 22 of this act.~~

Sec. 19. Section 2-242, Revised Statutes Supplement, 1996, is amended to read:

~~2-242. The certificate filed pursuant to section 2-241 18 of this act shall set forth (1) the name of the county agricultural society, which name shall be the existing name of the society or the name it bore when its corporate existence expired, except as otherwise provided in sections 2-241 to 2-247 18 to 22 of this act, (2) the street address of the initial registered office and the name and street address of the initial registered agent, which street address shall be identical, (3) whether the renewal, restoration, or revival is to be perpetual and if not the time for which the renewal, restoration, or revival is to continue, (4) (3) that the society desiring to be renewed or revived and so renewing or reviving its corporate existence was duly organized under the laws of the State of Nebraska, and (5) (4) the date when the society became inoperative and that this certificate for renewal or revival is filed by authority of those who were directors or managers of the society at the time its corporate existence expired or who were elected or appointed directors or officers of the society as provided in sections 2-245~~

and 2-246 section 22 of this act. A copy of the certificate, certified by the Secretary of State, shall be recorded in the office of the clerk in and for the county in which the original articles of incorporation of the society are recorded. Upon filing and recording the original of the certificate of revival in the office of the Secretary of State, the society shall be renewed and revived with the same force and effect as if its corporate existence had not become inoperative.

Sec. 20. Section 2-243, Revised Statutes Supplement, 1996, is amended to read:

~~2-243-~~ The reinstatement of a county agricultural society shall validate all contracts, acts, matters, and things made, done, and performed within the scope of its articles of incorporation, its officers, and its agents during the time when the corporate existence was inoperative with the same force and effect and to all intents and purposes as if the corporate existence had at all times remained in full force and effect. All real and personal property, rights, and credits which were of the county agricultural society at the time its corporate existence became inoperative and which were not disposed of prior to the time of the revival or renewal shall be vested in the society, after the revival and renewal, as fully and completely as they were held by the society at and before the time its corporate existence became inoperative. The corporation, after such renewal and revival, shall be as exclusively liable for all contracts, acts, matters, and things made, done, or performed in its name and on its behalf by its officers and agents prior to the reinstatement as if its corporate existence had at all times remained in full force and effect.

Sec. 21. Section 2-244, Revised Statutes Supplement, 1996, is amended to read:

~~2-244-~~ If, since the corporate existence of a county agricultural society became inoperative, any other county agricultural society organized under the laws of the State of Nebraska adopted the same name as the society sought to be renewed or revived or shall have adopted a name so nearly similar to it as not to distinguish it from the society renewed or revived under the provisions of sections ~~2-241 to 2-247~~ 18 to 22 of this act, then, in such case, the renewed or revived society shall not be renewed under the same name which it bore when its corporate existence became inoperative, but shall adopt and be renewed under a new name which, under existing law, could be adopted by a society formed and organized under the provisions of Chapter 2, article 2 County Agricultural Society Act, and in such case the certificate to be filed under section ~~2-248~~ 23 of this act shall set forth the name borne by such society at the time its existence became inoperative and the new name under which the society is to be renewed or revived.

Sec. 22. Section 2-245, Revised Statutes Supplement, 1996, is amended to read:

~~2-245-~~ If the last president and secretary or treasurer, chairperson and other officers, or the officers performing the functions of the offices, or any of them, of the county agricultural society renewing or reviving its corporate existence are dead at the time of the renewal or refuse or neglect to act pursuant to section ~~2-241~~ 18 of this act, the directors of the society or the successors of them, if not less than two, may elect a successor to the officer or officers who are dead or who refuse or neglect to act pursuant to section ~~2-241~~ 18 of this act. In any case where there are less than two directors of the society living or if any of them refuse or neglect to act for the purpose of renewing or reviving the corporate existence, ~~the members of the society may elect county board may appoint~~ as many directors as necessary, together with the surviving director who is ready and willing to act, to constitute a board of ~~three five~~ three directors, and the board may elect successors to the deceased or the refusing or neglectful officers to conduct necessary business until, within ninety days, an annual meeting is held and new directors are elected pursuant to the County Agricultural Society Act.

Sec. 23. Section 2-248, Revised Statutes Supplement, 1996, is amended to read:

~~2-248-~~ The certificate for the renewal and continuance of the existence of a county agricultural society shall be filed in the office of the Secretary of State, who shall furnish a certified copy of the certificate under his or her hand and seal of office. The certified copy shall be recorded in the office of the clerk of the county in which the principal office of the society is located in this state in a book kept for the purpose. The certificate or a certified copy of the certificate duly certified under the hand of the Secretary of State and his or her seal of office, accompanied with the certificate of the clerk of the county where it is recorded under the clerk's hand and seal of his or her office, stating that it had been recorded,

the record of the same in the office of the clerk, or a copy of such record duly certified by the clerk, or the record of such certified copy, recorded in the county clerk's office, is evidence in all courts of law and equity of this state.

Sec. 24. Section 2-249, Revised Statutes Supplement, 1996, is amended to read:

~~2-249-~~ A county agricultural society renewing, extending, and continuing its corporate existence shall, upon complying with sections 2-241 to 2-248 ~~18 to 23 of this act~~, be a corporation and continue its existence for the time stated in its certificate of renewal and shall, in addition to the rights, privileges, and immunities conferred by its original articles of incorporation, possess and enjoy all of the benefits of the laws of this state which are applicable to the nature of its business and shall be subject to the restrictions and liabilities imposed on such societies by the laws of this state.

