

LEGISLATIVE BILL 234

Approved by the Governor March 24, 1999

Introduced by Suttle, 10; Schimek, 27

AN ACT relating to government; to amend sections 32-301, 32-313, 32-315, 32-326 to 32-330, 32-628, 32-914.01 to 32-915, and 32-1002, Reissue Revised Statutes of Nebraska; to provide for electronic records of voter registration; to require backup files of electronic records as prescribed; to provide duties; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 32-301, Reissue Revised Statutes of Nebraska, is amended to read:

32-301. The election commissioner or county clerk shall provide for the registration of the electors of the county. He or she shall furnish and prepare a ~~permanent~~ voter registration register containing records of registration for applicants who qualify as registered voters. Upon receipt of an original affidavit of registration in his or her office, the election commissioner or county clerk may create an electronic image, photograph, microphotograph, or reproduction in an electronic digital format to be used as the voter registration record. The ~~permanent~~ register shall contain the information required by section 32-312. The ~~permanent~~ register shall remain in the office of the election commissioner or county clerk. A duplicate register containing the precinct voter registration register for each precinct shall be provided by the election commissioner or county clerk for the use of judges and clerks of election in their respective precincts on election day. An electronically prepared list of registered voters in a form prescribed by the Secretary of State shall meet the requirements for a duplicate register.

Sec. 2. Section 32-313, Reissue Revised Statutes of Nebraska, is amended to read:

32-313. (1) No person shall be qualified to vote or to register to vote who is non compos mentis or who has been convicted of treason or a felony under the laws of the state or of the United States unless restored to civil rights.

(2) The clerk of any court in which a person is convicted of a felony shall prepare an abstract each month of each final judgment served by the clerk convicting an elector of a felony. The clerk shall file the abstract with the election commissioner or county clerk of the elector's county of residence not later than the tenth day of the month following the month in which the abstract is prepared. The clerk of the court shall notify the election commissioner or county clerk in writing if any such conviction is overturned.

(3) Upon receiving notification from the United States Attorney of a felony conviction of a Nebraska resident in federal court or of the overturning of any such conviction, the Secretary of State shall forward the notice to the election commissioner or county clerk of the county of such person's residence. The election commissioner or county clerk shall remove the name of such person from the ~~permanent~~ voter registration register upon receipt of notice of conviction.

Sec. 3. Section 32-315, Reissue Revised Statutes of Nebraska, is amended to read:

32-315. Upon receiving notice of a change of address pursuant to section 32-309 or 32-310 indicating that the person has moved to another county or state, the election commissioner or county clerk shall remove the name of the person from the ~~permanent~~ voter registration register. Upon receiving notice of a change of name or change of address pursuant to section 32-309 or 32-310 indicating that the person has changed his or her name or moved to another residence within the same county, the election commissioner or county clerk shall change the voter registration of the registered voter to the new name or new address and shall send an acknowledgment card to the registered voter indicating that the change of registration has been completed and the address of the voter's new polling place.

Sec. 4. Section 32-326, Reissue Revised Statutes of Nebraska, is amended to read:

32-326. The election commissioner or county clerk shall remove the name of a registered voter from the ~~permanent~~ voter registration register and cancel the registration of such voter if:

(1) The election commissioner or county clerk has received

information that the voter is deceased;

(2) The voter requests in writing that his or her name be removed;

(3) The election commissioner or county clerk has received information that the registrant has moved out of the county pursuant to section 32-309 or 32-310 or the National Change of Address program of the United States Postal Service pursuant to section 32-329;

(4) The voter has not responded to a confirmation notice sent pursuant to section 32-329 and has not voted or offered to vote at any election held prior to and including the second statewide federal general election following the mailing of the confirmation notice; or

(5) The voter has become ineligible to vote as provided in section 32-313.

