

32-101. Act, how cited.

Sections 32-101 to 32-1551 shall be known and may be cited as the Election Act.

Source: Laws 1994, LB 76, § 1; Laws 1995, LB 337, § 1; Laws 1995, LB 514, § 1; Laws 1996, LB 964, § 1; Laws 1997, LB 764, § 8; Laws 2001, LB 768, § 1; Laws 2002, LB 1054, § 7; Laws 2003, LB 181, § 1; Laws 2003, LB 358, § 1; Laws 2003, LB 359, § 1; Laws 2003, LB 521, § 3; Laws 2005, LB 401, § 2; Laws 2005, LB 566, § 1; Laws 2010, LB951, § 1; Laws 2013, LB299, § 1; Laws 2013, LB349, § 1; Laws 2014, LB661, § 1; Laws 2014, LB946, § 3; Laws 2015, LB575, § 5; Laws 2018, LB1065, § 1; Laws 2019, LB492, § 35; Laws 2020, LB1055, § 2; Laws 2022, LB843, § 2.

Effective Date: July 21, 2022

32-102. Act; applicability; how construed.

The Election Act shall apply to all elections held in the state unless otherwise specifically provided. The act shall be liberally construed so that the will of the registered voters is not defeated by an informality or a failure to comply with the act with respect to the giving of any notice or the conducting of any election or the certifying of the results of the election.

Source: Laws 1994, LB 76, § 2.

32-103. Definitions, where found.

For purposes of the Election Act, the definitions found in sections 32-104 to 32-120 shall be used.

Source: Laws 1994, LB 76, § 3; Laws 1997, LB 764, § 9; Laws 2003, LB 358, § 2; Laws 2005, LB 566, § 2; Laws 2020, LB1055, § 3; Laws 2022, LB843, § 3.

Effective Date: July 21, 2022

32-104. Candidate, defined.

Candidate shall mean a registered voter for whom votes may be cast at any election and who, either tacitly or expressly, consents to be considered. Candidate shall not include a candidate for President or Vice President of the United States.

Source: Laws 1994, LB 76, § 4.

32-105. Certificate of election, defined.

Certificate of election shall mean a document issued to a candidate who has been elected to office at an election.

Source: Laws 1994, LB 76, § 5.

32-106. Certificate of nomination, defined.

Certificate of nomination shall mean a document issued to a candidate who receives the requisite number of votes and qualifies to be placed on a general election ballot.

Source: Laws 1994, LB 76, § 6.

32-107. District, defined.

District shall mean a subdivision of the state or of a county, city, village, or other political subdivision in which all registered voters residing within the district are entitled to participate in the election of any one or more candidates or in the determination by election of any question or proposition.

Source: Laws 1994, LB 76, § 7; Laws 1997, LB 764, § 10.

32-108. Election, defined.

Election shall mean any statewide or local primary, special, joint, or general election at which registered voters of the state or the political subdivision holding the election by ballot choose public officials or decide any questions and propositions lawfully submitted to them.

Source: Laws 1994, LB 76, § 8.

Annotations

Court has jurisdiction over contest of election for reorganization of school districts. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

School district elections are specifically excepted from general primary election law. *Farrell v. School Dist. No. 54*, 164 Neb. 853, 84 N.W.2d 126 (1957).

32-109. Elective office, defined.

Elective office shall mean any office which has candidates nominated or elected at the time of a statewide primary election, any office which has candidates nominated at the time of a statewide primary election and elected at the time of a statewide general election, any office which has candidates elected at the time of a statewide general election, any office which has candidates nominated or elected at a city or village election, and any office created by an act of the Legislature which has candidates elected at an election.

Source: Laws 1994, LB 76, § 9.

32-110. Elector, defined.

Elector shall mean a citizen of the United States whose residence is within the state and who is at least eighteen years of age or is seventeen years of age and will attain the age of eighteen years on or before the first Tuesday after the first Monday in November of the then current calendar year.

Source: Laws 1994, LB 76, § 10.

Annotations

1. Residence

2. Citizenship

3. Indians

4. Miscellaneous

1. Residence

Self-supporting students who regard the location of their school as their home may vote where the school is located. *Swan v. Bowker*, 135 Neb. 405, 281 N.W. 891 (1938).

Foreign railroad laborers, who were moved about as their work required, were not residents within the meaning of the Constitution and entitled to vote because the box cars in which they lived in inclement weather remained on a sidetrack within one precinct most of the four months that preceded an election. *White v. Slama*, 89 Neb. 65, 130 N.W. 978, Ann. Cas. 1912C 518 (1911).

As a general rule a minor cannot change his domicile before he reaches his majority, but a self-supporting minor, who has resided in this state for more than six months and who possesses the other requirements, becomes a qualified elector when he reaches his majority. *Russell v. State*, 62 Neb. 512, 87 N.W. 344 (1901).

Self-supporting students who regard the location of their school as their home and who have no particular future residence in mind, may vote where the school is located. *Berry v. Wilcox*, 44 Neb. 82, 62 N.W. 249, 48 A.S.R. 706 (1895).

Persons who were living on a temporary military post and had no intention to return to their former places of residence, and who possessed the other requirements, were qualified electors. *State ex rel. Valentine v. Griffey*, 5 Neb. 161, 31 L.E.2d 890 (1876).

2. Citizenship

Under the Constitution of 1875, a male person twenty-one years old and of foreign birth, who came to this country while a minor, did not become a qualified elector upon his father's declaration of intention to become a citizen of the United States. *Haywood v. Marshall*, 53 Neb. 220, 73 N.W. 449 (1897).

An alien who came to this country while a minor, whose father later declared his intention to become a citizen of the United States, who removed to the Territory of Nebraska in 1856, became a citizen of the United States and of Nebraska by the organic and enabling acts and the act of admission. *Boyd v. Nebraska ex rel. Thayer*, 143 U.S. 135 (1892), reversing *State ex rel. Thayer v. Boyd*, 31 Neb. 682, 48 N.W. 739 (1891), 51 N.W. 602 (1892).

Voting status under Nebraska law would presumably show United States citizenship. *Beatrice Foods Co. v. United States*, 312 F.2d 29 (8th Cir. 1963).

3. Indians

Indians to whom allotments of land had been made, and who possessed the other requirements, were prima facie qualified electors even though formal approval of their allotments had not been made and patents had not been issued. *State ex rel. Crawford v. Norris*, 37 Neb. 299, 55 N.W. 1086 (1893).

Indians who are not living apart from a tribe and who have not adopted the habits of civilized life are prima facie not qualified electors, and it must be shown that an allotment of land has been made to them before the legality of their votes can be established. *State ex rel. Fair v. Frazier*, 28 Neb. 438, 44 N.W. 471 (1890).

An Indian who was born in the United States as a member of a tribe recognized by the federal government, and who later took up his residence apart from his tribe, but had not been naturalized, or taxed, or recognized as a citizen by either the state or federal government, was not a citizen of the United States under the first section of the fourteenth amendment. *Elk v. Wilkins*, 112 U.S. 94 (1884).

4. Miscellaneous

This section as amended applies to general elections only and does not prescribe the qualifications for school district elections or amend or supplement the school laws. *Cunningham v. Ilg*, 118 Neb. 682, 226 N.W. 333 (1929).

32-110.01. Electronic voting system, defined.

Electronic voting system means a voting system in which each part of the process is done electronically.

Source: Laws 2003, LB 358, § 3.

32-110.02. Government document, defined.

Government document means an identification document or other document issued by a federal, state, or local government agency that includes the name and address of the voter as they appear on his or her voter registration application, including those documents that acknowledge the person's civil or legal status or entitlement to a government service or program.

Source: Laws 2005, LB 566, § 3.

32-110.03. Emergency response provider, defined.

Emergency response provider shall mean a person responding to a mutual aid agreement or a state of emergency proclamation issued by the Governor or the President of the United States who is temporarily assigned by a governmental or nongovernmental relief agency or employer to provide support to victims of an emergency or a natural disaster or to rebuild the infrastructure of an area affected by such emergency or natural disaster.

Source: Laws 2022, LB843, § 4.

Effective Date: July 21, 2022

32-111. Incumbent, defined.

Incumbent shall mean the person whom the canvassers or the courts declare elected to an elective office or who has been appointed to an elective office.

Source: Laws 1994, LB 76, § 11.

32-112. Oath, defined.

Oath shall include affirmation.

Source: Laws 1994, LB 76, § 12.

32-112.01. Poll watcher, defined.

Poll watcher means an individual appointed pursuant to section 32-961 who is legally in a polling place to observe the conduct of the election.

Source: Laws 2020, LB1055, § 4.

32-112.02. Political subdivision, defined.

Political subdivision shall include a county, city, village, township, school district, public power district, sanitary and improvement district, metropolitan utilities district, rural or suburban fire protection district, natural resources district, regional metropolitan transit authority, community college, learning community coordinating council, educational service unit, hospital district, reclamation district, library board, airport authority, and any other unit of local government of the State of Nebraska.

Source: Laws 2022, LB843, § 5.

Effective Date: July 21, 2022

32-113. Population, defined.

Population shall mean the population of the state or any of its political subdivisions as determined by the most recent federal decennial census.

Source: Laws 1994, LB 76, § 13.

32-114. Precinct, defined.

Precinct shall mean a defined area established by law within which all registered voters cast their votes at one polling place. Precinct may include any ward or other division of territory in any city or village when created and designated by ordinance for election purposes.

Source: Laws 1994, LB 76, § 14.

32-115. Registered voter, defined.

Registered voter shall mean an elector who has a valid voter registration record on file with the election commissioner or county clerk in the county of his or her residence.

Source: Laws 1994, LB 76, § 15; Laws 1997, LB 764, § 11.

Annotations

"Inactive" registered voters must be counted as registered voters until their names are legally removed from the voter rolls. *State ex rel. Bellino v. Moore*, 254 Neb. 385, 576 N.W.2d 793 (1998).

32-116. Residence, defined.

Residence shall mean (1) that place in Nebraska in which a person is actually domiciled, which is the residence of an individual or family, with which a person has a settled connection for the determination of his or her civil status or other legal purposes because it is actually or legally his or her permanent and principal home, and to which, whenever he or she is absent, he or she has the intention of returning, (2) the place in Nebraska where a person has his or her family domiciled even if he or she does business in another place, and (3) if a person is homeless, the county in Nebraska in which the person is living. No person serving in the armed forces of the United States shall be deemed to have a residence in Nebraska because of being stationed in Nebraska.

Source: Laws 1994, LB 76, § 16; Laws 2019, LB411, § 29.

Annotations

This section does not establish absolute criteria for determining residence or domicile. *Dilsaver v. Pollard*, 191 Neb. 241, 214 N.W.2d 478 (1994).

This section does not enlarge or limit the provisions of the Constitution which prescribe the qualifications of electors. *Berry v. Wilcox*, 44 Neb. 82, 62 N.W. 249, 48 A.S.R. 706 (1895).

32-117. Sign, defined.

Sign shall mean to affix a signature.

Source: Laws 1994, LB 76, § 17.

32-118.01. Special election, defined.

Special election shall mean an election other than a regularly scheduled primary or general election as specified in statute or by home rule charter.

Source: Laws 1997, LB 764, § 12.

Annotations

Special election is defined by this section. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

32-118. Signature, defined; person unable to write; assistance.

(1) Signature shall mean the name or symbol of a person written with his or her own hand.

(2) A person with a disability who by reason of that disability is unable to write his or her name or symbol may substitute either:

(a) A mark if the person's name is written by some other person and the mark is made near the name by the person unable to write his or her name or symbol; or

(b) An impression made using a signature stamp. A signature stamp shall be used only by that person or another person upon the request and in the presence of the person unable to write his or her name or symbol.

