

LEGISLATIVE BILL 874

Approved by the Governor June 9, 1997

Introduced by Urban Affairs Committee: Hartnett, 45, Chairperson; Abboud, 12; Janssen, 15; Preister, 5; Schimek, 27; Will, 8

AN ACT relating to sanitary and improvement districts; to amend section 31-735, Reissue Revised Statutes of Nebraska, and sections 31-740, 31-744, and 32-1302, Revised Statutes Supplement, 1996; to provide procedures for the recall of members of the board of trustees of sanitary and improvement districts; to change provisions relating to the election of members; to authorize contracts for intersection and traffic control improvements; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. For purposes of sections 1 to 8 of this act:

(1) Filing clerk means the election commissioner or county clerk of the county in which all or the largest portion of the land area comprising a sanitary and improvement district is located; and

(2) Qualified voter means a person entitled to vote for trustees of a sanitary and improvement district as provided in section 31-735.

Sec. 2. (1) A trustee of a sanitary and improvement district may be removed from office by recall pursuant to sections 1 to 8 of this act. A petition demanding that the question of removing a trustee be submitted to the qualified voters shall be signed by qualified voters who represent at least thirty-five percent of the number of votes cast for the trustee receiving the most votes in the last district election pursuant to section 31-735. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Each circulator of a recall petition shall be a qualified voter of the district on the date of the issuance of the initial petition papers.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, an affidavit shall be signed and filed with the filing clerk by at least one qualified voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The affidavit shall state the name of the trustee sought to be removed and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty days after the date of issuing the petitions.

(4) The filing clerk, upon issuing the initial petition papers or any subsequent petition papers, shall enter in a record, to be kept in his or her office, the name of the principal circulator or circulators to whom the papers were issued, the date of issuance, and the number of papers issued. The filing clerk shall certify on the papers the name of the principal circulator or circulators to whom the papers were issued and the date they were issued. No petition paper shall be accepted as part of the petition unless it bears such certificate. The principal circulator or circulators who check out petitions from the filing clerk may distribute such petitions to qualified voters of the district who may act as circulators of such petitions.

(5) Each signer of a recall petition shall be a qualified voter of the district on the date of the issuance of the initial petition papers.

Sec. 3. (1) The Secretary of State shall design the uniform petition papers to be distributed by all filing clerks for use in the recall of trustees of sanitary and improvement districts and shall keep a sufficient number of such blank petition papers on file for distribution to any filing clerk requesting recall petitions.

(2) Each petition paper presented to a qualified voter for his or her signature shall clearly indicate at the top (a) that the signatories must be qualified voters and support the holding of a recall election for the trustee, (b) the name of the individual sought to be recalled, and (c) a general statement of the reason or reasons for which recall is sought.

(3) Each petition paper shall contain a statement entitled Instructions to Petition Circulators prepared by the Secretary of State to assist circulators in understanding the provisions governing the petition process established by sections 1 to 8 of this act. The instructions shall include the following statements:

(a) No one shall circulate this petition paper in an attempt to gather signatures unless he or she is qualified to vote in an election of

trustees of the sanitary and improvement district as provided in section 31-735 on the date of the issuance of the initial petition papers.

(b) No one circulating this petition paper in an attempt to gather signatures shall sign the circulator's affidavit unless each person who signed the petition paper did so in the presence of the circulator.

Sec. 4. (1) The principal circulator or circulators shall file, as one instrument, all petition papers comprising a recall petition for signature verification with the filing clerk within thirty days after the filing clerk issues the initial petition papers to the principal circulator or circulators as provided in section 2 of this act.

(2) Within fifteen days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by qualified voters representing at least thirty-five percent of the number of votes cast for the trustee receiving the most votes in the last district election. No new signatures may be added after the initial filing of the petition papers. No signatures may be removed unless the filing clerk receives an affidavit signed by the person requesting that his or her signature be removed before the petitions are filed with the filing clerk for signature verification. If the petition is found to be sufficient, the filing clerk shall attach to the petition a certificate showing the result of such examination. If the petition is found not to be sufficient, the filing clerk shall file the petition in his or her office without prejudice to the filing of a new petition for the same purpose.