Sec. 5. Section 32-327, Reissue Revised Statutes of Nebraska, is amended to read:

32-327. The election commissioner or county clerk may at any time remove from the ~~permanent voter~~ registration register a voter registration of a deceased person when the election commissioner or county clerk has any supporting information of the death of such voter. The Department of Health and Human Services Finance and Support shall provide, at cost, a record of the deaths of residents which occur in each county every three months to the appropriate election commissioner or county clerk.

Sec. 6. Section 32-328, Reissue Revised Statutes of Nebraska, is amended to read:

32-328. (1) The election commissioner or county clerk shall, upon the personal application of any registered voter or whenever informed of any error and after due investigation, correct any error in the ~~permanent voter~~ registration register. For such purpose, the election commissioner or county clerk may summon witnesses and compel their attendance to appear at the office of the election commissioner or county clerk to give testimony pertaining to residence, qualifications, or any other facts required to be entered in the ~~permanent voter~~ registration register. Such testimony shall be transcribed and become a part of his or her records.

(2) If the name of any registered voter of any precinct fails to appear on the precinct list of registered voters through any error of the election commissioner or county clerk, the precinct inspector or judge of election shall enter the correction in the precinct list of registered voters, initial the correction, and authorize the receiving board to issue the proper ballots and receive his or her vote. All corrections shall be entered on the ~~permanent voter~~ registration register as soon as possible after the election.

Sec. 7. Section 32-329, Reissue Revised Statutes of Nebraska, is amended to read:

32-329. (1) The election commissioner or county clerk shall verify the ~~permanent voter~~ registration register by using (a) the National Change of Address program of the United States Postal Service and a confirmation notice pursuant to subsection (2) of this section or (b) the biennial mailing of a nonforwardable notice to each registered voter. The Secretary of State shall provide biennial training for the election commissioners and county clerks responsible for maintaining voter registration lists. No name shall be removed from the ~~permanent voter~~ registration register for the sole reason that such person has not voted for any length of time.

(2) When an election commissioner or county clerk receives information from the National Change of Address program of the United States Postal Service that a registered voter has moved from the address at which he or she is registered to vote, the election commissioner or county clerk shall immediately update the ~~permanent voter~~ registration register and mail a confirmation notice by forwardable first-class mail. If a nonforwardable notice under subdivision (1)(b) of this section is returned as undeliverable, the election commissioner or county clerk shall mail a confirmation notice by forwardable first-class mail. The confirmation notice shall include a confirmation letter and a preaddressed, postage-paid confirmation card. The confirmation letter shall contain statements substantially as follows:

(a) The election commissioner or county clerk has received information that you have moved to a different residence address from that appearing on the ~~permanent voter~~ registration register;

(b) If you have not moved or you have moved to a new residence within this county, you should return the enclosed confirmation card by the regular registration deadline prescribed in section 32-302. If you fail to return the card by the deadline, you will be required to affirm or confirm your address prior to being allowed to vote. If you are required to affirm or confirm your address, it may result in a delay at your polling place; and

(c) If you have moved out of the county, you must reregister to be eligible to vote. This can be accomplished by mail or in person. For further

information, contact your local election commissioner or county clerk.

(3) The election commissioner or county clerk shall maintain for a period of not less than two years a record of each confirmation letter indicating the date it was mailed and the person to whom it was mailed.

(4) If information from the National Change of Address or the nonforwardable notice under subdivision (1)(b) of this section indicates that the voter has moved outside the jurisdiction and the election commissioner or county clerk receives no response to the confirmation letter and the voter does not offer to vote at any election held prior to and including the second statewide federal general election following the mailing of the confirmation notice, the voter's registration shall be canceled and his or her name shall be deleted from the ~~permanent voter~~ registration register.

Sec. 8. Section 32-330, Reissue Revised Statutes of Nebraska, is amended to read:

32-330. (1) The ~~permanent voter~~ registration register shall be a public record. Any person may examine the register at the office of the election commissioner or county clerk but shall not be allowed to make copies of the register. The electronic records of the original voter registrations created pursuant to section 32-301 may constitute the voter registration register. The election commissioner or county clerk shall withhold information in the register designated as confidential under section 32-331.