(3) Any person rendering assistance to a person unable to write his or her name or symbol shall write, next to such person's mark or impression, the name and address of the person rendering assistance.

Source: Laws 1994, LB 76, § 18; Laws 2022, LB843, § 6.

Effective Date: July 21, 2022

32-119. Swear, defined.

Swear shall include affirm.

Source: Laws 1994, LB 76, § 19.

32-119.01. Voting system, defined.

Voting system means the process of creating, casting, and counting ballots and includes any software or service used in such process.

Source: Laws 2003, LB 358, § 4; Laws 2022, LB843, § 7.

Effective Date: July 21, 2022

32-120. Ward, defined.

Ward shall mean a compact and contiguous geographic area within a political subdivision created by the political subdivision for election purposes.

Source: Laws 1994, LB 76, § 20.

32-121. Repealed. Laws 2004, LB 940, § 4.

32-122. Member of the Legislature; start of second half of term of office.

The second half of a term of office for a member of the Legislature starts on the day of the meeting of the Legislature at which members are regularly sworn in to office in the second calendar year which begins after the four-year term begins.

Source: Laws 2014, LB946, § 11.

32-201. Disputed points of election law; Secretary of State; duties.

The Secretary of State shall decide disputed points of election law. The decisions shall have the force of law until changed by the courts.

Source: Laws 1994, LB 76, § 21.

Annotations

The Nebraska Supreme Court can direct the legal removal of a petition from the ballot even if it cannot direct its physical removal. *Chaney v. Evnen*, 307 Neb. 512, 949 N.W.2d 761 (2020).

The Secretary of State cannot determine the substantive merits of the Legislature's proposed constitutional amendment. But in a legal sufficiency challenge, he has a duty to reject a proposed amendment as legally defective for failing to satisfy form and procedural requirements. There is no requirement that the proposed amendment be "patently unconstitutional on its face" before the Secretary must act. *State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).

The Secretary of State's statutory duties to provide the ballot form for the Legislature's proposed constitutional amendments and to certify its contents, coupled with his duties to supervise elections and decide disputed points of election laws, clearly require him to consider whether a proposed amendment complies with the separate-vote provision. Power vested in a governmental body or officer carries with it the implied power to do what is necessary to accomplish an express statutory duty, absent any other law that restrains the implied power. *State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).

32-202. Secretary of State; duties.

In addition to any other duties prescribed by law, the Secretary of State shall:

- (1) Supervise the conduct of primary and general elections in this state;
- (2) Provide training and support for election commissioners, county clerks, and other election officials in providing for day-to-day operations of the office, registration of voters, and the conduct of elections;
- (3) Enforce the Election Act;
- (4) With the assistance and advice of the Attorney General, make uniform interpretations of the act;
- (5) Provide periodic training for the agencies and their agents and contractors in carrying out their duties under sections 32-308 to 32-310;
- (6) Develop and print forms for use as required by sections 32-308, 32-310, 32-320, 32-329, 32-947, 32-956, and 32-958;
- (7) Contract with the Department of Administrative Services for storage and distribution of the forms;
- (8) Require reporting to ensure compliance with sections 32-308 to 32-310;
- (9) Prepare and transmit reports as required by the National Voter Registration Act of 1993, 52 U.S.C. 20501 et seq.;
- (10) Develop and print a manual describing the requirements of the initiative and referendum process and distribute the manual to election commissioners and county clerks for distribution to the public upon request;
- (11) Develop and print pamphlets described in section 32-1405.01;
- (12) Adopt and promulgate rules and regulations as necessary for elections conducted under sections 32-952 to 32-959; and
- (13) Establish a free access system, such as a toll-free telephone number or an Internet website, that any voter who casts a provisional ballot may access to discover whether the vote of that voter was counted and, if the vote was not counted, the reason that the vote was not counted. The Secretary of State shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system. Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

Source: Laws 1994, LB 76, § 22; Laws 1995, LB 337, § 2; Laws 1996, LB 964, § 2; Laws 2003, LB 358, § 5; Laws 2008, LB838, § 1; Laws 2019, LB411, § 30; Laws 2022, LB843, § 8.

Effective Date: July 21, 2022

32-203. Secretary of State; powers.

In addition to any other powers prescribed by law, the Secretary of State may:

(1) Inspect, with or without the filing of a complaint by any person, and review the practices and procedures of election commissioners, county clerks, their employees, and other election officials in the day-to-day operations of the office, the conduct of primary and general elections, and the registration of qualified electors;

(2) Employ such personnel as necessary to efficiently carry out his or her powers and duties as prescribed in the Election Act;

(3) Adopt and promulgate rules and regulations in regard to the registration of voters and the conduct of elections; and

(4) Enforce the act by injunctive action brought by the Attorney General in the district court for the county in which any violation of the act occurs.

Source: Laws 1994, LB 76, § 23; Laws 2005, LB 566, § 4; Laws 2022, LB843, § 9.

Effective Date: July 21, 2022

32-204. Election Administration Fund; created; use; investment.

The Election Administration Fund is hereby created. The fund shall consist of federal funds, state funds, gifts, and grants appropriated for the administration of elections. The Secretary of State shall use the fund for voting systems, provisional voting, computerized statewide voter registration lists, voter registration, training or informational materials related to elections, and any other costs related to elections. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any funds in the Carbon Sequestration Assessment Cash Fund on August 24, 2017, to the Election Administration Fund.

Source: Laws 1994, LB 76, § 24; Laws 1995, LB 7, § 29; Laws 1997, LB 764, § 13; Laws 2003, LB 14, § 1; Laws 2014, LB661, § 2; Laws 2017, LB644, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

32-205. Secretary of State; office hours on election day.

The office of the Secretary of State shall be open and available to any election commissioner, county clerk, city or village clerk, and their employees on each primary and general election day during the hours the polls are open for voting.

Source: Laws 1994, LB 76, § 25.

32-206. Official election calendar; publish; contents; delivery of copy; filing or other acts; time.

(1) The Secretary of State shall publish an official election calendar by November 1 prior to the statewide primary election. Such calendar, to be approved as to form by the Attorney General, shall set forth the various election deadline dates and other pertinent data as determined by the Secretary of State. The official election calendar shall be merely a guideline and shall in no way legally bind the Secretary of State or the Attorney General.

(2) The Secretary of State shall deliver a copy of the official election calendar to the state party headquarters of each recognized political party within ten days after publication under subsection (1) of this section.

(3) Except as provided in sections 32-302, 32-304, and 32-306, any filing or other act required to be performed by a specified day shall be performed by 5 p.m. of such day, except that if such day falls upon a Saturday, Sunday, or legal holiday, performance shall be required on the next business day.

Source: Laws 1994, LB 76, § 26; Laws 2012, LB878, § 1; Laws 2014, LB1048, § 1; Laws 2018, LB1038, § 1.

32-207. Election commissioner; counties having over 100,000 inhabitants; appointment; term; vacancy; duties; oversight.

The office of election commissioner shall be created for each county having a population of more than one hundred thousand inhabitants. The election commissioner shall be appointed by the Governor and shall serve for a term of four years or until a successor has been appointed and qualified. In the event of a vacancy, the Governor shall appoint an election commissioner to serve the unexpired portion of the term. In order to further the purpose of fair and open elections free from outside influence, the election commissioner shall have the duty of operational and administrative oversight over the business of the office, subject to review by the Secretary of State.

Source: Laws 1994, LB 76, § 27; Laws 2022, LB843, § 10.

Effective Date: July 21, 2022

Cross References

Distribute political accountability and disclosure forms, see section 49-14,139.

Annotations

Election commissioner of Douglas County is not in charge of municipal elections in Sarpy County. *Barton v. City of Omaha*, 180 Neb. 752, 145 N.W.2d 444 (1966).

This section provides for an election commissioner who is required to perform all of the duties in reference to elections that are performed by the county clerks in all other counties. *Rasp v. McHugh*, 121 Neb. 380, 237 N.W. 394 (1931).

Duties of election commissioner and procedure to be followed in cases where the citizenship of an elector is in question are discussed in detail. *State ex rel. Williams v. Moorhead*, 96 Neb. 559, 148 N.W. 552 (1914), reversing 95 Neb. 80, 144 N.W. 1055 (1914).

32-208. Election commissioner; qualifications; appointment to elective office; effect.

The election commissioner in counties having a population of more than one hundred thousand inhabitants shall be a registered voter, a resident of such county for at least one year, and of good moral character and integrity and capacity. No person who is a candidate for any elective office or is a deputy, clerk, or employee of any person who is a candidate for any elective office shall be eligible for the office of election commissioner. The election commissioner shall not hold any other elective office or become a candidate for an elective office during his or her term of office. An election commissioner may be appointed to an elective office during his or her term of office as election commissioner, and acceptance of such appointment shall be deemed to be his or her resignation from the office of election commissioner.

Source: Laws 1994, LB 76, § 28; Laws 1997, LB 764, § 14; Laws 2001, LB 226, § 1; Laws 2003, LB 707, § 1; Laws 2011, LB449, § 1; Laws 2015, LB575, § 6; Laws 2017, LB451, § 2.

Annotations

Under the act of 1889, a candidate for public office was not eligible to act as a supervisor of registration, but a supervisor of registration was eligible to be elected to public office. *State ex rel. Roche v. Cosgrove*, 34 Neb. 386, 51 N.W. 974 (1892).

32-209. Chief deputy election commissioner; qualifications; appointment; oath; bond; duties.

(1) The election commissioner in counties having a population of more than one hundred thousand inhabitants shall appoint a chief deputy election commissioner in the manner provided in section 32-210. The chief deputy election commissioner shall be a member of a different political party than the election commissioner, shall be a registered voter in the county and of the party he or she is to represent, and shall be a resident of such county for at least one year.

(2) The chief deputy election commissioner shall hold office until the term of the election commissioner expires.

(3) Before entering upon his or her duties, the chief deputy election commissioner shall take and subscribe an oath in the form provided in section 11-101.01.

(4) The chief deputy election commissioner shall give bond to the State of Nebraska in the sum of five thousand dollars with security to be approved by the Governor conditioned on the faithful performance of the duties of such office.

(5) The chief deputy election commissioner shall perform duties assigned by the election commissioner. In the absence of the election commissioner, the chief deputy election commissioner shall perform all the duties of the election commissioner consistent with the policies and procedures established by the election commissioner. The chief deputy election commissioner shall also be responsible for carrying out any directions properly made and given by the election commissioner prior to his or her absence.

Source: Laws 1994, LB 76, § 29; Laws 2001, LB 226, § 2; Laws 2014, LB946, § 4.

Annotations

Deputy election commissioner is required to be a member of a political party other than the one with which the election commissioner affiliates. *State ex rel. Williams v. Moorhead*, 96 Neb. 559, 148 N.W. 552 (1914), reversing 95 Neb. 80, 144 N.W. 1055 (1914).

32-210. Chief deputy election commissioner; vacancy; procedure for filling.

The election commissioner in counties having a population of more than one hundred thousand inhabitants shall, within ten days after being appointed or being notified that a vacancy exists in the office of chief deputy election commissioner, notify by registered or certified mail the county chairperson of the political parties from which a chief deputy election commissioner may be appointed that an appointment needs to be made. The county chairperson of the political parties shall call a meeting of a committee comprised of the county chairperson, vice-chairperson, secretary, and treasurer of the political parties within ten days after receiving the letter for the purpose of preparing a list of three or more candidates. The list shall be submitted to the election commissioner within five days after the meeting, and the election commissioner shall select a chief deputy election commissioner from the list of names of candidates submitted within ten days after receiving all lists. If a political party does not submit a list within the timeframes required by this section, the election commissioner shall select a chief deputy election commissioner from the lists received.