Sec. 25. Section 2-220.01, Revised Statutes Supplement, 1996, is amended to read:

2-220.01. All carnival companies, booking agencies, or shows that enter into any contract with the State Board of Agriculture, any county agricultural society, or any county fair board may be required, within thirty days after the execution of the contract, to either deposit cash or a certified check payable to the State of Nebraska, the county agricultural society, or the county fair board, as appropriate, in the sum of fifteen hundred dollars or execute and file with the secretary of the State Board of Agriculture, the county agricultural society, or the county fair board, as appropriate, a good and sufficient bond with a corporate surety. The State Board of Agriculture, the county agricultural society, or the county fair board, as appropriate, shall determine the amount of the deposit or bond required. Such security shall run in the sum of fifteen hundred dollars running to the State of Nebraska, the county agricultural society, or the county fair board, as appropriate, conditioned on the condition that the carnival company, booking agency, or show will faithfully perform any contract entered into by it in the State of Nebraska during a period of one year from the date of execution of the contract and shall, at the time of the filing of the cash, certified check, or bond, file with the secretary a sworn statement giving the names and addresses of the owners of the carnival company, booking agency, or show. Further cash, certified check, or bond shall not be required on signing any subsequent contract during the year such bond is in force. Upon entering into any contract with county fairs, the carnival company, booking agency, or show calling for a performance in any specific county in the State of Nebraska shall, within thirty days after signing of such contract, file with the county clerk of such county a duplicate receipt or certificate showing that the cash, certified check, or bond provided for in this section has been filed with the secretary.

Sec. 26. Section 2-220.02, Reissue Revised Statutes of Nebraska, is amended to read:

2-220.02. The cash, certified check, or bond required to be given by section 2-220.01 shall be security, not only for the performance of the initial contract signed by any such carnival company, booking agency, or show, but for all other contracts made in this state with the State Board of Agriculture, any agricultural society, or county fair board during the period such deposit or bond is in force. The State Board of Agriculture, any county agricultural society, or county fair board may bring suit upon such the deposit or bond required by section 2-220.01 in the county where such contract was to have been performed to recover any damages sustained by reason of breach of contract or failure to carry out the terms thereof.

Sec. 27. Section 2-220.04, Reissue Revised Statutes of Nebraska, is amended to read:

2-220.04. If cash or certified check is deposited with the secretary of the State Board of Agriculture, a county agricultural society, or a county fair board under section 2-220.01, such deposit shall be returned by the secretary to the person or company making the deposit within sixty days after the completion of the last performance of the contract in the State of Nebraska, unless a written, signed, and verified complaint has been filed with the secretary within such time.

Sec. 28. Section 2-238, Revised Statutes Supplement, 1996, is amended to read:

2-238. ~~County agricultural societies and county fair boards set out in Chapter 2, article 2, shall comply with the Records Management Act and with sections 84-1408 to 84-1414.~~

Sec. 29. Section 2-239, Revised Statutes Supplement, 1996, is amended to read:

2-239. The budget of each county agricultural society and each county fair board shall be subject to annual review, audit, and approval by the county board of the county in which such society or fair board is located.

Sec. 30. Section 2-240, Revised Statutes Supplement, 1996, is amended to read:

2-240. The vote of a member of a county agricultural society or county fair board for any election held within such society or board shall be cast by the member personally and shall not be cast by a proxy vote.

Sec. 31. Section 2-1204, Reissue Revised Statutes of Nebraska, is amended to read:

2-1204. The State Board of Agriculture, or any a county fair board, a county agricultural society for the improvement of agriculture organized under section 2-201 or 2-221 the County Agricultural Society Act, or any a corporation or association of persons organized and carried on for civic purposes, or which conducts a livestock exposition for the promotion of the livestock or horse-breeding industries of the state, and which does not permit its members to derive personal profit from its activities by way of dividends or otherwise, may apply to the State Racing Commission for a license to conduct horseracing at a designated place within the state. Said Such application shall be filed with the secretary of the commission at least sixty days before the first day of the horserace meeting which such corporation or association proposes to hold or conduct, shall specify the day or days when and the exact location where it is proposed to conduct such racing, and shall be in such form and contain such information as the commission shall prescribe.

Sec. 32. Sections 8 and 33 of this act become operative on July 1, 1998. The other sections of this act become operative on January 1, 1998.

Sec. 33. Original section 2-203.01, Revised Statutes Supplement, 1996, is repealed.

Sec. 34. Original sections 2-202, 2-204, 2-207, 2-209, 2-210, 2-220.02, 2-220.04, and 2-1204, Reissue Revised Statutes of Nebraska, and sections 2-203.06, 2-206, 2-220.01, 2-238 to 2-245, 2-248, and 2-249, Revised Statutes Supplement, 1996, are repealed.

Sec. 35. The following sections are outright repealed: Sections 2-203.04, 2-208, and 2-211 to 2-218, Reissue Revised Statutes of Nebraska, and sections 2-201, 2-203, 2-203.02, 2-203.03, 2-203.05, 2-205, 2-246, and 2-247, Revised Statutes Supplement, 1996.