Sec. 5. (1) If the recall petition is found to be sufficient, the filing clerk shall notify the trustee whose removal is sought and the board of trustees of the sanitary and improvement district that sufficient signatures have been gathered.

(2) If the trustee does not resign within five days after receiving the notice, the filing clerk shall order an election to be held not less than forty-five days nor more than sixty days after the expiration of the five-day period, except that if an election for the board of trustees of the district is to be held within one hundred twenty days after the expiration of the five-day period, the filing clerk shall provide for the holding of the removal election at the time of such regular election. The recall election shall be conducted in the same manner as an election for members of the board of trustees as provided in section 31-735. After the filing clerk sets the date for the recall election, the recall election shall be held regardless of whether the trustee whose removal is sought resigns before the recall election is held.

Sec. 6. The form of the official ballot at a recall election conducted pursuant to section 5 of this act shall conform to the requirements of this section. With respect to each trustee whose removal is sought, the question shall be submitted: Shall (name of trustee) be removed from the office of trustee? Immediately following each such question there shall be printed on the ballot the two responses: Yes and No. Immediately to the left of each response shall be placed a square or oval in which the qualified voters may vote for one of the responses by making a cross or other clear, identifiable mark. The name of the trustee which shall appear on the ballot shall be the name of the trustee that appeared on the ballot of the previous election that included his or her name.

Sec. 7. (1) If a majority of the votes cast at a recall election are against the removal of the trustee named on the ballot or the election results in a tie, the trustee shall continue in office for the remainder of his or her term.

(2) If a majority of the votes cast at a recall election are for the removal of the trustee named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office unless a recount is ordered. If the trustee is deemed removed, the removal shall result in an immediate vacancy in the office from the date of the election. The vacancy shall be filled as provided in subsection (2) of section 31-735.

(3) If there are vacancies in the offices of a majority or more of the members of the board of trustees at one time due to the recall of such members, a special election to fill such vacancies shall be conducted as expeditiously as possible by the filing clerk in the manner specified in section 31-735.

(4) No trustee who is removed at a recall election or who resigns after the initiation of the recall process shall be appointed to fill the vacancy resulting from his or her removal or the removal of any other member of the same board of trustees during the remainder of his or her term of office.

Sec. 8. No recall petition shall be filed against a trustee under section 2 of this act within twelve months after a recall election has failed

to remove him or her from office or within six months after the beginning of his or her term of office or within six months prior to the incumbent filing deadline for the office.

Sec. 9. Section 31-735, Reissue Revised Statutes of Nebraska, is amended to read:

31-735. (1) On the first Tuesday after the second Monday in September which is at least fifteen months after the judgment of the district court creating a sanitary and improvement district and on the first Tuesday after the second Monday in September each two years thereafter, the board of trustees shall cause a special election to be held, at which election a board of trustees of five in number shall be elected. Each member elected to the board of trustees shall be elected to a term of two years and shall hold office until such member's successor is elected and qualified. Any person desiring to file for the office of trustee may file for such office with the election commissioner, or county clerk in counties having no election commissioner, of the county in which the greater proportion in area of the district is located not later than fifty days before the election. No filing fee shall be required. A person filing for the office of trustee to be elected at the election held four years after the first election of trustees and each election thereafter shall designate whether he or she is a candidate for election by the resident owners of such district or whether he or she is a candidate for election by all of the owners of real estate located in the district. The name of such candidate shall appear on only one ballot. The name of a person may be written in and voted for as a candidate for the office of trustee, and such write-in candidate may be elected to the office of trustee. Such trustees shall be owners of real estate located in the district. Notice of the date of the election shall be mailed by the clerk of the district not later than sixty-five days prior to the election to each person who is entitled to vote at the election for trustees whose property ownership or lease giving a right to vote is of record on the records of the register of deeds as of a date designated by the election commissioner or county clerk, which date shall be not more than seventy-five days prior to the election.