Source: Laws 1994, LB 76, § 30; Laws 1997, LB 764, § 15; Laws 2014, LB946, § 5.

32-211. Election commissioner; counties having 20,000 to 100,000 inhabitants; chief deputy; appointment; qualifications; terms; vacancy; elimination of office.

The office of election commissioner may be created for each county having a population of not less than twenty thousand nor more than one hundred thousand inhabitants. Such office may be created by resolution of the county board establishing such office, and the election commissioner shall be appointed by the county board. The appointment of a chief deputy election commissioner shall be at the option of the county board. If a chief deputy election commissioner is appointed, he or she shall be a member of a different political party than the election commissioner. The election commissioner and chief deputy election commissioner shall be registered voters, residents of such county for at least one year, and of good moral character and integrity and capacity. The election commissioner and chief deputy election commissioner shall serve for terms of four years from the date of their initial appointment or until their successors have been appointed and qualified. The county board may by resolution eliminate the office of election commissioner at the end of a term or upon a vacancy in the office. The county board shall not appoint any county official who is serving an elected term to the office of election commissioner or chief deputy election commissioner. If a vacancy occurs in either office, the county board shall appoint an election commissioner or chief deputy election commissioner to serve for the unexpired term.

Source: Laws 1994, LB 76, § 31; Laws 1997, LB 764, § 16; Laws 2001, LB 226, § 3.

32-212. Election commissioner; appoint other employees; qualifications.

Each election commissioner shall appoint other deputies, precinct and district inspectors, judges of election, clerks of election, deputy registrars, and peace officers to serve at elections and other assistants necessary for the performance of the duties of his or her office, the registration of voters, and the conduct of elections. Such employees shall be registered voters representing all political parties as nearly as practicable in proportion to the number of votes cast in such county at the immediately preceding general election for the office of Governor or President of the United States by the parties, respectively.

Source: Laws 1994, LB 76, § 32.

Annotations

A ballot, endorsed by one judge of election and an inspector appointed under this section, is valid where the voter believes that the ballot was endorsed by two judges of election. *Rasp v. McHugh*, 121 Neb. 380, 237 N.W. 394 (1931).

32-213. Election commissioner; oath of office; bond.

Before entering upon his or her duties, the election commissioner shall take and subscribe an oath in the form provided in section 11-101.01 and shall give bond in the sum of ten thousand dollars conditioned on the faithful and honest performance of the duties of the office and the care and preservation of the property of the office within thirty days after appointment as provided in section 11-105. When the election commissioner is appointed by the Governor, the bond shall be given to the State of Nebraska, approved by the Governor, and filed with the Secretary of State. When the election commissioner is appointed by the county board, the bond shall be given to, approved by, and filed with the county board.

Source: Laws 1994, LB 76, § 33.

32-214. Election commissioner; enforcement of act; election commissioner or chief deputy election commissioner; removal; grounds; procedure.

The election commissioner shall be responsible for the enforcement of the Election Act as it relates to his or her office and for the competency, integrity, and conduct of his or her chief deputy election commissioner and all personnel appointed by him or her. The election commissioner or chief deputy election commissioner shall be removed when it appears that (1) he or she has been derelict in the performance of the duties of his or her office, (2) he or she is incompetent, (3) his or her conduct is prejudicial to the public interest, (4) he or she has appointed incompetent, negligent, or corrupt precinct or district inspectors, judges of election, clerks of election, or deputy registrars, (5) a fair and impartial registration of voters was not obtained in any district of the county, or (6) the act was not enforced in the county. If the election commissioner is appointed by the Governor, the Governor shall remove the election commissioner or chief deputy election commissioner when either is subject to removal under this section. If the Governor fails to remove the election commissioner or the chief deputy election commissioner when either the election commissioner or deputy, or both, are subject to removal under this section, any citizen of the county may institute an action to order the Governor to remove the election commissioner, chief deputy election commissioner, or both. If the election commissioner is appointed by the county board, the county board shall remove the election commissioner or chief deputy election commissioner when either is subject to removal under this section. If the county board fails to remove the election commissioner or the chief deputy election commissioner when either the election commissioner or deputy, or both, are subject to removal under this section, any citizen of the county may institute an action to order the county board to remove the election commissioner, chief deputy election commissioner, or both.

Source: Laws 1994, LB 76, § 34; Laws 1997, LB 764, § 17.

Annotations

The election commissioner is responsible for the enforcement of the election laws. *Rasp v. McHugh*, 121 Neb. 380, 237 N.W. 394 (1931).

32-215. Election commissioner; rules and regulations; select registration and polling places.

(1) The election commissioner shall adopt and promulgate rules and regulations in regard to elections and the registration of voters in his or her county which are not inconsistent with the Election Act or the rules and regulations of the Secretary of State. The election commissioner shall have charge of and make provisions for all elections to be held in such county unless otherwise specifically provided.

(2) The election commissioner shall select and appoint the places of registration and the polling place for each precinct and cause the same to be properly equipped and maintained.

Source: Laws 1994, LB 76, § 35; Laws 1997, LB 764, § 18.

32-216. Election commissioner; office; records and equipment; annual inventory statement; purchases; requirements; waiver of bid procedure; when.

(1) The county board of each county which has an election commissioner pursuant to section 32-207 or 32-211 shall provide an office for the election commissioner suitable for the preservation of the records of his or her office and the performance of his or her duties. The expense of providing and furnishing such office shall be the responsibility of the county. All books, documents, papers, records, and election equipment or appurtenances held or used by or under the control of any officer of any such county or any city, village, or political subdivision of the county and relating to or used in the conduct of elections and registration of voters shall, upon request of the election commissioner, be transferred to the care, custody, and control of the election commissioner. The election commissioner shall prepare and file the annual inventory statement with the county board of all county personal property in his or her custody or possession as provided in sections 23-346 to 23-350.

(2) The county shall provide all necessary supplies, materials, equipment, and services for the registration of voters, for the conduct of elections, and for every incidental purpose connected with registration or elections in accordance with the County Purchasing Act. The county shall allow the election commissioner to purchase or acquire any material, equipment, or service needed to meet any emergency or any situation in which the procedures of the County Purchasing Act cannot be implemented in a reasonable amount of time to comply with any registration or election process required by the Election Act. Purchases related to voting systems, including creating, casting, and counting ballots, shall be subject to the bid procedure in accordance with the County Purchasing Act, except that the election commissioner may waive any bid procedure and purchase supplies and contract for services for voting systems whenever such bid procedure would in any way interfere with the timely and proper administration and conduct of an election.

Source: Laws 1994, LB 76, § 36; Laws 2003, LB 358, § 6.

Cross References

County Purchasing Act, see section 23-3101.

Annotations

Election commissioner of Douglas County is not in charge of municipal elections in Sarpy County. *Barton v. City of Omaha*, 180 Neb. 752, 145 N.W.2d 444 (1966).

A county is liable for the expense of reprinting correct ballots where a mistake is discovered in ballots which have already been printed and paid for by the county. *Wahlquist v. Adams County*, 94 Neb. 682, 144 N.W. 171 (1913).

32-217. Election commissioner, chief deputy election commissioner, and employees; county employees; salaries; how paid.

The election commissioner and the chief deputy election commissioner shall be county employees for the purposes of salary and benefit plans. All employees of the office of the election commissioner shall be county employees and subject to the county personnel system. The county board shall set the salaries of the election commissioner and chief deputy election commissioner at least sixty days prior to the expiration of the term of office of the election commissioner holding office. The salary shall become effective as soon as such salary may become operative under the Constitution of Nebraska.

In counties having a population of more than two hundred thousand inhabitants, the salary of the election commissioner shall be at least ten thousand five hundred dollars annually payable in periodic installments out of the county general fund and the salary of the chief deputy election commissioner shall be at least nine thousand dollars annually payable in periodic installments out of the county general fund.

In counties having a population of more than one hundred fifty thousand and not more than two hundred thousand inhabitants, the salary of the election commissioner shall be at least seven thousand five hundred dollars annually payable in periodic installments out of the county general fund and the salary of the chief deputy election commissioner shall be at least six thousand dollars annually payable in periodic installments out of the county general fund.

In counties having a population of more than one hundred thousand and not more than one hundred fifty thousand inhabitants, the salary of the election commissioner shall be at least nine thousand five hundred dollars annually payable in periodic installments out of the county general fund and the salary of the chief deputy election commissioner shall be at least eight thousand five hundred dollars annually payable in periodic installments out of the county general fund.

In counties having a population of not more than one hundred thousand inhabitants, the salary of the election commissioner shall be at least six thousand five hundred dollars annually payable in periodic installments out of the county general fund and the salary of the chief deputy election commissioner shall be at least five thousand dollars annually payable in periodic installments out of the county general fund.

Source: Laws 1994, LB 76, § 37; Laws 2022, LB843, § 11.

Effective Date: July 21, 2022

32-218. County clerk perform duties of election commissioner; when; deputy county clerk for elections.

(1) The county clerk shall have the powers and perform the duties assigned to the election commissioner except in those counties which have an election commissioner as provided by section 32-207 or 32-211. The powers and duties assigned to the county clerk in the Election Act relating to the registration of voters and the conduct of elections shall only apply to county clerks in counties without an election commissioner. The county clerk may hire additional personnel to perform the duties assigned under the act.

(2) The county board may establish the position of deputy county clerk for elections. Such deputy shall be appointed by the county clerk and shall not be a member of the same political party as the county clerk, except that any deputy county clerk for elections serving on January 1, 1995, shall be allowed to continue in his or her position for as long as he or she holds the position. Under the direction of the county clerk, the deputy shall be primarily responsible for performing the duties imposed on the county clerk by the election laws of this state and shall perform such other duties as may from time to time be assigned to him or her by the county clerk. The deputy shall serve at the pleasure of the county clerk. The county board shall determine the compensation of the deputy.

Source: Laws 1994, LB 76, § 38.

32-219. Political activities; restrictions.

The election commissioner and chief deputy election commissioner, once appointed, qualified, bonded, and sworn into office, and the county clerk acting as the election officer, shall not hold a political party office or be a member or officer of a candidate committee for any candidate seeking public office. This section shall not prohibit a county clerk acting as the election officer from participating in his or her own reelection campaign or fundraisers. This section shall not be construed to preclude an election commissioner, a chief deputy election commissioner, or a county clerk from being a delegate to a county, state, or national political party convention.

Source: Laws 1994, LB 76, § 39.

32-220. Sections; applicability.

Sections 32-221 to 32-228 shall apply to counties which have an election commissioner as provided in section 32-207 or 32-211.

Source: Laws 1994, LB 76, § 40.

32-221. Inspectors and judges and clerks of election; appointment; term; qualifications; vacancy; failure to appear; removal.

(1) The election commissioner shall appoint precinct and district inspectors, judges of election, and clerks of election to assist the election commissioner in conducting elections on election day. In counties with a population of less than four hundred thousand inhabitants as determined by the most recent federal decennial census, judges and clerks of election and inspectors shall be appointed at least thirty days prior to the statewide primary election, shall hold office for terms of two years or until their successors are appointed and qualified for the next statewide primary election, and shall serve at all elections in the county during their terms of office. In counties with a population of four hundred thousand or more inhabitants as determined by the most recent federal decennial census, judges and clerks of election shall be appointed at least thirty days prior to the first election for which appointments are necessary and shall serve for at least four elections.

