

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 513

Introduced by Brewer, 43.

Read first time January 17, 2023

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to government; to amend sections 25-1274,
2 58-230, and 58-817, Reissue Revised Statutes of Nebraska, and
3 sections 31-727.02, 79-1218, and 84-1411, Revised Statutes
4 Cumulative Supplement, 2022; to change proof of publication
5 requirements for legal notices; to change published notice
6 provisions and virtual conferencing requirements under the Open
7 Meetings Act as prescribed; to harmonize provisions; to repeal the
8 original sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-1274, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-1274 Publications required by law to be made in a newspaper or on
4 a statewide website established and maintained as a repository of public
5 notices by a majority of Nebraska newspapers, may be proved by affidavit
6 of any person having knowledge of the fact, specifying the time when and
7 the paper in which or the website whereon the publication was made, and ,
8 if made by publication in a newspaper, that said newspaper is a legal
9 newspaper under the statutes of the State of Nebraska, but such affidavit
10 must, for the purposes now contemplated, be made within six months after
11 the last day of publication, in the office where the original affidavit
12 of publication is required to be filed.

13 Sec. 2. Section 31-727.02, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

15 31-727.02 (1) Except as provided in subsection (6) ~~(5)~~ of section
16 84-1411, the clerk or administrator of each sanitary and improvement
17 district shall notify any municipality or county within whose zoning
18 jurisdiction such district is located of all meetings of the district
19 board of trustees or called by the administrator by sending a notice of
20 such meeting to the clerk of the municipality or county not less than
21 seven days prior to the date set for any meeting. In the case of meetings
22 called by the administrator, notice shall be provided to the clerk of the
23 district not less than seven days prior to the date set for any meeting.

24 (2) Except as provided in subsection (6) ~~(5)~~ of section 84-1411,
25 within thirty days after any meeting of a sanitary and improvement
26 district board of trustees or called by the administrator, the clerk or
27 administrator of the district shall transmit to the municipality or
28 county within whose zoning jurisdiction the sanitary and improvement
29 district is located a copy of the minutes of such meeting.

30 Sec. 3. Section 58-230, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 58-230 Meetings of the members of the authority shall be held at
2 least once every three months to attend to the business of the authority
3 and may be held at the call of the chairperson or whenever any five
4 members so request. Such meetings shall at all times be subject to the
5 Open Meetings Act, and such meetings may be held by means of virtual
6 conferencing in accordance with ~~subsection (2) of~~ section 84-1411.

7 Sec. 4. Section 58-817, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 58-817 Four members of the authority shall constitute a quorum. The
10 affirmative vote of a majority of all of the members of the authority
11 shall be necessary for any action taken by the authority. A vacancy in
12 the membership of the authority shall not impair the right of a quorum to
13 exercise all the rights and perform all the duties of the authority. Any
14 action taken by the authority under the Nebraska Educational, Health,
15 Cultural, and Social Services Finance Authority Act may be authorized by
16 resolution at any regular or special meeting, and each such resolution
17 shall take effect immediately and need not be published or posted.
18 Members of the authority may participate in a regular or special meeting
19 of the authority by virtual conferencing as long as the chairperson or
20 vice-chairperson conducts the meeting at a location where the public is
21 able to participate by attendance at that location and the virtual
22 conferencing otherwise conforms to the requirements of ~~subsection (2) of~~
23 section 84-1411.

24 Sec. 5. Section 79-1218, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 79-1218 The board of each educational service unit shall meet and
27 organize by naming one of its members as president, one as vice
28 president, and one as secretary. The board shall employ a treasurer who
29 shall be paid a salary to be fixed by the board.

30 The board of the educational service unit shall determine the
31 participation of the educational service unit in providing supplementary

1 educational services. If the board of the educational service unit does
2 not provide supplementary educational services, it shall meet during each
3 succeeding January to determine the participation in providing
4 supplementary educational services for that calendar year. Meetings may
5 be held by means of virtual conferencing in accordance with ~~subsection~~
6 ~~(2)~~ of section 84-1411.