(2) For any sanitary and improvement district, persons whose ownership or right to vote becomes of record or is received after the date specified pursuant to subsection (1) of this section may vote upon establishing their right to vote to the satisfaction of the election board. At the first election and at the election held two years after the first election, any person may cast one vote for each trustee for each acre of unplatted land or fraction thereof and one vote for each platted lot which he or she may own in the district. At the election held four years after the first election of trustees, two members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district and three members shall be elected by all of the owners of real estate located in the district pursuant to this section. Every resident property owner may cast one vote for a candidate for each office of trustee to be filled by election of resident property owners only. Such resident property owners may also each cast one vote for each acre of unplatted land or fraction thereof and for each platted lot owned within the district for a candidate for each office of trustee to be filled by election of all property owners. For each office of trustee to be filled by election of all property owners of the district, every legal property owner not resident within such sanitary and improvement district may cast one vote for each acre of unplatted land or fraction thereof and one vote for each platted lot which he or she owns in the district. At the election held eight years after the first election of trustees and at each election thereafter, three members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district and two members shall be elected by all of the owners of real estate located in the district pursuant to this section, except that if more than fifty percent of the homes in any sanitary and improvement district are used as a second, seasonal, or recreational residence, the owners of such property shall be considered legal property owners resident within such district for purposes of electing trustees, and at the election held six years after the first election of trustees and at each election thereafter, three members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district and two members shall be elected by all of the owners of real estate located in the district pursuant to this section. If there are not any legal property owners resident within such district, the five members shall be elected by the legal property owners of all property within such district as provided in this section. Any corporation, whether public, private, or municipal, owning any land or lot in the district may vote

at such election the same as an individual. For purposes of voting for trustees, each condominium apartment under a condominium property regime established prior to January 1, 1984, under the Condominium Property Act or established after January 1, 1984, under the Nebraska Condominium Act shall be deemed to be a platted lot and the lessee or the owner of the lessee's interest, under any lease for an initial term of not less than twenty years which requires the lessee to pay taxes and special assessments levied on the leased property, shall be deemed to be the owner of the property so leased and entitled to cast the vote of such property. When ownership of a platted lot or unplatted land is held jointly by two or more persons, whether as joint tenants, tenants in common, limited partners, members of a limited liability company, or any other form of joint ownership, only one person shall be entitled to cast the vote of such property. The executor, administrator, guardian, or trustee of any person or estate interested shall have the right to vote. No corporation, estate, or trust shall be deemed to be a resident owner for purposes of voting for trustees. Should two or more persons or officials claim the right to vote on the same tract, the election board shall determine the party entitled to vote. Such board shall select one of their number chairperson and one of their number clerk. In case of a vacancy on such board, the remaining trustees shall fill the vacancy on such board until the next election.

(3) The election commissioner or county clerk shall hold any election required by subsection (1) of this section by sealed mail ballot by notifying the board of trustees on or before July 1 of a given year. The election commissioner or county clerk shall, at least twenty days prior to the election, mail a ballot and return envelope to each person who is entitled to vote at the election and whose property ownership or lease giving a right to vote is of record with the register of deeds as of the date designated by the election commissioner or county clerk, which date shall not be more than seventy-five days prior to the election. The ballot and return envelope shall include: (a) The names and addresses of the candidates; (b) room for write-in candidates; and (c) instructions on how to vote and return the ballot. Such ballots shall be returned to the election commissioner or county clerk no later than 10 a.m. of the first Thursday following the election.