(2) Judges and clerks of election may be selected at random from a cross section of the population of the county. All qualified citizens shall have the opportunity to be considered for service. All qualified citizens shall fulfill their obligation to serve as judges or clerks of election as prescribed by the election commissioner. No citizen shall be excluded from service as a result of discrimination based upon race, color, religion, sex, national origin, or economic status. No citizen shall be excluded from service unless excused by reason of ill health or other good and sufficient reason.

(3) All persons appointed shall be of good repute and character, be able to read and write the English language, and except as otherwise provided in subsections (4), (5), and (6) of section 32-223, be registered voters in the county. No candidate at an election shall be appointed as a judge or clerk of election or inspector for such election other than a candidate for delegate to a county, state, or national political party convention.

(4) If a vacancy occurs in the office of judge or clerk of election or inspector, the election commissioner shall fill such vacancy in accordance with section 32-223. If any judge or clerk of election or inspector fails to appear at the hour appointed for the opening of the polls, the remaining officers shall notify the election commissioner, select a registered voter to serve in place of the absent officer if so directed by the election commissioner, and proceed to conduct the election. If the election commissioner finds that a judge or clerk of election or inspector does not possess all the qualifications prescribed in this section or if any judge or clerk of election or inspector is guilty of neglecting the duties of the office or of any official misconduct, the election commissioner shall remove the person and fill the vacancy.

Source: Laws 1994, LB 76, § 41; Laws 1997, LB 764, § 19; Laws 2003, LB 357, § 1; Laws 2016, LB742, § 16; Laws 2019, LB411, § 31; Laws 2022, LB843, § 12.

Effective Date: July 21, 2022

32-222. Inspectors and judges and clerks of election; oath.

Before entering upon his or her duties, each judge of election, clerk of election, and inspector shall take and subscribe an oath and file the same with the election commissioner. The oath need not be taken and signed before a person authorized to administer oaths. If the oath is printed in the sign-in register, the signing of the sign-in register by such judges, clerks, and inspectors shall be a complete and sufficient compliance with the requirements of section 11-101.01. The form of the oath shall be as provided in such section.

Source: Laws 1994, LB 76, § 42; Laws 1997, LB 764, § 20.

32-223. Receiving board; members; inspectors; requirements; appointment.

(1) Except as otherwise provided in the Election Act, the election commissioner shall appoint a precinct inspector and a receiving board to consist of at least two judges and two clerks of election for each precinct. The election commissioner may appoint district inspectors to aid the election commissioner in the performance of his or her duties and supervise a group of precincts on election day.

(2) The election commissioner may allow persons serving on a receiving board as judges and clerks of election and precinct inspectors to serve for part of the time the polls are open and appoint other judges and clerks of election and precinct inspectors to serve on the same receiving board for the remainder of the time the polls are open.

(3) On each receiving board at any one time, one judge and one clerk of election shall be registered voters of the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, and one judge and one clerk of election shall be registered voters of the political party casting the next highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, except that one judge or clerk of election may be a registered voter who is not affiliated with either of such parties. If a third judge is appointed, such judge shall be a registered voter of the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election. All precinct and district inspectors shall be divided between all political parties as nearly as practicable in proportion to the number of votes cast in such county at the immediately preceding general election for Governor or for President of the United States by the parties, respectively.

(4) The election commissioner may appoint an elector residing outside the county as a precinct inspector, district inspector, judge of election, or clerk of election if the elector resides in a county which conducts all elections by mail pursuant to section 32-960.

(5) If authorized by the Secretary of State and registered voters of the county are unavailable, the election commissioner may appoint an elector residing outside the county as a precinct inspector, district inspector, judge of election, or clerk of election.

(6) The election commissioner may appoint a person who is at least sixteen years old but is not eligible to register to vote as a clerk of election. Such clerk of election shall meet the requirements of subsection (3) of section 32-221, except that such clerk shall not be required to be a registered voter. No more than one clerk of election appointed under this subsection shall serve at any precinct. A clerk

of election appointed under this subsection shall be considered a registered voter who is not affiliated with a political party for purposes of this section.

Source: Laws 1994, LB 76, § 43; Laws 2002, LB 1054, § 8; Laws 2003, LB 357, § 2; Laws 2003, LB 358, § 7; Laws 2019, LB411, § 32; Laws 2022, LB843, § 13.

Effective Date: July 21, 2022

32-224. Repealed. Laws 2007, LB 646, § 17.

32-225. Precinct and district inspectors; duties.

(1) The precinct inspector appointed pursuant to section 32-223 shall be present in the polling place of the precinct during all elections and act as the personal agent and deputy of the election commissioner. The precinct inspector shall enforce the Election Act and see that all proceedings are in accordance with the instructions, rules, regulations, and laws and shall challenge any voter whose name does not appear on the election register or who the precinct inspector believes is impersonating a person whose name appears on the register or is attempting to vote illegally. The precinct inspector shall ensure that the judges and clerks of election comply with the act in the conduct of the election.

(2) A district inspector appointed pursuant to section 32-223 shall oversee the procedures of a group of polling places and shall act as the personal agent and deputy of the election commissioner. The district inspector shall ensure that the Election Act is uniformly enforced at the polling places assigned to him or her and perform tasks assigned by the election commissioner. The district inspector may perform all of the duties required of a precinct inspector.

Source: Laws 1994, LB 76, § 45.

Annotations

It is the duty of election commissioner and his assistants to see that judges and clerks obey the law, conduct and canvass the votes, and make prompt returns to the election commissioner. *State ex rel. Williams v. Moorhead*, 96 Neb. 559, 148 N.W. 552 (1914), reversing 95 Neb. 80, 144 N.W. 1055 (1914).

32-226. Election duties; who may perform.

At the discretion of the precinct or district inspector, any clerk of election may perform the duties of a judge of election and any judge of election may perform the duties of a clerk of election. The election commissioner may excuse the two clerks of election from serving at any election, and the judges of election shall perform such duties without additional compensation. The precinct inspector may perform the duties of a judge or clerk of election when authorized by the election commissioner.

Source: Laws 1994, LB 76, § 46; Laws 1999, LB 802, § 1.

32-227. Election workers; wages; waiver agreeing not to be paid; certain contracts authorized.

(1) Except as otherwise provided in subsections (2) and (3) of this section, the judges and clerks of election, precinct and district inspectors, and other temporary election workers shall receive wages at no less than the minimum rate set in section 48-1203 for each hour of service rendered. The election commissioner shall determine the rate of pay and may vary the rate based on the duties of each position. Each such election worker shall sign an affidavit stating the number of hours he or she has worked.

(2) Any judge or clerk of election, precinct or district inspector, or other temporary election worker may choose not to be paid for the hours he or she works. An election worker that chooses not to be paid shall sign a waiver agreeing not to be paid for each election for which he or she chooses not to be paid.

(3) Any judge or clerk of election, precinct or district inspector, or other temporary election worker may choose to have his or her election pay used by the election commissioner to contract with an organization authorized by the election commissioner to recruit election workers if the election commissioner contracts with such an organization. To be eligible to enter into such a contract, the organization shall be exempt for federal tax purposes under section 501(c)(3) of the Internal Revenue Code, as defined in section 49-801.01.

Source: Laws 1994, LB 76, § 47; Laws 2002, LB 1054, § 9; Laws 2015, LB575, § 7.

32-228. Election worker; notice of appointment; exemption from service; failure to serve; penalty.

(1) The election commissioner shall notify each person appointed as a judge or clerk of election, precinct inspector, district inspector, member of a counting board, or member of a canvassing board of the appointment by letter. Such letter shall be mailed at least fifteen days prior to the required reporting date for each statewide primary and general election. Each appointee shall, at the time fixed in the notice of appointment, report to the office of the election commissioner or other designated location to complete any informational forms and receive training regarding his or her duties. The training shall include instruction as required by the Secretary of State and any other training deemed necessary by the election commissioner. Each appointee, if found qualified and unless excused by reason of ill health or other good and sufficient reason, shall serve for the term of his or her appointment.

(2) No person who is a qualified prospective election worker is exempt from being appointed for a term of election service, except that any person who is seventy years of age or older and who requests to be exempted from such service at the time the election worker questionnaire form is filed with the election commissioner shall be exempt from election service.

(3) An appointee who fails to serve for the term of his or her appointment, unless excused by reason of ill health or other good and sufficient reason, is guilty of a Class V misdemeanor. The election commissioner shall submit the names of appointees violating this subsection to the local law enforcement agency for citation pursuant to sections 32-1549 and 32-1550.

Source: Laws 1994, LB 76, § 48; Laws 1997, LB 764, § 21; Laws 2002, LB 1054, § 10; Laws 2015, LB575, § 8.

32-229. Sections; applicability.

Sections 32-230 to 32-240 shall apply to counties which do not have an election commissioner.

Source: Laws 1994, LB 76, § 49.

32-230. Receiving board; members; appointment; procedure; qualification; vacancy; inspectors; appointment.

(1) As provided in subsection (4) of this section, the precinct committeeman and committeewoman of each political party shall appoint a receiving board consisting of three judges of election and two clerks of election. The chairperson of the county central committee of each political party shall send the names of the appointments to the county clerk no later than February 1 prior to the primary election.

(2) If no names are submitted by the chairperson, the county clerk shall appoint judges or clerks of election from the appropriate political party. Judges and clerks of election may be selected at random from a cross section of the population of the county. All qualified citizens shall have the opportunity to be considered for service. All qualified citizens shall fulfill their obligation to serve as judges or clerks of election as prescribed by the county clerk. No citizen shall be excluded from service as a result of discrimination based upon race, color, religion, sex, national origin, or economic status. No citizen shall be excluded from service unless excused by reason of ill health or other good and sufficient reason.

(3) The county clerk may allow persons serving on a receiving board to serve for part of the time the polls are open and appoint other persons to serve on the same receiving board for the remainder of the time the polls are open.

(4) In each precinct at any one time, one judge and one clerk of election shall be appointed from the political party casting the highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, one judge and one clerk shall be appointed from the political party casting the next highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election, and one judge shall be appointed from the political party casting the third highest number of votes in the county for Governor or for President of the United States in the immediately preceding general election. If the political party casting the third highest number of votes cast less than ten percent of the total vote cast in the county at the immediately preceding general election, the political party casting the highest number of votes at the immediately preceding general election shall be entitled to two judges and one clerk.

(5) The county clerk may appoint registered voters to serve in case of a vacancy among any of the judges or clerks of election or in addition to the judges and clerks in any precinct when necessary to meet any situation that requires additional judges and clerks. Such appointees may include registered voters unaffiliated with any political party. Such appointees shall serve at subsequent or special elections as determined by the county clerk.

(6) The county clerk may appoint an elector residing outside the county as a precinct inspector, district inspector, judge of election, or clerk of election if the elector resides in a county which conducts all elections by mail pursuant to section 32-960.

(7) If authorized by the Secretary of State and registered voters of the county are unavailable, the county clerk may appoint an elector residing outside the county as a precinct inspector, district inspector, judge of election, or clerk of election.

(8) The county clerk may appoint a person who is at least sixteen years old but is not eligible to register to vote as a clerk of election. Such clerk of election shall meet the requirements of subsection (1) of section 32-231, except that such clerk shall not be required to be a registered voter. No more than one clerk of election appointed under this subsection shall serve at any precinct. A clerk of election appointed under this subsection shall be considered a registered voter who is not affiliated with a political party for purposes of this section.

Source: Laws 1994, LB 76, § 50; Laws 1997, LB 764, § 22; Laws 2002, LB 1054, § 11; Laws 2003, LB 357, § 3; Laws 2003, LB 358, § 8; Laws 2007, LB646, § 1; Laws 2019, LB411, § 33; Laws 2022, LB843, § 14.

