

LEGISLATIVE BILL 931

Became law April 12, 1990, without approval
of the Governor.

Introduced by Government, Military & Veterans Affairs
Committee, Baack, 47, Chairperson;
Coordsen, 32; Korshoj, 16; Withem, 14;
Conway, 17; Bernard-Stevens, 42

AN ACT relating to elections; to amend sections 16-305,
17-108.02, 19-613, 32-503.01, 32-1037, and
70-624.04, Reissue Revised Statutes of
Nebraska, 1943; to permit a person serving in
certain elective offices to serve in more than
one such office as prescribed; to provide
exceptions; to define a term; to eliminate a
provision providing when a vacancy in office
occurs; to harmonize provisions; to provide a
duty for the Revisor of Statutes; and to
repeal the original sections.

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

Section 1. (1) Except as provided in subsection (2) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.

(2) No person serving as a member of the Legislature or in an elective office described in Article IV, section 1, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

(3) Whenever an incumbent of an elective office subject to subsection (2) of this section assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

(4) For purposes of this section, elective office shall mean an office which is filled at any election, including an election held in conjunction with the annual meeting of a public body created by an act of the Legislature.

Sec. 2. That section 16-305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-305. The mayor and members of the council of a first-class city of the first class shall be residents and qualified electors registered voters of the city. Except as provided in section 70-624-04, they and shall not be permitted to hold any other elective public office as provided in section 1 of this act.

All officers and employees of the city shall receive such compensation as the mayor and council may fix at the time of their appointment or employment, subject to the limitations set forth in this section. The local governing body of the city may, at its discretion, by ordinance combine and merge any elective or appointive office or employment, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined.

Sec. 3. That section 17-108.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-108.02. The mayor and members of the council of second-class cities of the second class shall be residents and qualified electors registered voters of the city. Except as provided in section 70-624-04, they and shall not be permitted to hold any other elective public office as provided in section 1 of this act.

All officers and employees of the city shall receive such compensation as the mayor and council may fix at the time of their appointment or employment, subject to the limitations set forth in this section. The local governing body of the city may, at its discretion, by ordinance combine and merge any elective or appointive office or employment, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments may be held by the same officer or employee at the same time. The offices or employments

so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

Sec. 4. That section 19-613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-613. Members of the council shall be residents and qualified electors registered voters of the city and shall hold no other employment with the city. Except as provided in section 70-624-04; they shall not be permitted to hold any other elective public office or any other office or employment of the city as provided in section 1 of this act. Any council member who shall cease to possess any of the qualifications herein required, by this section or who shall have been convicted of a crime while in office, shall forthwith forfeit such office. The council shall be the judge of the election and qualifications of its members, subject to review by the courts.

Sec. 5. That section 32-503.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-503.01. Any partisan or nonpartisan candidate may place his or her name on the primary ballot by filing an application or by petitions signed and filed as provided in section 32-504. If a candidate for an elective office is the incumbent of a partisan or nonpartisan elective office, the filing of the requisite nomination papers of such incumbent shall be perfected at least seventy-five days prior to the date of the primary, notwithstanding sections 32-504 and 32-515. All other candidates shall file for a partisan or nonpartisan elective office at least sixty days prior to the date of the primary. if any person holding an elective office created by act of the legislature shall be elected to any other elective office, his or her office to which first elected shall become vacated.

Sec. 6. That section 32-1037, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1037. Every civil office shall be vacant, except as provided in section 32-1038, upon the happening of any one of the following events at any time before the expiration of the term of such office: The (1) ~~Resignation resignation~~ of the incumbent; (2) death of incumbent; (3) removal of incumbent from office; (4) decision of a competent tribunal declaring the office of incumbent vacant; (5) incumbent ceasing to be a resident of the state, district, county, township, precinct, or ward in which the duties of his or her office are to be exercised, or for which he or she may have been elected; (6) failure to elect at a proper election, there being no incumbent to continue in office until his or her successor is elected and qualified, nor other provision relating thereto; (7) forfeiture of office as provided by any law of the state; (8) conviction of an infamous crime or of any public offense involving the violation of the oath of office of incumbent; or (9) incumbent of an elective office created by an act of the legislature being elected to assuming another elective office as provided in subsections (2) and (3) of section 1 of this act. Such vacancy shall exist at the time incumbent assumes other office.

Sec. 7. That section 70-624.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-624.04. Officers and employees of public power districts, public power and irrigation districts, and public utility companies shall be permitted to serve as officers or employees of cities of the first class, cities of the second class, villages, and school districts with which the public power district, public power and irrigation district, or public utility company has one or more contracts hold other elective office as provided in section 1 of this act. No contracts of any such public power district, public power and irrigation district, or public utility company shall be void or voidable by reason of such service by its officers or employees.

Sec. 8. The Revisor of Statutes shall assign section 1 of this act to Chapter 32, article 5.

Sec. 9. That original sections 16-305, 17-108.02, 19-613, 32-503.01, 32-1037, and 70-624.04, Reissue Revised Statutes of Nebraska, 1943, are repealed.