Sec. 10. Section 31-740, Revised Statutes Supplement, 1996, is amended to read:

31-740. The board of trustees or the administrator of any district organized under sections 31-727 to 31-762 shall have power to provide for establishing, maintaining, and constructing gas and electric service lines and conduits, an emergency management warning system, water mains, sewers, and disposal plants and disposing of drainage, waste, and sewage of such district in a satisfactory manner; for establishing, maintaining, and constructing sidewalks, public roads, streets, and highways, including grading, changing grade, paving, repaving, graveling, regravelling, widening, or narrowing roads, resurfacing or relaying existing pavement, or otherwise improving any road, street, or highway within the district, including protecting existing sidewalks, streets, highways, and roads from floods or erosion which has moved within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin; for establishing, maintaining, and constructing public waterways, docks, or wharfs, and related appurtenances; and for constructing and contracting for the construction of dikes and levees for flood protection for the district. The board of trustees or the administrator of any district may contract for electricity for street lighting for the public streets and highways within the district and shall have power to provide for building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities, and, when permitted by section 31-727, for contracting with other sanitary and improvement districts for the building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, and for contracting for any public purpose specifically authorized in this section. Power to construct clubhouses and similar facilities for the giving of private parties within the zoning jurisdiction of any city or village is not included in the powers granted in this section. Any sewer system established shall be approved by the Department of Health and Human Services Regulation and Licensure.

Prior to the installation of any of the improvements or services provided for in this section, the plans or contracts for such improvements or services, other than for public parks, playgrounds, and recreational facilities, whether a district acts separately or jointly with other districts as permitted by section 31-727, shall be approved by the public works department of any municipality when such improvements or any part thereof or

services are within the area of the zoning jurisdiction of such municipality. If such improvements or services are without the area of the zoning jurisdiction of any municipality, plans for such improvements shall be approved by the county board of the county in which such improvements are located. Plans and exact costs for public parks, playgrounds, and recreational facilities shall be approved by resolution of the governing body of such municipality or county after a public hearing held not less than five days after notice of the hearing has been published in a newspaper of general circulation in such municipality or county. Purchases of public parks, playgrounds, and recreational facilities so approved may be completed and shall be valid notwithstanding any interest of any trustee of the district in the transaction. Such approval shall relate to conformity with the master plan and the construction specifications and standards established by such municipality or county. When no master plan and construction specifications and standards have been established, such approval shall not be required. When such improvements are within the area of the zoning jurisdiction of more than one municipality, such approval shall be required only from the most populous municipality, except that when such improvements are furnished to the district by contract with a particular municipality, the necessary approval may in all cases be given by such municipality. The municipality or county shall be required to approve plans for such improvements and shall enforce compliance with such plans by action in equity.

The district may construct its sewage disposal plant and other sewerage or water improvements, or both, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewerage improvements and for a supply of water for fire protection and for resale to residents of the district. It may also contract with any corporation, public power district, electric membership or cooperative association, or municipality for the installation, maintenance, and cost of operating a system of street lighting upon the public streets and highways within the district, for installation, maintenance, and operation of a water system, or for the installation, maintenance, and operation of electric service lines and conduits, and to provide water service for fire protection and use by the residents of the district. It may also contract with any corporation, municipality, or other sanitary and improvement district, as permitted by section 31-727, for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting parties. It may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction the sanitary and improvement district is located for intersection and traffic control improvements, which improvements serve or benefit the district and which may be within or without the corporate boundaries of the district, and for any public purpose specifically authorized in this section.

Each sanitary and improvement district shall have the books of account kept by the board of trustees of the district examined and audited by a certified public accountant or a public accountant for the year ending June 30 and shall file a copy of the audit with the office of the Auditor of Public Accounts by December 31 of the same year. Such audits may be waived by the Auditor of Public Accounts upon proper showing by the district that the audit is unnecessary. Such examination and audit shall show (1) the gross income of the district from all sources for the previous year, (2) the amount spent for sewage disposal, (3) the amount expended on water mains, (4) the gross amount of sewage processed in the district, (5) the cost per thousand gallons of processing sewage, (6) the amount expended each year for (a) maintenance and repairs, (b) new equipment, (c) new construction work, and (d) property purchased, (7) a detailed statement of all items of expense, (8) the number of employees, (9) the salaries and fees paid employees, (10) the total amount of taxes levied upon the property within the district, and (11) all other facts necessary to give an accurate and comprehensive view of the cost of carrying on the activities and work of such sanitary and improvement district. The reports of all audits provided for in this section shall be and remain a part of the public records in the office of the Auditor of Public Accounts. The expense of such audits shall be paid out of the funds of the district. The Auditor of Public Accounts shall be given access to all books and papers, contracts, minutes, bonds, and other documents and memoranda of every kind and character of such district and be furnished all additional information possessed by any present or past officer or employee of any such district, or by any other person, that is essential to the making of a comprehensive and correct audit.