(2) The election commissioner or county clerk shall make available for purchase a list of registered voters that contains the information required under section 32-312 and, if requested, a list that only contains registered voters who have voted in an election held more than sixty days prior to the request for the list. The election commissioner or county clerk shall establish the price of the lists at a rate that fairly covers the actual production cost of the lists, not to exceed three cents per name. Lists shall be used solely for purposes related to elections, political activities, voter registration, law enforcement, or jury selection. Lists shall not be used for commercial purposes.

(3) Any person who acquires a list of registered voters under subsection (2) of this section shall take and subscribe to an oath in substantially the following form:

I hereby swear that I will use the list of registered voters of County, Nebraska, only for the purposes prescribed in section 32-330 and for no other purpose and that I will not permit the use or copying of such list for unauthorized purposes.

I hereby declare under the penalty of election falsification that the statements above are true to the best of my knowledge.

The penalty for election falsification is a Class IV felony.

.....
(Signature of person acquiring list)

Subscribed and sworn to before me this day of ~~19--~~ 20...

.....
(Name of officer)

.....
(Official title of officer)

(4) The election commissioner or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters and their addresses to the Clerk of the United States District Court for the District of Nebraska. Such list shall be provided no later than December 31 of each even-numbered year.

(5) The election commissioner or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters and their addresses to the state party headquarters of each political party and to the county chairperson of each political party. Such list shall be provided no later than thirty-five days prior to the statewide primary and statewide general elections.

Sec. 9. Section 32-628, Reissue Revised Statutes of Nebraska, is amended to read:

32-628. (1) All petitions prepared or filed pursuant to the Election Act or any petition which requires the election commissioner or county clerk to verify signatures by utilizing the ~~permanent voter~~ registration register shall provide a space at least two and one-half inches long for written signatures, a space at least two inches long for printed names, and sufficient space for date of birth and street name and number, city or village, and zip code. Lines on each petition shall not be less than one-fourth inch apart. Petitions may be designed in such a manner that lines for signatures and other information run the length of the page rather than the width. Petitions shall provide for no more than twenty signatures per page.

(2) For the purpose of preventing fraud, deception, and misrepresentation, every sheet of every petition containing signatures shall have upon it, above the signatures, statements printed in boldface type in substantially the following form:

WARNING TO PETITION SIGNERS--VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OF LAW MAY RESULT IN THE FILING OF CRIMINAL CHARGES: Any person who signs any name other than his or her own to any petition or who is not, at the time of signing or circulating the petition, a registered voter and qualified to sign or circulate the petition except as provided for initiative and referendum petitions shall be guilty of a Class I misdemeanor. Any person who falsely swears to a circulator's affidavit on a petition, who accepts money or other things of value for signing a petition, or who offers money or other things of value in exchange for a signature upon any petition shall be guilty of a Class IV felony.

(3) Every sheet of a petition which contains signatures shall have upon it, below the signatures, an affidavit in substantially the following form:

STATE OF NEBRASKA)
) ss.
COUNTY OF)
....., (name of circulator) being first duly sworn, deposes and says that he or she is the circulator of this petition containing signatures, that he or she is a registered voter of the State of Nebraska, that each person whose name appears on the petition personally signed the petition in the presence of the affiant, that the date to the left of each signature is the correct date on which the signature was affixed to the petition and that the date was personally affixed by the person signing such petition, that the affiant believes that each signer has written his or her name, street and number or voting precinct, and city, village, or post office address correctly, that the affiant believes that each signer was qualified to sign the petition, and that the affiant stated to each signer the object of the petition as printed on the petition before he or she affixed his or her signature to the petition.

.....
Circulator
.....
Address

Subscribed and sworn to before me, a notary public, this day of ~~19....~~ 20.... at, Nebraska.