Effective Date: July 21, 2022

Annotations

An election board, as ordinarily constituted, requires three judges and two clerks. *Mosiman v. Weber*, 107 Neb. 737, 187 N.W. 109 (1922).

32-231. Judge and clerk of election; qualifications; term; district inspectors; duties.

(1) Each judge and clerk of election appointed pursuant to section 32-230 shall (a) be of good repute and character and able to read and write the English language, (b) reside in the precinct in which he or she is to serve unless necessity demands that personnel be appointed from another precinct, (c) be a registered voter except as otherwise provided in subsections (6), (7), and (8) of section 32-230, and (d) serve for a term of two years or until judges and clerks of election are appointed for the next primary election. No candidate at an election shall be eligible to serve as a judge or clerk of election at the same election other than a candidate for a delegate to a county, state, or national political party convention.

(2) The county clerk may appoint district inspectors to aid the county clerk in the performance of his or her duties and supervise a group of precincts on election day. A district inspector shall meet the requirements for judges and clerks of election as provided in subsection (1) of this section, shall oversee the procedures of a group of polling places, and shall act as the personal agent and deputy of the county clerk. The district inspector shall ensure that the Election Act is uniformly enforced at the polling places assigned to him or her and perform tasks assigned by the county clerk. The district inspector may perform all of the duties required of a judge or clerk of election.

Source: Laws 1994, LB 76, § 51; Laws 1999, LB 802, § 2; Laws 2002, LB 1054, § 12; Laws 2003, LB 357, § 4; Laws 2019, LB411, § 34; Laws 2022, LB843, § 15.

Effective Date: July 21, 2022

32-232. Election duties; who may perform; messenger; appointment; duties.

(1) Any clerk of election may perform the duties of a judge of election, and any judge of election may perform the duties of a clerk of election. The county clerk may excuse two clerks of election from serving at any election, and the judges of election shall perform such duties without additional compensation.

(2) The county clerk shall designate one of the members of the receiving board as a messenger. The messenger shall receive from the county clerk the ballots and other equipment necessary for holding the election in the precinct for which he or she is a judge or clerk and shall deliver them to the polling place in his or her precinct at least one hour before the time provided by section 32-908 for opening the polls. The messenger shall return the ballots and other equipment to the county clerk as soon as possible after the votes are counted.

Source: Laws 1994, LB 76, § 52; Laws 1999, LB 802, § 3; Laws 2007, LB646, § 2.

32-233. Election workers; wages.

Judges and clerks of election, district inspectors, messengers, and other temporary election workers shall receive wages at no less than the minimum rate set in section 48-1203 for each hour of service rendered. The county clerk shall determine the rate of pay and may vary the rate based on the duties of each position. Each such election worker shall sign an affidavit stating the number of hours he or she has worked.

Source: Laws 1994, LB 76, § 53; Laws 1996, LB 1011, § 20; Laws 1999, LB 802, § 4; Laws 2002, LB 1054, § 13.

32-234. Repealed. Laws 2007, LB 646, § 17.

32-235. Election worker; notice of appointment.

(1) The county clerk shall, by mail, notify judges and clerks of election, district inspectors, members of counting boards, and members of canvassing boards of their appointment. The notice shall inform the appointee of his or her appointment and of the date and time he or she is required to report to the office of the county clerk or other designated location and the polling place. The notice shall be mailed at least fifteen days prior to each statewide primary and general election and on or before the third Friday prior to each special election. The county clerk shall order the members of the receiving board to appear at their respective polling place on the day and at the hour specified in the notice of appointment.

(2) Each appointee shall, at the time fixed in the notice of appointment, report to the office or other location to complete any informational forms and receive training regarding his or her duties. The training shall include instruction as required by the Secretary of State and any other training deemed necessary by the county clerk.

Source: Laws 1994, LB 76, § 55; Laws 1997, LB 764, § 23; Laws 1999, LB 802, § 5; Laws 2002, LB 1054, § 14; Laws 2007, LB646, § 3; Laws 2022, LB843, § 16.

Effective Date: July 21, 2022

32-236. Judge and clerk of election; district inspector; service required; violation; penalty.

Each judge and clerk of election appointed pursuant to subsection (4) of section 32-230 and each district inspector appointed pursuant to subsection (2) of section 32-231 shall serve at all elections, except city and village elections, held in the county or precinct during his or her two-year term unless excused. A violation of this section by an appointee is a Class V misdemeanor. The county clerk shall submit the names of appointees violating this section to the local law enforcement agency for citation pursuant to sections 32-1549 and 32-1550.

Source: Laws 1994, LB 76, § 56; Laws 1997, LB 764, § 24; Laws 1999, LB 802, § 6; Laws 2002, LB 1054, § 15; Laws 2019, LB411, § 35.

32-237. Judge or clerk of election; inspector; failure to appear; replacement procedure.

If any judge or clerk of election or inspector fails to appear at the appropriate hour, the inspector or remaining judges and clerks shall notify the county clerk, select a registered voter to serve in place of the absent person, and proceed to conduct the election. The registered voter shall be affiliated with the same political party as the absent person if possible.

Source: Laws 1994, LB 76, § 57; Laws 1997, LB 764, § 25; Laws 1999, LB 802, § 7.

32-238. Judge or clerk of election; inspector; oath.

Before entering upon his or her duties, each judge or clerk of election and each inspector shall sign an oath to be returned to the county clerk after the polls close. The oath need not be taken and signed before a person authorized to administer oaths. If the oath is printed in the sign-in register, the signing of the sign-in register shall be complete and sufficient compliance with the requirements of section 11-101.01. The form of the oath shall be as provided in such section.

Source: Laws 1994, LB 76, § 58; Laws 1997, LB 764, § 26; Laws 1999, LB 802, § 8.

32-239. Judges and clerks of election; district inspectors; vacancies; how filled.

All vacancies of judges and clerks of election appointed pursuant to section 32-230 and district inspectors appointed pursuant to subsection (2) of section 32-231 shall be filled as nearly as possible in the manner in which the original appointments were made. At least fifteen days prior to any election, the county clerk shall review the list of district inspectors and the list of judges and clerks of election in the precincts in which the election is to occur and fill any vacancies. When a district inspector or judge or clerk of election is a candidate for an office to be voted upon at the election, except for a candidate for a delegate to a county, state, or national political party convention, his or her position as a district inspector, judge, or clerk shall be vacant.

Source: Laws 1994, LB 76, § 59; Laws 1999, LB 802, § 9.

32-240. Judge or clerk of election; district inspector; excused from serving; when.

Any person who is appointed to serve as a judge or clerk of election or district inspector may, at any time before election day, be excused by the county clerk from serving in such capacity by reason of his or her own sickness, the serious illness of any member of his or her family, or unavoidable absence from the county on election day.

Source: Laws 1994, LB 76, § 60; Laws 1997, LB 764, § 27; Laws 1999, LB 802, § 10.

32-241. Election worker; employment protection; employer; prohibited acts; violation; penalty; lists; prohibited acts.

(1) Any person who is appointed in any county to serve as a judge or clerk of election, a precinct or district inspector, a canvassing board member, or any other election worker shall not be subject to discharge from employment, loss of pay, loss of overtime pay, loss of sick leave, loss of vacation time, the threat of any such action, or any other form of penalty as a result of his or her absence from employment due to such service if he or she gives reasonable notice to his or her employer of such appointment. Reasonable notice shall be waived for those persons appointed as judges or clerks of election on the day of election to fill vacancies. Any such person shall be excused upon request from any shift work, without loss of pay, for the hours he or she is required to serve and, if he or she is required to serve eight hours or more, for eight hours prior to and eight hours following the hours he or she is required to serve.

(2) No employer shall subject an employee serving as a judge or clerk of election, a precinct or district inspector, a canvassing board member, or any other election worker to coercion, discharge from employment, loss of pay, loss of overtime pay, loss of sick leave, loss of vacation time, the threat of any such action, or any other form of penalty on account of his or her absence from employment by reason of such service, except that an employer may reduce the pay of an employee for each hour of work missed by an amount equal to the hourly compensation other than expenses paid to the employee by the county for such service.

(3) A violation of this section is a Class V misdemeanor. The election commissioner or county clerk shall submit the names of persons violating this section to the local law enforcement agency for citation pursuant to sections 32-1549 and 32-1550.

(4) The election commissioner or county clerk shall not provide a list of judges or clerks of election, precinct or district inspectors, canvassing board members, or other election workers to any committee or to any person until the election has been completed.

Source: Laws 1994, LB 76, § 61; Laws 1997, LB 764, § 28; Laws 2002, LB 1054, § 16; Laws 2003, LB 548, § 1.

32-242. Oaths; who may administer; seal.

(1) The election commissioner, county clerk, chief deputy election commissioners, office personnel of the election commissioner or county clerk, judges of election, precinct or district inspectors, and deputy registrars may administer all oaths required or necessary in the administration of the Election Act.

(2) The election commissioner or county clerk may adopt an official seal for use as prescribed by law.

Source: Laws 1994, LB 76, § 62; Laws 1997, LB 764, § 29.

32-243. Secretary of State; develop and publish guidelines for election workers; contents.

The Secretary of State shall develop and publish guidelines for election workers appointed pursuant to sections 32-220 to 32-240. The guidelines shall include provisions for the conduct of election workers with regard to the conduct of elections on election day. The guidelines may cover other conduct with regard to election workers and, in that regard, shall take into account variations in counties with regards to election workers appointed under sections 32-221 to 32-228 which apply to counties which have an election commissioner as provided in section 32-207 or 32-211 and election workers appointed under sections 32-230 to 32-240 which apply to counties which do not have an election commissioner. The guidelines shall be instructional in nature and shall not be construed to bind election commissioners or county clerks.

Source: Laws 2013, LB299, § 2.

32-301. Registration list; registration of electors; registration records; how kept; use on election day.

(1) The Secretary of State shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the office of the Secretary of State that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state. The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state and shall comprise the voter registration register. The computerized list shall be coordinated with other agency databases within the state and shall be available for electronic access by election commissioners and county clerks. The computerized list shall serve as the official voter registration list for the conduct of all elections under the Election Act and beginning July 1, 2019, shall be the basis for electronic poll books at each precinct if applicable. The Secretary of State shall provide such support as may be required so that election commissioners and county clerks are able to electronically enter voter registration information obtained by such officials on an expedited basis at the time the information is received. The Secretary of State shall provide adequate technological security measures to prevent unauthorized access to the computerized list.

(2) The election commissioner or county clerk shall provide for the registration of the electors of the county. Upon receipt of a voter registration application in his or her office from an eligible elector, the election commissioner or county clerk shall enter the information from the application in the voter registration register and may create an electronic image, photograph, microphotograph, or reproduction in an electronic digital format to be used as the voter registration record. The election commissioner or county clerk shall provide a precinct list of registered voters for each precinct for the use of judges and clerks of election in their respective precincts on election day. Beginning July 1, 2019, the election commissioner or county clerk may provide an electronic poll book as described in section 32-301.01 to meet the requirements for a precinct list of registered voters.

(3) The digital signatures in the possession of the Secretary of State, the election commissioner, or the county clerk shall not be public records as defined in section 84-712.01 and are not subject to disclosure under sections 84-712 to 84-712.09.

Source: Laws 1994, LB 76, § 63; Laws 1999, LB 234, § 1; Laws 2003, LB 357, § 5; Laws 2005, LB 566, § 5; Laws 2017, LB451, § 3; Laws 2018, LB1065, § 3.

32-301.01. Electronic poll books; contents.

Beginning July 1, 2019, the electronic poll books for a precinct shall contain the list of registered voters and the sign-in register for the precinct combined in one database and shall include the registration information and the digital signatures for the registered voters of the precinct.