If any sanitary and improvement district fails or refuses to cause

such annual audit to be made of all of its functions, activities, and transactions for the fiscal year within a period of six months following the close of such fiscal year, unless such audit has been waived, the Auditor of Public Accounts shall, after due notice and a hearing to show cause by such district, appoint a certified public accountant or public accountant to conduct the annual audit of the district and the fee for such audit shall become a lien against the district.

Whenever the sanitary sewer system or any part thereof of a sanitary and improvement district is directly or indirectly connected to the sewerage system of any city, such city, without enacting an ordinance or adopting any resolution for such purpose, may collect such city's applicable rental or use charge from the users in the sanitary and improvement district and from the owners of the property served within the sanitary and improvement district. The charges of such city shall be charged to each property served by the city sewerage system, shall be a lien upon the property served, and may be collected from the owner or the person, firm, or corporation using the service. If the city's applicable rental or service charge is not paid when due, such sum may be recovered by the municipality in a civil action or it may be assessed against the premises served in the same manner as special taxes or assessments are assessed by such city and collected and returned in the same manner as other municipal special taxes or assessments are enforced and collected. When any such tax or assessment is levied, it shall be the duty of the city clerk to deliver a certified copy of the ordinance to the county treasurer of the county in which the premises assessed are located and such county treasurer shall collect the same as provided by law and return the same to the city treasurer. Funds of such city raised from such charges shall be used by it in accordance with laws applicable to its sewer service rental or charges. The governing body of any city may make all necessary rules and regulations governing the direct or indirect use of its sewerage system by any user and premises within any sanitary and improvement district and may establish just and equitable rates or charges to be paid to such city for use of any of its disposal plants and sewerage system. The board of trustees shall have power, in connection with the issuance of any warrants or bonds of the district, to agree to make a specified minimum levy on taxable property in the district to pay, or to provide a sinking fund to pay, principal and interest on warrants and bonds of the district for such number of years as the board may establish at the time of making such agreement and shall also have power to agree to enforce, by foreclosure or otherwise as permitted by applicable laws, the collection of special assessments levied by the district. Such agreements may contain provisions granting to creditors and others the right to enforce and carry out the agreements on behalf of the district and its creditors.

The board of trustees or administrator shall have power to sell and convey real and personal property of the district on such terms as it or he or she shall determine, except that real estate shall be sold to the highest bidder at public auction after notice of the time and place of the sale has been published for three consecutive weeks prior to the sale in a newspaper of general circulation in the county. The board of trustees or administrator may reject such bids and negotiate a sale at a price higher than the highest bid at the public auction at such terms as may be agreed.

Sec. 11. Section 31-744, Revised Statutes Supplement, 1996, is amended to read:

31-744. Whenever the board of trustees or the administrator deems it advisable or necessary (1) to build, reconstruct, purchase, or otherwise acquire a water system, an emergency management warning system, a sanitary sewer system, a sanitary and storm sewer or sewage disposal plant, pumping stations, sewer outlets, gas or electric service lines and conduits constructed or to be constructed in whole or in part inside or outside of the district, a system of sidewalks, public roads, streets, and highways wholly within the district, public waterways, docks, or wharfs, and related appurtenances, wholly within the district, or a public park or parks, playgrounds, and recreational facilities wholly within the district, (2) to contract as permitted by section 31-740 with the county or city within whose zoning jurisdiction the sanitary and improvement district is located for intersection and traffic control improvements which serve or benefit the district and are located within or without the corporate boundaries of the district, (3) to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, or (4) to contract for the installation and operation of a water system, it shall declare the advisability and necessity therefor in a proposed resolution, which