7 Sec. 6. Section 84-1411, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 84-1411 (1) Until January 1, 2024:

10 (a) (1)(a) Each public body shall give reasonable advance publicized
11 notice of the time and place of each meeting as provided in this
12 subsection. Such notice shall be transmitted to all members of the public
13 body and to the public.

14 (b)(i) Except as provided in subdivision (1)(b)(ii) of this section,
15 in the case of a public body described in subdivision (1)(a)(i) of
16 section 84-1409 or such body's advisory committee, such notice shall be
17 published in a newspaper of general circulation within the public body's
18 jurisdiction and, if available, on such newspaper's website.

19 (ii) In the case of the governing body of a city of the second class
20 or village or such body's advisory committee, such notice shall be
21 published by:

22 (A) Publication in a newspaper of general circulation within the
23 public body's jurisdiction and, if available, on such newspaper's
24 website; or

25 (B) Posting written notice in three conspicuous public places in
26 such city or village. Such notice shall be posted in the same three
27 places for each meeting.

28 (iii) In the case of a public body not described in subdivision (1)
29 (b)(i) or (ii) of this section, such notice shall be given by a method
30 designated by the public body.

31 (iv) In case of refusal, neglect or inability of the newspaper to

1 timely publish the notice, the public body shall (A) post such notice on
2 its website, if available, and (B) post such notice in a conspicuous
3 public place in such public body's jurisdiction. The public body shall
4 keep a written record of such posting. The record of such posting shall
5 be evidence that such posting was done as required and shall be
6 sufficient to fulfill the requirement of publication.

7 (c) In addition to a method of notice required by subdivision (1)(b)
8 (i) or (ii) of this section, such notice may also be provided by any
9 other appropriate method designated by such public body or such advisory
10 committee.

11 (d) Each public body shall record the methods and dates of such
12 notice in its minutes.

13 (e) Such notice shall contain an agenda of subjects known at the
14 time of the publicized notice or a statement that the agenda, which shall
15 be kept continually current, shall be readily available for public
16 inspection at the principal office of the public body during normal
17 business hours. Agenda items shall be sufficiently descriptive to give
18 the public reasonable notice of the matters to be considered at the
19 meeting. Except for items of an emergency nature, the agenda shall not be
20 altered later than (i) twenty-four hours before the scheduled
21 commencement of the meeting or (ii) forty-eight hours before the
22 scheduled commencement of a meeting of a city council or village board
23 scheduled outside the corporate limits of the municipality. The public
24 body shall have the right to modify the agenda to include items of an
25 emergency nature only at such public meeting.

26 (2) Beginning January 1, 2024:

27 (a) Each public body shall give reasonable advance publicized notice
28 of the time and place of each meeting as provided in this subsection.
29 Such notice shall be transmitted to all members of the public body and to
30 the public.

31 (b)(i) Except as provided in subdivision (2)(b)(ii) of this section,

1 in the case of a public body described in subdivision (1)(a)(i) of
2 section 84-1409 or such body's advisory committees, such notice shall be
3 given by:

4 (A)(I) Publication in a newspaper of general circulation within the
5 public body's jurisdiction that is finalized for printing prior to the
6 time and date of the meeting, (II) posting on such newspaper's website,
7 if available, and (III) posting on a statewide website established and
8 maintained as a repository for such notices by a majority of Nebraska
9 newspapers. Such notice shall be placed in the newspaper and on the
10 websites by the newspaper; or

11 (B)(I) Posting to the newspaper's website, if available, and (II) a
12 statewide website established and maintained as a repository for such
13 notices by a majority of Nebraska newspapers if no edition of a newspaper
14 of general circulation within the public body's jurisdiction is to be
15 finalized for printing prior to the time and date of the meeting. Such
16 notice shall be placed in the newspaper and on the websites by the
17 newspaper.