Source: Laws 2018, LB1065, § 2.

32-302. Registration of electors; office hours; deadline for registration; designated voter registration agency.

The office of the election commissioner or county clerk shall remain open during the usual business days of the year for purposes of general registration and revision and for the transaction of the business of the office. Such registration and revision shall be carried on at all times during the regular business hours of the office of the election commissioner or county clerk ending at 6 p.m. on the second Friday preceding any election. The election commissioner or county clerk may, during any of the seven days immediately preceding the deadline for registration, cause his or her office to be open at times in addition to the hours during which it is required by law to be open in order for electors to register to vote. The office of the election commissioner or county clerk shall be a designated voter registration agency for purposes of section 7 of the National Voter Registration Act of 1993, 42 U.S.C. 1973gg-5, as such section existed on March 11, 2008.

Source: Laws 1994, LB 76, § 64; Laws 2008, LB750, § 1.

32-303. Registration of electors; other places of registration.

In addition to his or her office, the election commissioner or county clerk may provide a place of registration in each incorporated city or village in the county and in each legislative district in cities of the metropolitan class. The place of registration may be open not less than one day within the thirty days prior to the statewide primary election and the statewide general election and at such times and during such hours as the election commissioner or county clerk may direct. An election commissioner or county clerk may establish a permanent place of registration in each incorporated city or village in the county or each legislative district in a city of the metropolitan class by training registered voters to act as deputy registrars. A private residence shall not be used as a permanent place of registration except in incorporated villages.

Source: Laws 1994, LB 76, § 65; Laws 2002, LB 935, § 4.

32-304. Registration of electors electronically; application process; application; contents; Secretary of State; Department of Motor Vehicles; duties.

(1) The Secretary of State in conjunction with the Department of Motor Vehicles shall implement a registration application process which may be used statewide to register to vote and update voter registration records electronically using the Secretary of State's website. An applicant who has a valid Nebraska motor vehicle operator's license or state identification card may use the application process to register to vote or to update his or her voter registration record with changes in his or her personal information or other information related to his or her eligibility to vote. For each electronic application, the Secretary of State shall obtain a copy of the electronic representation of the applicant's signature from the Department of Motor Vehicles' records of his or her motor vehicle operator's license or state identification card for purposes of voter registration and electronic poll books.

(2) The application shall contain substantially all the information provided in section 32-312 and the following informational statements:

(a) An applicant who submits this application electronically is affirming that the information in the application is true. Any applicant who submits this application electronically knowing that any of the information in the application is false shall be guilty of a Class IV felony under section 32-1502 of the statutes of Nebraska. The penalty for a Class IV felony is up to two years imprisonment and twelve months post-release supervision, a fine of up to ten thousand dollars, or both;

(b) An applicant who submits this application electronically is agreeing to the use of his or her digital signature from the Department of Motor Vehicles' records of his or her motor vehicle operator's license or state identification card for purposes of voter registration;

(c) To vote at the polling place on election day, the completed application must be submitted on or before the third Friday before the election and prior to midnight on such Friday; and

(d) The election commissioner or county clerk will, upon receipt of the application for registration, send an acknowledgment of registration to the applicant indicating whether the application is proper or not.

Source: Laws 2014, LB661, § 3; Laws 2015, LB575, § 9; Laws 2017, LB451, § 4; Laws 2018, LB1038, § 2; Laws 2018, LB1065, § 4.

32-305. Deputy registrar; application; training; when; oath; violation; effect.

(1) Any registered voter may apply to the election commissioner or county clerk to be appointed as a deputy registrar for the purpose of registering voters. The application form shall be prescribed by the election commissioner, county clerk, or Secretary of State. The election commissioner or county clerk shall make training available for deputy registrars in the county he or she serves. The deputy registrar shall notify the election commissioner or county clerk of the location and time of proposed voter registration and the names and party affiliations of the deputy registrars. The election commissioner or county clerk, at his or her discretion, may approve or disapprove the deputy registrar's plans for voter registration and shall notify the deputy registrar of such decision.

(2) Any person appointed as a deputy registrar shall attend a training session conducted by an election commissioner or county clerk. A person who attends and successfully completes a training session after January 1, 1995, shall be qualified as a deputy registrar for any county in the state and shall receive a certificate verifying successful completion of the training and indicating his or her qualification as a deputy registrar to conduct registration in any county in the state.

(3) Before entering upon his or her duties, the deputy registrar shall take and subscribe to the following oath:

You do solemnly swear that you will support the Constitution of the United States and the Constitution of Nebraska and will faithfully and impartially perform the duties of the office of deputy registrar according to law and to the best of your ability.

(4) In order to remain qualified to conduct voter registration as a deputy registrar in any county in this state, a deputy registrar shall complete a training session at least once every three years unless the Secretary of State determines that substantial changes have occurred in the voter registration process requiring additional training. The training session may vary in length but shall not exceed four hours. The Secretary of State shall inspect and review all training programs, procedures, and practices to assure that they relate to the position of a deputy registrar and his or her duties.

(5) Any deputy registrar who violates any registration procedure, rule, regulation, or guideline may have his or her status as a deputy registrar revoked by the election commissioner, county clerk, or Secretary of State.

Source: Laws 1994, LB 76, § 67; Laws 1997, LB 764, § 30; Laws 2011, LB449, § 2.

32-306. Deputy registrars; teams; duties; acknowledgment of registration; when; applicability of section.

Deputy registrars shall register voters in teams of at least two deputies, one of whom is not a member of the same political party as the other or others. The deputy registrars shall return the completed registration applications to the office of the election commissioner or county clerk of the county in which the registrations are to be effective no later than the end of the next business day after the registrations are taken. The election commissioner or county clerk shall mail an acknowledgment of registration at least five days prior to the next election to each person registered by a deputy registrar. Deputy registrars shall not register voters after 6 p.m. on the third Friday preceding any election. A registration application received after the deadline shall not be processed by the election commissioner or county clerk until after the election. This section shall not apply to registration done by the employees of the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 68; Laws 1997, LB 764, § 31; Laws 2005, LB 566, § 6.

32-307. Voter registration site; acts prohibited; registration procedure.

No materials advocating or advertising any political issue, candidate, or party shall be displayed or distributed within fifty feet of any voter registration site. No alcohol shall be served within fifty feet of any voter registration site. The registration procedure shall be conducted in a neutral manner and shall not be connected with anything unrelated to the object of registering electors except as otherwise provided in sections 32-308 to 32-310.

Source: Laws 1994, LB 76, § 69.

32-308. Registration list; verification; voter registration application; Department of Motor Vehicles; duties; registration; when; confidentiality; persons involved in registration; status.

(1) The Secretary of State and the Director of Motor Vehicles shall enter into an agreement to match information in the computerized statewide voter registration list with information in the database of the Department of Motor Vehicles to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration. The Director of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the federal Social Security Act, 42 U.S.C. 405(r)(8), as such section existed on April 17, 2003, for purposes of the Election Act.

(2) The Department of Motor Vehicles, with the assistance of the Secretary of State, shall prescribe a voter registration application which may be used to register to vote or change his or her address for voting purposes at the same time an elector applies for an original or renewal motor vehicle operator's license, an original or renewal state identification card, or a replacement thereof. The voter registration application shall contain the information required pursuant to section 32-312 and shall be designed so that it does not require the duplication of information in the application for the motor vehicle operator's license or state identification card, except that it may require a second signature of the applicant. The department and the Secretary of State shall make the voter registration application available to any person applying for an operator's license or state identification card. The application shall be completed at the office of the department by the close of business on the third Friday preceding any election to be registered to vote at such election. A registration application received after the deadline shall not be processed by the election commissioner or county clerk until after the election.

(3) The Department of Motor Vehicles, in conjunction with the Secretary of State, shall develop a process to electronically transmit voter registration application information received under subsection (2) of this section to the election commissioner or county clerk of the county in which the applicant resides within the time limits prescribed in subsection (4) of this section. The Director of Motor Vehicles shall designate an implementation date for the process which shall be on or before January 1, 2016.

(4) The voter registration application information shall be transmitted to the election commissioner or county clerk of the county in which the applicant resides not later than ten days after receipt, except that if the voter registration application information is received within five days prior to the third Friday preceding any election, it shall be transmitted not later than five days after its original submission. Any information on whether an applicant registers or declines to register and the

location of the office at which he or she registers shall be confidential and shall only be used for voter registration purposes.

(5) For each voter registration application for which information is transmitted electronically pursuant to this section, the Secretary of State shall obtain a copy of the electronic representation of the applicant's signature from the Department of Motor Vehicles' records of his or her motor vehicle operator's license or state identification card for purposes of voter registration. Each voter registration application electronically transmitted under this section shall include information provided by the applicant that includes whether the applicant is a citizen of the United States, whether the applicant is of sufficient age to register to vote, the applicant's residence address, the applicant's postal address if different from the residence address, the date of birth of the applicant, the party affiliation of the applicant or an indication that the applicant is not affiliated with any political party, the applicant's motor vehicle operator's license number, the applicant's previous registration location by city, county, or state, if applicable, and the applicant's signature.

(6) State agency personnel involved in the voter registration process pursuant to this section and section 32-309 shall not be considered deputy registrars or agents or employees of the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 70; Laws 1997, LB 764, § 32; Laws 2003, LB 357, § 6; Laws 2005, LB 566, § 7; Laws 2014, LB661, § 4; Laws 2014, LB777, § 1.

32-309. Voter registration application; delivery; when; confidentiality.

Upon receipt of a completed voter registration application under subsection (2) of section 32-308, any person who issues motor vehicle operators' licenses or state identification cards shall, until the implementation date designated by the Director of Motor Vehicles pursuant to subsection (3) of section 32-308, deliver the completed voter registration application to the election commissioner or county clerk of the county in which the person is located not later than ten days after receipt by the person, except that if the voter registration application is received within five days prior to the third Friday preceding any election, it shall be delivered not later than five days after its original filing date. The election commissioner or county clerk shall, if necessary, forward the voter registration application to the election commissioner or county clerk of the county in which the applicant resides within such prescribed time limits. Any information on whether an applicant registers or declines to register and the location of the office at which he or she registers shall be confidential and shall only be used for voter registration purposes.

Source: Laws 1994, LB 76, § 71; Laws 2005, LB 566, § 8; Laws 2014, LB661, § 5.

32-310. Voter registration; State Department of Education; Department of Health and Human Services; duties; confidentiality; persons involved in registration; status; delivery of applications; when; registration; when.

(1) The State Department of Education and the Department of Health and Human Services shall provide the opportunity to register to vote at the time of application, review, or change of address for the following programs, as applicable: (a) The Supplemental Nutrition Assistance Program; (b) the medicaid program; (c) the WIC program as defined in section 71-2225; (d) the aid to dependent children program; (e) the vocational rehabilitation program; and (f) any other public assistance program or program primarily for the purpose of providing services to persons with disabilities. If the application, review, or change of address is accomplished through an agent or contractor of the department, the agent or contractor shall provide the opportunity to register to vote. Any information on whether an applicant registers or declines to register and the agency at which he or she registers shall be confidential and shall only be used for voter registration purposes.

(2) The department, agent, or contractor shall make the mail-in registration application described in section 32-320 available at the time of application, review, or change of address and shall provide assistance, if necessary, to the applicant in completing the application to register to vote. The department shall retain records indicating whether an applicant accepted or declined the opportunity to register to vote.

(3) Department personnel, agents, and contractors involved in the voter registration process pursuant to this section shall not be considered deputy registrars or agents or employees of the election commissioner or county clerk.