.....
Notary Public

(4) Each sheet of a petition shall have upon its face and in plain view of persons who sign the petition a statement in letters not smaller than sixteen-point type in red print on the petition. If the petition is circulated by a paid circulator, the statement shall be as follows: This petition is circulated by a paid circulator. If the petition is circulated by a circulator who is not being paid, the statement shall be as follows: This petition is circulated by a volunteer circulator.

Sec. 10. Section 32-914.01, Reissue Revised Statutes of Nebraska, is amended to read:

32-914.01. If a person who is registered to vote changes his or her name but the ~~permanent voter~~ registration register has not been changed to reflect the change of name, the person shall be entitled to vote at the polling place upon completing a change of name form at the polling place. The election commissioner or county clerk shall update the ~~permanent voter~~ registration register to reflect the change of name.

Sec. 11. Section 32-914.02, Reissue Revised Statutes of Nebraska, is amended to read:

32-914.02. If a person who is registered to vote moves to a new residence within the same county and has continuously resided in such county and precinct since registering to vote but the ~~permanent voter~~ registration register has not been changed to reflect the move, the person shall be entitled to vote at the polling place for the new residence upon completing a change of address form at the polling place. The election commissioner or county clerk shall update the ~~permanent voter~~ registration register to reflect the change of address.

Sec. 12. Section 32-915, Reissue Revised Statutes of Nebraska, is amended to read:

32-915. If a person who is registered to vote moves to a new residence within the same county and has continuously resided in such county since registering to vote but his or her new residence is in a different precinct and the ~~permanent voter~~ registration register has not been changed to

reflect the move, the person shall be entitled to vote at the polling place for the new residence upon completing a change of address form at the polling place. The person shall enclose his or her ballot in an envelope marked Conditional Ballot and shall, by signing the front of the envelope or a separate form attached to the envelope, certify to the following facts:

- (1) I am a registered voter in County;
- (2) I have not resided outside of the county since registering to vote in this county;
- (3) My current address is shown on the change of address form; and
- (4) I have not voted and will not vote in this election except by this ballot.

The certification shall be signed under penalty of election falsification. The following statements shall be on the front of the envelope or on the attached form: By signing the front of this envelope or the attached form you are certifying to the information contained on this envelope or the attached form under penalty of election falsification. Election falsification is a Class IV felony and may be punished by up to five years imprisonment, a fine of up to ten thousand dollars, or both.

Sec. 13. Section 32-1002, Reissue Revised Statutes of Nebraska, is amended to read:

32-1002. (1) As the ballots are removed from the ballot box pursuant to sections 32-1011 to 32-1026, the receiving board or counting board shall separate the envelopes containing the conditional ballots from the rest of the ballots and deliver them to the election commissioner or county clerk.

(2) Upon receipt of a conditional ballot, the election commissioner or county clerk shall copy the information from the envelope containing the conditional ballot, verify that it is in proper form and that such person has not voted anywhere else in the county, and make the appropriate changes to the ~~permanent voter~~ registration register. The verification shall be completed within fifteen days after the election. Upon verifying the form, the election commissioner or county clerk shall remove the ballot from the envelope without exposing the marks on the ballot and shall place the ballot with the ballots to be counted by the county canvassing board.

Sec. 14. Any electronic record authorized by statute to constitute the permanent record shall be electronically reproduced onto a protected backup file within five working days of the creation of the permanent record. Adequate protective technology shall be used by the keeper of the records to protect the backup file from electrical surges and from unauthorized tampering. The backup file shall be kept in a separate location from the permanent record to minimize the risk of destruction of both copies. Prior to January 1, 2000, the information management services administrator of the Department of Administrative Services shall notify all affected state agencies and other entities and governmental subdivisions keeping electronic records as authorized by statute of the requirements of this section.

Sec. 15. Original sections 32-301, 32-313, 32-315, 32-326 to 32-330, 32-628, 32-914.01 to 32-915, and 32-1002, Reissue Revised Statutes of Nebraska, are repealed.