18 (ii) In the case of the governing body of a city of the second class
19 or village or any advisory committee of such governing body, such notice
20 shall be given by:

21 (A)(I) Publication in a newspaper of general circulation within the
22 public body's jurisdiction that is finalized for printing prior to the
23 time and date of the meeting, (II) posting on such newspaper's website,
24 if available, and (III) posting on a statewide website established and
25 maintained as a repository for such notices by a majority of Nebraska
26 newspapers. Such notice shall be placed in the newspaper and on the
27 websites by the newspaper;

28 (B)(I) Posting to the newspaper's website, if available, and (II) on
29 a statewide website established and maintained as a repository for such
30 notices by a majority of Nebraska newspapers if no edition of a newspaper
31 of general circulation within the public body's jurisdiction is to be

1 finalized for printing prior to the time and date of the meeting. Such
2 notice shall be placed in the newspaper and on the websites by the
3 newspaper; or

4 (C)(III) Posting written notice in three conspicuous public places
5 in such city or village. Such notice shall be posted by the public body
6 in the same three places for each meeting.

7 (iii) In the case of a public body not described in subdivision (2)
8 (b)(i) or (ii) of this section, such notice shall be given by a method
9 designated by the public body.

10 (iv) In case of refusal or neglect of the newspaper to publish the
11 notice, the public body shall (A) post such notice on its website, if
12 available, (B) submit a post on a statewide website established and
13 maintained as a repository for such notices by a majority of Nebraska
14 newspapers, and (C) post in a conspicuous public place in such public
15 body's jurisdiction. The public body shall keep a written record of such
16 posting. The record of such posting shall be evidence that such posting
17 was done as required and shall be sufficient to fulfill the requirement
18 of publication.

19 (3)(a) ~~(2)(a)~~ The following entities may hold a meeting by means of
20 virtual conferencing if the requirements of subdivision (3)(b) ~~(2)(b)~~ of
21 this section are met:

22 (i) A state agency, state board, state commission, state council, or
23 state committee, or an advisory committee of any such state entity;

24 (ii) An organization, including the governing body, created under
25 the Interlocal Cooperation Act, the Joint Public Agency Act, or the
26 Municipal Cooperative Financing Act;

27 (iii) The governing body of a public power district having a
28 chartered territory of more than one county in this state;

29 (iv) The governing body of a public power and irrigation district
30 having a chartered territory of more than one county in this state;

31 (v) An educational service unit;

1 (vi) The Educational Service Unit Coordinating Council;

2 (vii) An organization, including the governing body, of a risk
3 management pool or its advisory committees organized in accordance with
4 the Intergovernmental Risk Management Act;

5 (viii) A community college board of governors;

6 (ix) The Nebraska Brand Committee;

7 (x) A local public health department;

8 (xi) A metropolitan utilities district;

9 (xii) A regional metropolitan transit authority; and

10 (xiii) A natural resources district.

11 (b) The requirements for holding a meeting by means of virtual
12 conferencing are as follows:

13 (i) Reasonable advance publicized notice is given as provided in
14 subsection (1) of this section, including providing access to a dial-in
15 number or link to the virtual conference;

16 (ii) In addition to the public's right to participate by virtual
17 conferencing, reasonable arrangements are made to accommodate the
18 public's right to attend at a physical site and participate as provided
19 in section 84-1412, including reasonable seating, in at least one
20 designated site in a building open to the public and identified in the
21 notice, with: At least one member of the entity holding such meeting, or
22 his or her designee, present at each site; a recording of the hearing by
23 audio or visual recording devices; and a reasonable opportunity for
24 input, such as public comment or questions, is provided to at least the
25 same extent as would be provided if virtual conferencing was not used;

26 (iii) At least one copy of all documents being considered at the
27 meeting is available at any physical site open to the public where
28 individuals may attend the virtual conference. The public body shall also
29 provide links to an electronic copy of the agenda, all documents being
30 considered at the meeting, and the current version of the Open Meetings
31 Act; and

1 (iv) Except as otherwise provided in this subdivision or subsection
2 (4) of section 79-2204, no more than one-half of the meetings of the
3 state entities, advisory committees, boards, councils, organizations, or
4 governing bodies are held by virtual conferencing in a calendar year. In
5 the case of (A) an organization created under the Interlocal Cooperation
6 Act that sells electricity or natural gas, (B) at wholesale on a
7 multistate basis or an organization created under the Municipal
8 Cooperative Financing Act, (C) a governing body of a risk management pool
9 and any advisory committee of such governing body, or (D) any advisory
10 committee of any state entity created in response to the Opioid
11 Prevention and Treatment Act, such the organization, governing body, or
12 committee may hold more than one-half of its meetings by virtual
13 conferencing if such organization holds at least one meeting each
14 calendar year that is not by virtual conferencing. ~~The governing body of~~
15 ~~a risk management pool that meets at least quarterly and the advisory~~
16 ~~committees of the governing body may each hold more than one-half of its~~
17 ~~meetings by virtual conferencing if the governing body's quarterly~~
18 ~~meetings are not held by virtual conferencing.~~