resolution, in the case of pipe sewer construction, shall state the kinds of pipe proposed to be used, shall include cement concrete pipe and vitrified clay pipe and any other material deemed suitable, shall state the size or sizes and kinds of sewers proposed to be constructed, and shall designate the location and terminal points thereof. If it is proposed to construct a water system, disposal plants, pumping stations, outlet sewers, gas or electric service lines and conduits, or a system of sidewalks, public roads, streets, or highways or public waterways, docks, or wharfs, to construct or contract for the construction of dikes and levees for flood protection for the district or public parks, playgrounds, or recreational facilities, or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall refer to the plans and specifications thereof which have been made and filed before the publication of such resolution by the engineer employed for such purpose. If it is proposed to purchase or otherwise acquire a water system, a sanitary sewer system, a sanitary or storm water sewer, sewers, sewage disposal plant, pumping stations, sewer outlets, gas or electric service lines and conduits, or public parks, playgrounds, or recreational facilities or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall state the price and conditions of the purchase or how such facility is being acquired. If it is proposed to contract for the installation and operation of a water system for fire protection and for the use of the residents of the district, to contract for the construction of dikes and levees for flood protection for the district or gas or electric service lines and conduits, to contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction the sanitary and improvement district is located for any public purpose specifically authorized in this section, or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall state the principal terms of the proposed agreement and how the cost thereof is to be paid. When gas or electric service lines and conduits are among the improvements that are proposed to be constructed, purchased, or otherwise acquired or contracted for, and no construction specifications and standards therefor have been established by the municipality having zoning jurisdiction over the area where such improvements are to be located, or when such service lines and conduits are not to be located within any municipality's area of zoning jurisdiction, the plans and specifications for and the method of construction of such service lines and conduits shall be approved by the supplier of gas or electricity within whose service or customer area they are to be located. ~~Such~~ The engineer shall also make and file, prior to the publication of such resolution, an estimate of the total cost of the proposed improvement. The proposed resolution shall state the amount of such estimated cost.

The board of trustees or the administrator shall assess, to the extent of special benefits, the cost of such improvements upon properties specially benefited thereby. The resolution shall state the outer boundaries of the district or districts in which it is proposed to make special assessments.

Sec. 12. Section 32-1302, Revised Statutes Supplement, 1996, is amended to read:

32-1302. (1) Any Except for trustees of sanitary and improvement districts, any elected official of a political subdivision and any elected member of the governing bodies of cities, villages, counties, irrigation districts, natural resources districts, public power districts, school districts, community college areas, educational service units, hospital districts, and metropolitan utilities districts may be removed from office by recall pursuant to sections 32-1301 to 32-1309. A trustee of a sanitary and improvement district may be removed from office by recall pursuant to sections 1 to 8 of this act.

(2) If due to reapportionment the boundaries of the area served by the official or body change, the recall procedure and special election provisions of sections 32-1301 to 32-1309 shall apply to the registered voters within the boundaries of the new area.

(3) The recall procedure and special election provisions of such sections shall apply to members of the governing bodies listed in subsection (1) of this section, other than sanitary and improvement districts, who are

elected by precinct, district, or subdistrict of the political subdivision. Only registered voters of such member's precinct, district, or subdistrict may sign a recall petition or vote at the recall election. The recall election shall be held within the member's precinct, district, or subdistrict. When an elected member is nominated by precinct, district, or subdistrict in the primary election and elected at large in the general election, the recall provisions shall apply to the registered voters at the general election.

(4) The recall procedure and special election provisions shall apply to the mayor and members of the city council of municipalities with a home rule charter notwithstanding any contrary provisions of the home rule charter.

Sec. 13. Original section 31-735, Reissue Revised Statutes of Nebraska, and sections 31-740, 31-744, and 32-1302, Revised Statutes Supplement, 1996, are repealed.

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