

LEGISLATIVE BILL 71

Approved by the Governor March 28, 2001

Introduced by Kristensen, 37; Chambers, 11

AN ACT relating to elections; to amend sections 14-201.03, 32-538, 32-553, and 32-555, Reissue Revised Statutes of Nebraska; to authorize the city council of a city of the metropolitan class to redraw its own district boundaries as prescribed; to change provisions relating to cities with the city manager plan of government; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 14-201.03, Reissue Revised Statutes of Nebraska, is amended to read:

14-201.03. The election commissioner in any county in which is situated a city of the metropolitan class shall divide the city into seven city council districts of compact and contiguous territory. Such districts shall be numbered consecutively from one to seven. One council member shall be elected from each such district. ~~The election commissioner shall redraw the boundaries of such districts, maintaining the compact and contiguous nature of each, when such districts are no longer substantially equal in population~~ city council shall be responsible for redrawing the city council district boundaries pursuant to section 32-553.

Sec. 2. Section 32-538, Reissue Revised Statutes of Nebraska, is amended to read:

32-538. (1) In a city which adopts the city manager plan of government pursuant to sections 19-601 to 19-610, the number of city council members shall be determined by the class and population of the city. In cities having one thousand or more but not more than forty thousand inhabitants, there shall be five members, and in cities having more than forty thousand but less than two hundred thousand inhabitants, there shall be seven members, except that in cities having between twenty-five thousand and forty thousand inhabitants, the city council may by ordinance provide for seven members. Council members shall be elected from the city at large unless the city council by ordinance provides for the election of all or some of its council members by wards, the number and boundaries of which are provided for in section 16-104. Council members shall serve for terms of four years or until their successors are elected and qualified. ~~except as provided for the first election under an ordinance changing the number of council members or their manner of election.~~ The council members shall meet the qualifications found in sections 19-613 and 19-613.01.

The first election under an ordinance changing the number of council members or their manner of election shall take place at the next regular city election. Council members whose terms of office expire after the election shall continue in office until the expiration of the terms for which they were elected and until their successors are elected and qualified. and shall be for all council members irrespective of their manner of election. The qualification of the candidates elected at such first election shall end the terms of those council members in office whose terms have not otherwise expired. ~~If all council members are elected at large at the first election, the bare majority of council members receiving the highest number of votes shall serve for four years and the others for two years.~~ At the first election under an ordinance changing the number of council members or their manner of election, one-half or the bare majority of council members elected at large, as the case may be, who receive the highest number of votes shall serve for four years and the other or others, if needed, for two years. At such first election, one-half or the bare majority of council members, as the case may be, who are elected by wards shall serve for four years and the other or others, if needed, for two years, as provided in the ordinance. If only one council member is to be elected at large at such first election, such member shall serve for four years.

(2) Commencing with the statewide primary election in 1976, and every two years thereafter, those candidates whose terms will be expiring shall be nominated at the statewide primary election and elected at the statewide general election.

Sec. 3. Section 32-553, Reissue Revised Statutes of Nebraska, is amended to read:

32-553. (1) When any political subdivision except a public power

district nominates or elects members of the governing board by districts, such districts shall be substantially equal in population as determined by the most recent federal decennial census. Any such political subdivision which has districts in place on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, shall, if necessary to maintain substantial population equality as required by this subsection, have new district boundaries drawn within six months after the passage and approval of the legislative bill providing for reestablishing legislative districts. Any such political subdivision in existence on the date the census figures used in drawing district boundaries for the Legislature are required to be submitted to the state by the United States Department of Commerce, Bureau of the Census, and which has not established any district boundaries shall establish district boundaries pursuant to this section within six months after such date. If the deadline for drawing or redrawing district boundary lines imposed by this section is not met, the procedures set forth in section 32-555 shall be followed.

(2) The governing board of each such political subdivision shall be responsible for drawing its own district boundaries and shall, as nearly as possible, follow the precinct lines created by the election commissioner or county clerk after each federal decennial census, except that ~~the election commissioner of any county in which a city of the metropolitan class is located shall draw district boundaries for such city as required under this section and section 14-201.03~~ and the election commissioner of any county in which a Class IV or V school district is located shall draw district boundaries for such school district as provided in this section and section 32-552.

Sec. 4. Section 32-555, Reissue Revised Statutes of Nebraska, is amended to read:

32-555. (1) Except as provided in subsection (4) of this section, if the governing board of any city, village, county, or school district which nominates or elects members to the board by district or ward fails to draw district boundaries by the date established in subsection (1) of section 32-553 or subsection (4) of section 32-554, the county attorney of the county in which the board is located shall file an action in the district court for the purpose of ordering the board to draw district boundaries. If within six months after the receipt of such order the board does not comply, the members of the board shall be subject to removal and the court shall order the Secretary of State to draw district boundaries in accordance with the most recent federal decennial census. Any vacancy resulting from such removal from office shall be filled as provided by law.

(2) If the county attorney fails to file the action required by subsection (1) of this section, he or she shall be subject to removal from office. If the county attorney fails to file such action, any citizen within the jurisdiction of the governing board may file the action. The court shall order the board to pay any costs and attorney's fees involved in such action.

(3) If an election commissioner required to draw district boundaries for a city of the metropolitan class any county having more than three hundred thousand inhabitants pursuant to ~~section~~ sections 23-151 and 32-553 fails to do so, the election commissioner shall be subject to (a) suit by the county attorney for the purpose of ordering the drawing of district boundaries, (b) removal from office pursuant to section 32-214 for failure to comply with an order to draw district boundaries within six months of receipt of such order, and (c) suit by any citizen for the purpose of ordering the drawing of district boundaries and shall be obligated to pay any costs and attorney's fees involved in any such action.

(4) If the county board of any county having more than three hundred thousand inhabitants fails to complete the process of drawing district boundaries as provided for in sections 23-151 and 32-553, the procedures set forth in subdivision (3)(b) of section 23-151 shall be followed.

Sec. 5. Sections 2 and 6 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on May 16, 2001.

Sec. 6. Original section 32-538, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 7. Original sections 14-201.03, 32-553, and 32-555, Reissue Revised Statutes of Nebraska, are repealed.

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