19 (4) ~~(3)~~ Virtual conferencing, emails, faxes, or other electronic
20 communication shall not be used to circumvent any of the public
21 government purposes established in the Open Meetings Act.

22 (5) ~~(4)~~ The secretary or other designee of each public body shall
23 maintain a list of the news media requesting notification of meetings and
24 shall make reasonable efforts to provide advance notification to them of
25 the time and place of each meeting and the subjects to be discussed at
26 that meeting.

27 (6) ~~(5)~~ When it is necessary to hold an emergency meeting without
28 reasonable advance public notice, the nature of the emergency shall be
29 stated in the minutes and any formal action taken in such meeting shall
30 pertain only to the emergency. Such emergency meetings may be held by
31 virtual conferencing. The provisions of subsection (5) ~~(4)~~ of this

1 section shall be complied with in conducting emergency meetings. Complete
2 minutes of such emergency meetings specifying the nature of the emergency
3 and any formal action taken at the meeting shall be made available to the
4 public by no later than the end of the next regular business day.

5 ~~(7) (6)~~ A public body may allow a member of the public or any other
6 witness to appear before the public body by means of virtual
7 conferencing.

8 ~~(8)(a) (7)(a)~~ Notwithstanding subsections ~~(3) (2)~~ and ~~(6) (5)~~ of
9 this section, if an emergency is declared by the Governor pursuant to the
10 Emergency Management Act as defined in section 81-829.39, a public body
11 the territorial jurisdiction of which is included in the emergency
12 declaration, in whole or in part, may hold a meeting by virtual
13 conferencing during such emergency if the public body gives reasonable
14 advance publicized notice as described in subsections ~~subsection~~ (1) and
15 (2) of this section. The notice shall include information regarding
16 access for the public and news media. In addition to any formal action
17 taken pertaining to the emergency, the public body may hold such meeting
18 for the purpose of briefing, discussion of public business, formation of
19 tentative policy, or the taking of any action by the public body.

20 (b) The public body shall provide access by providing a dial-in
21 number or a link to the virtual conference. The public body shall also
22 provide links to an electronic copy of the agenda, all documents being
23 considered at the meeting, and the current version of the Open Meetings
24 Act. Reasonable arrangements shall be made to accommodate the public's
25 right to hear and speak at the meeting and record the meeting. Subsection
26 ~~(5) (4)~~ of this section shall be complied with in conducting such
27 meetings.

28 (c) The nature of the emergency shall be stated in the minutes.
29 Complete minutes of such meeting specifying the nature of the emergency
30 and any formal action taken at the meeting shall be made available for
31 inspection as provided in subsection (5) of section 84-1413.

1 ~~(9) (8)~~ In addition to any other statutory authorization for virtual
2 conferencing, any public body not listed in subdivision ~~(3)(a) (2)(a)~~ of
3 this section may hold a meeting by virtual conferencing if:

4 (a) The purpose of the virtual meeting is to discuss items that are
5 scheduled to be discussed or acted upon at a subsequent non-virtual open
6 meeting of the public body;

7 (b) No action is taken by the public body at the virtual meeting;
8 and

9 (c) The public body complies with subdivisions ~~(3)(b)(i) (2)(b)(i)~~
10 and ~~(ii) (2)(b)(ii)~~ of this section.

11 Sec. 7. Original sections 25-1274, 58-230, and 58-817, Reissue
12 Revised Statutes of Nebraska, and sections 31-727.02, 79-1218, and
13 84-1411, Revised Statutes Cumulative Supplement, 2022, are repealed.

14 Sec. 8. Since an emergency exists, this act takes effect when
15 passed and approved according to law.