(4) The applicant may return the completed voter registration application to the department, agent, or contractor or may personally mail or deliver the application to the election commissioner or county clerk as provided in section 32-321. If the applicant returns the completed application to the department, agent, or contractor, the department, agent, or contractor shall deliver the application to the election commissioner or county clerk of the county in which the office of the department, agent, or contractor is located not later than ten days after receipt by the department, agent, or contractor, except that if the application is returned to the department, agent, or contractor within five days prior to the third Friday preceding any election, it shall be delivered not later than five days after the date it is returned. The election commissioner or county clerk shall, if necessary, forward the application to the election commissioner or county clerk of the county in which the applicant resides within such prescribed time limits. The application shall be completed and returned to the department, agency, or contractor by the close of business on the third Friday preceding any election to be registered to vote at such

election. A registration application received after the deadline shall not be processed by the election commissioner or county clerk until after the election.

(5) The departments shall adopt and promulgate rules and regulations to ensure compliance with this section.

Source: Laws 1994, LB 76, § 72; Laws 1996, LB 1044, § 93; Laws 1997, LB 764, § 33; Laws 2005, LB 566, § 9; Laws 2007, LB296, § 51; Laws 2009, LB288, § 1.

32-311. Registration of elector; personal application; place or time.

Any elector may personally apply to register to vote at (1) the office of the election commissioner or county clerk, (2) a registration site at which a deputy registrar is in attendance, (3) a department listed in section 32-310 at the time of an application, review, or change of address as provided in such section, or (4) the Department of Motor Vehicles while applying for a motor vehicle operator's license or state identification card as provided in section 32-308.

Source: Laws 1994, LB 76, § 73; Laws 2014, LB661, § 6.

32-311.01. Registration application; use; informational statements.

(1) The Secretary of State shall prescribe and distribute a registration application which may be used statewide to register to vote and update voter registration records. An applicant may use the application to register to vote or to update his or her voter registration record with changes in his or her personal information or other information related to his or her eligibility to vote. An applicant may submit the application in person, through a personal messenger or personal agent, or by mail. Every election commissioner or county clerk shall accept such an application for registration. If an applicant who is eligible to register to vote submits the application in person at the office of the election commissioner or county clerk, the information from the application shall be entered into the voter registration register in the presence of the applicant if possible.

(2) The application shall contain substantially all the information provided in section 32-312 and the following informational statements:

(a) An applicant who is unable to sign his or her name may affix his or her mark next to his or her name written on the signature line by some other person;

(b) If the application is submitted by mail and the applicant is registering in the state for the first time and has not previously voted within the state, the applicant must submit with the application a copy of a photo identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document that is current and that shows the name and address of the applicant as they appear on the application in order to avoid additional identification requirements when voting for the first time;

(c) An applicant may deliver the application to the office of the election commissioner or county clerk in person, through a personal messenger or personal agent, or by mail;

(d) To vote at the polling place on election day, the completed application must be:

(i) Delivered by the applicant in person to the office of the election commissioner or county clerk on or before the deadline prescribed in section 32-302;

(ii) Delivered by the applicant's personal messenger or personal agent to the office of the election commissioner or county clerk on or before the third Friday before the election; or

(iii) Postmarked on or before the third Friday before the election if the application is submitted by mail; and

(e) The election commissioner or county clerk will, upon receipt of the application for registration, send an acknowledgment of registration to the applicant indicating whether the application is proper or not.

Source: Laws 1994, LB 76, § 81; Laws 1997, LB 764, § 38; Laws 2003, LB 359, § 3; R.S.1943, (2004), § 32-319; Laws 2005, LB 566, § 10; Laws 2008, LB750, § 2.

32-312. Registration application; contents.

The registration application prescribed by the Secretary of State pursuant to section 32-304 or 32-311.01 shall provide the instructional statements and request the information from the applicant as provided in this section.

CITIZENSHIP—"Are you a citizen of the United States of America?" with boxes to check to indicate whether the applicant is or is not a citizen of the United States.

AGE—"Are you at least eighteen years of age or will you be eighteen years of age on or before the first Tuesday following the first Monday of November of this year?" with boxes to check to indicate whether or not the applicant will be eighteen years of age or older on election day.

WARNING—"If you checked 'no' in response to either of these questions, do not complete this application.".

NAME—the name of the applicant giving the first and last name in full, the middle name in full or the middle initial, and the maiden name of the applicant, if applicable.

RESIDENCE—the name and number of the street, avenue, or other location of the dwelling where the applicant resides if there is a number. If the registrant resides in a hotel, apartment, tenement house, or institution, such additional information shall be included as will give the exact location of such registrant's place of residence. If the registrant lives in an incorporated or unincorporated area not identified by the use of roads, road names, or house numbers, the registrant shall state the section, township, and range of his or her residence and the corporate name of the school district as described in section 79-405 in which he or she is located.

POSTAL ADDRESS—the address at which the applicant receives mail if different from the residence address.

ADDRESS OF LAST REGISTRATION—the name and number of the street, avenue, or other location of the dwelling from which the applicant last registered.

TELEPHONE NUMBERS—the telephone numbers of the applicant. At the request of the applicant, a designation shall be made that a telephone number is an unlisted number, and such designation shall preclude the listing of such telephone number on any list of voter registrations.

EMAIL ADDRESS—an email address of the applicant. At the request of the applicant, a designation shall be made that the email address is private, and such

designation shall preclude the listing of the applicant's email address on any list of voter registrations.

DRIVER'S LICENSE NUMBER OR LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER—if the applicant has a Nebraska driver's license, the license number, and if the applicant does not have a Nebraska driver's license, the last four digits of the applicant's social security number.

DATE OF APPLICATION FOR REGISTRATION—the month, day, and year when the applicant presented himself or herself for registration, when the applicant completed and signed the registration application if the application was submitted by mail or delivered to the election official by the applicant's personal messenger or personal agent, or when the completed application was submitted if the registration application was completed pursuant to section 32-304.

PLACE OF BIRTH—show the state, country, kingdom, empire, or dominion where the applicant was born.

DATE OF BIRTH—show the date of the applicant's birth. The applicant shall be at least eighteen years of age or attain eighteen years of age on or before the first Tuesday after the first Monday in November to have the right to register and vote in any election in the present calendar year.

REGISTRATION TAKEN BY—show the signature of the authorized official or staff member accepting the application pursuant to section 32-309 or 32-310 or at least one of the deputy registrars taking the application pursuant to section 32-306, if applicable.

PARTY AFFILIATION—show the party affiliation of the applicant as Democratic, Republican, or Other or show no party affiliation as Nonpartisan. (Note: If you wish to vote in both partisan and nonpartisan primary elections for state and local offices, you must indicate a political party affiliation on the registration application. If you register without a political party affiliation (nonpartisan), you will receive only the nonpartisan ballots for state and local offices at primary elections. If you register without a political party affiliation, you may vote in partisan primary elections for congressional offices.)

OTHER—information the Secretary of State determines will assist in the proper and accurate registration of the voter.

Immediately following the spaces for inserting information as provided in this section, the following statement shall be printed:

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(1) I live in the State of Nebraska at the address provided in this application;

(2) I have not been convicted of a felony or, if convicted, it has been at least two years since I completed my sentence for the felony, including any parole term;

(3) I have not been officially found to be non compos mentis (mentally incompetent); and

(4) I am a citizen of the United States.

Any registrant who signs this application knowing that any of the information in the application is false shall be guilty of a Class IV felony under section 32-1502 of the statutes of Nebraska. The penalty for a Class IV felony is up to two years imprisonment and twelve months post-release supervision, a fine of up to ten thousand dollars, or both.

APPLICANT'S SIGNATURE—require the applicant to affix his or her signature to the application.

Source: Laws 1994, LB 76, § 74; Laws 1996, LB 900, § 1037; Laws 1997, LB 764, § 34; Laws 2003, LB 357, § 7; Laws 2003, LB 359, § 2; Laws 2005, LB 53, § 4; Laws 2005, LB 566, § 11; Laws 2011, LB449, § 3; Laws 2014, LB661, § 7; Laws 2017, LB451, § 5; Laws 2020, LB1055, § 5; Laws 2022, LB843, § 18.

Effective Date: July 21, 2022

Annotations

When performing the duties required by this section, registration officials act ministerially and are required to record the answers as given by the applicants and determine the latter's status as qualified voters in accordance with their answers. *State ex rel. Williams v. Moorhead*, 96 Neb. 559, 148 N.W. 552 (1914), reversing 95 Neb. 80, 144 N.W. 1055 (1914).

32-312.01. Registration application; examine for sufficiency.

The office personnel of the election commissioner or county clerk or the deputy registrar shall examine the information provided by the applicant on his or her application for registration and shall determine whether the applicant has provided sufficient information with which to determine his or her qualifications to register to vote.

Source: Laws 2005, LB 566, § 12.

32-312.02. Registration application; required information.

To avoid rejection of an application for registration or a delay in the processing of the application, the information provided by the applicant pursuant to section 32-312 who is applying to register for the first time in the state or following a cancellation of the person's prior registration shall include:

(1) The name of the applicant;

(2) A description of the location of the applicant's residence that is sufficient to allow the election commissioner or county clerk to accurately assign the applicant to the appropriate precinct, including a political subdivision of the precinct if the applicant resides in a precinct which is divided into political subdivisions and the voters residing within each subdivision are entitled to participate in an election of any one or more candidates or in the determination by election of any question or proposition specific to the political subdivision;

(3) The postal address if different than the person's residence address;

(4) The date of birth of the applicant;

(5) The party affiliation of the applicant or an indication that the applicant is not affiliated with any political party;

(6) The applicant's Nebraska driver's license number or, if the applicant does not have a Nebraska driver's license, the last four digits of the applicant's social security number if the applicant has one; and

(7) The signature of the applicant.

Source: Laws 2005, LB 566, § 13.

32-312.02. Registration application; required information.

To avoid rejection of an application for registration or a delay in the processing of the application, the information provided by the applicant pursuant to section 32-312 who is applying to register for the first time in the state or following a cancellation of the person's prior registration shall include:

(1) The name of the applicant;

(2) A description of the location of the applicant's residence that is sufficient to allow the election commissioner or county clerk to accurately assign the applicant to the appropriate precinct, including a political subdivision of the precinct if the applicant resides in a precinct which is divided into political subdivisions and the voters residing within each subdivision are entitled to participate in an election of any one or more candidates or in the determination by election of any question or proposition specific to the political subdivision;

(3) The postal address if different than the person's residence address;

(4) The date of birth of the applicant;

(5) The party affiliation of the applicant or an indication that the applicant is not affiliated with any political party;

(6) The applicant's Nebraska driver's license number or, if the applicant does not have a Nebraska driver's license, the last four digits of the applicant's social security number if the applicant has one; and

(7) The signature of the applicant.

Source: Laws 2005, LB 566, § 13.

32-312.04. Registration application; use to update voter registration record; requirements.

A registered voter using a registration application to update his or her voter registration record with changes in his or her personal information or other changes related to his or her eligibility to vote shall:

(1) Provide all new information needed to ensure his or her voter registration record is accurate and current;

(2) Provide sufficient information to allow the election commissioner or county clerk to identify the voter including:

(a) The former name under which the voter was previously registered if the voter is seeking to register under a different name;

(b) The voter's Nebraska driver's license number or last four digits of the voter's social security number or the unique identifying number assigned in place of such numbers pursuant to subsection (4) of section 32-312.03, if known;

(c) The residence address where the voter was previously registered; and

(d) A sufficient description of the current residence address to allow the election commissioner or county clerk to accurately assign the voter to the appropriate precinct and political subdivision of the precinct, if any, if the voter has moved since previously registering; and

(3) Affix his or her signature to the registration application.

Source: Laws 2005, LB 566, § 15.

32-312.05. Voter registration record; effective date.

The date that a person's voter registration record or an update of his or her voter registration record becomes effective is the date the person presented himself or herself in person to register, the date the registration application was delivered to the election commissioner or county clerk, or the date the registration application was received by the election commissioner or county clerk if the person submitted the registration application by mail or pursuant to section 32-304 or 32-308.

Source: Laws 2005, LB 566, § 16; Laws 2014, LB661, § 8.

32-313. Qualifications of elector; abstract of felony convictions; clerks of court; duty; notification of federal court felony conviction; how treated.

(1) No person is qualified to vote or to register to vote who is non compos mentis or who has been convicted of treason under the laws of the state or of the United States unless restored to civil rights. No person who has been convicted of a felony under the laws of this state or any other state is qualified to vote or to register to vote until two years after the sentence is completed, including any parole term. The disqualification is automatically removed at such time.

(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 voter registration register upon receipt of notice of conviction.

Source: Laws 1994, LB 76, § 75; Laws 1999, LB 234, § 2; Laws 2005, LB 53, § 5.

Annotations

A person convicted of a felony is not deprived of any right or privilege except as provided for by the Constitution and statutes. *Bosteder v. Duling*, 115 Neb. 557, 213 N.W. 809 (1927).

A person convicted of a misdemeanor is not thereby deprived of his right to vote. *Gandy v. State*, 10 Neb. 243, 4 N.W. 1019 (1880).

32-314. Loss of eligibility to vote; when; update voter registration record; when; change of residence within county; change of name or party affiliation; effect.

(1) Any person going into another territory or state and registering to vote or voting in that territory or state shall lose his or her eligibility to vote in this state. Any person going into another county of this state and registering to vote or voting in that county shall lose his or her eligibility to vote in the county where he or she was registered.

(2) A registered voter who changes his or her residence in one county to a residence address in a different county in the state shall register again or update his or her voter registration record in order to be eligible to vote.

(3) A registered voter who changes his or her name or residence within the county and has retained legal residence in the county since the date of his or her last registration shall register again or update his or her voter registration record to avoid additional requirements at the time of voting as provided in sections 32-914 and 32-915 and may be entitled to vote pursuant to section 32-914.01, 32-914.02, or 32-915.

(4) A registered voter who wants to change his or her party affiliation for purposes of a primary election shall complete a registration application pursuant to section 32-312.04 and submit it to the election commissioner or county clerk as provided in and prior to the deadline prescribed by section 32-302 or 32-321.

Source: Laws 1994, LB 76, § 76; Laws 1997, LB 764, § 35; Laws 2005, LB 566, § 17.

32-315. Change of name or address; election commissioner or county clerk; duties.

Upon receiving a completed voter registration application pursuant to section 32-308, 32-309, or 32-310 indicating that a voter who is registered in the county 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 record 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.

Source: Laws 1994, LB 76, § 77; Laws 1997, LB 764, § 36; Laws 1999, LB 234, § 3; Laws 2005, LB 566, § 18; Laws 2014, LB661, § 9.

32-316. Certificate of registration; issuance; fee.

The election commissioner or county clerk may issue a certificate of registration to any registered voter who requests a certificate verifying that he or she is a registered voter in the county and pays a fee of three dollars. The certificate of registration shall include the information contained in section 32-312 and shall be issued with the seal of the election commissioner or county clerk. All fees so collected shall be reported to the county board and remitted to the county treasurer at least once each month.

Source: Laws 1994, LB 76, § 78; Laws 1997, LB 764, § 37.

32-317. Designation of postal address; when; no residence; how treated.

Any registered voter whose residence address is not a permissible postal address may designate a postal address for registration records. When the election commissioner or county clerk has reason to believe that the registration residence address of a registered voter is not a permissible postal address, the election commissioner or county clerk shall attempt to determine a proper postal address for the registered voter. If a registered voter has no residence address, his or her residence address shall be deemed to be the office of the election commissioner or county clerk of the county of such voter's residence for purposes of the Election Act.

Source: Laws 1994, LB 76, § 79.

32-318. Signature; when required.

Any registered voter whose signature does not appear in the registration records, due to fading, damage, loss, or other circumstance that affects the appearance or presence of the signature, may be required to submit his or her signature on a form prescribed by the Secretary of State to be included with the registration records of the registered voter. If the election commissioner or county clerk determines at any time that a then current signature of any registered voter is needed or if a registered voter's signature becomes subject to verification and a similar signature is not on file for such voter, the election commissioner or county clerk may request that the registered voter submit his or her signature on a form prescribed by the Secretary of State to be included with the voter's registration records.

Source: Laws 1994, LB 76, § 80; Laws 2005, LB 566, § 19.

32-318.01. Identification documents; required, when.

(1)(a) Except as provided by subsection (2) of this section, a person who registers to vote by mail after January 1, 2003, and has not previously voted in an election within the state shall present a photographic identification which is current and valid or a copy of a utility bill, bank statement, government check, paycheck, or other government document which is dated within the sixty days immediately prior to the date of presentation and which shows the same name and residence address of the person provided on the registration application in order to avoid identification requirements at the time of voting pursuant to section 32-914 or 32-947.

(b) Such documentation may be presented at the time of application for registration, after submission of the application for registration, or at the time of voting. The documentation must be received by the election commissioner or county clerk not later than 6 p.m. on the second Friday preceding the election to avoid additional identification requirements at the time of voting at the polling place if the voter votes in person. If the voter is voting using a ballot for early voting, the documentation must be received by the election commissioner or county clerk prior to the date on which the ballot is mailed to the voter to avoid additional identification requirements at the time of voting. Documentation received after the ballot has been mailed to the voter but not later than the deadline for the receipt of ballots specified in subsection (2) of section 32-908 will be considered timely for purposes of determining the applicant's eligibility to vote in the election.

(c) Such documentation may be presented in person, by mail, or by facsimile transmission.

(d) Failure to present such documentation may result in the ballot not being counted pursuant to verification procedures prescribed in sections 32-1002 and 32-1027.

(2) A person who registers to vote by mail after January 1, 2003, and has not previously voted in an election within the state shall not be required to present identification if he or she:

(a) Has provided his or her Nebraska driver's license number or the last four digits of his or her social security number and the election commissioner or county clerk verifies the number provided pursuant to subsection (2) of section 32-312.03;

(b) Is a member of the armed forces of the United States who by reason of active duty is absent from his or her place of residence where the member is otherwise eligible to vote;

(c) Is a member of the United States Merchant Marine who by reason of service is away from his or her place of residence where the member is otherwise eligible to vote;

(d) Is a spouse or dependent of a member of the armed forces of the United States or United States Merchant Marine who is absent from his or her place of residence due to the service of that member;

(e) Resides outside the United States and but for such residence would be qualified to vote in the state if the state was the last place in which the person was domiciled before leaving the United States; or

(f) Is elderly or handicapped and has requested to vote by alternative means other than by casting a ballot at his or her polling place on election day.

Source: Laws 2005, LB 566, § 20; Laws 2022, LB843, § 19.

Effective Date: July 21, 2022

32-319. Transferred to section 32-311.01.

32-320. Acceptable mail-in forms; official registration applications; distribution; proceeds; how credited.

The only mail-in forms which may be used to register to vote shall be the official registration application prescribed by the Secretary of State or the national mail voter registration application prescribed by the federal Election Assistance Commission. The Secretary of State shall provide such official registration applications to all recruitment offices of the United States Armed Forces in the State of Nebraska. The counties and state agencies listed in section 32-310 shall purchase such official registration applications from the Secretary of State. The Secretary of State shall remit proceeds from the sale of such applications to the State Treasurer for credit to the Election Administration Fund.

Source: Laws 1994, LB 76, § 82; Laws 2003, LB 14, § 2; Laws 2003, LB 358, § 9; Laws 2005, LB 566, § 21.

32-320.01. Voter registration application; distribution by mail; requirements; applicability.

(1) Except as provided in subsection (2) of this section, any person or organization distributing voter registration applications by mail shall use the form prescribed by the Secretary of State. The form shall contain on the top of the first page in bold type (a) the identity of the person or organization distributing the form and (b) the following statements:

You may submit this form if you wish to register to vote or update your voter registration. You do not need to complete this form if you have already registered to vote.

(2) This section shall not apply to voter registration applications distributed by the Secretary of State, an election commissioner, a county clerk, the State Department of Education, the Department of Health and Human Services, or the Department of Motor Vehicles.

Source: Laws 2022, LB843, § 17.

Effective Date: July 21, 2022

32-321. Voter registration applications; availability; Secretary of State; designated voter registration agency; mailing deadline; notice to applicant; when required; payment of postage costs.

(1) Any elector may request a voter registration application from the office of the Secretary of State or the election commissioner or county clerk. The Secretary of State and the election commissioner or county clerk shall make registration applications prescribed by the Secretary of State available and may place the applications in public places. The Secretary of State and the election commissioner or county clerk may require that all unused applications be returned to his or her office and may place reasonable limits on the amount of applications requested.

(2) If an elector returns the completed application to the office of the Secretary of State or submits an application to the Secretary of State pursuant to section 32-304, the office shall deliver the application to the election commissioner or county clerk of the county in which the elector resides not later than ten days after receipt by the office, except that if the application is returned to the office or submitted pursuant to section 32-304 within five days prior to the third Friday preceding any election, it shall be delivered not later than five days after the date it is returned. The deadline for returning a completed application to the office of the Secretary of State or submitting an application pursuant to section 32-304 is the close of business on the third Friday preceding an election to be registered to vote at such election. A registration application received after the deadline shall not be processed by the election commissioner or county clerk until after the election. The office of the Secretary of State shall be a designated voter registration agency for purposes of section 7 of the National Voter Registration Act of 1993, 42 U.S.C. 1973gg-5, as such section existed on March 11, 2008.

(3) If an elector mails the registration application to the election commissioner or county clerk:

(a)(i) The application shall be postmarked on or before the third Friday before the next election; or

(ii) The application shall be received not later than the second Tuesday before the next election if the postmark is unreadable; and

(b) The application shall be processed by the election office as a proper registration for the voter to be entitled to vote on the day of the next election.

(4) If the registration application arrives after the registration deadline, the application shall not be processed until after the election. Written notice shall be given to any applicant whose registration application failed to meet the registration deadline or was found to be incorrect or incomplete and shall state the specific reason for rejection. If the application is incomplete, the election commissioner or

county clerk shall notify the applicant of the failure to provide the required information, including failure to provide identification if required, and provide the applicant with the opportunity to submit an identification document as described in section 32-318.01 prior to the deadline for voter registration or to complete and submit a corrected registration application in a timely manner to allow for the proper registration of the applicant prior to the next election. All postage costs related to returning registration applications to the election commissioner or county clerk shall be paid by the registrant.

Source: Laws 1994, LB 76, § 83; Laws 1997, LB 764, § 39; Laws 2005, LB 566, § 22; Laws 2008, LB750, § 3; Laws 2014, LB661, § 10.

32-322. Acknowledgment of registration; when required; duplicate registration; notice required.

Upon receipt by the election commissioner or county clerk of a complete and correct registration application showing that the registrant is qualified to be a registered voter pursuant to sections 32-312.01 to 32-312.05, the registrant shall be a registered voter and the election commissioner or county clerk shall send, by nonforwardable first-class mail, an acknowledgment of registration to the registrant at the postal address shown on the registration application. If an acknowledgment of registration is returned as undeliverable, a second nonforwardable first-class mailing shall be attempted. If a registration application is a duplicate of a registration already on file, the registrant shall be so notified.

Source: Laws 1994, LB 76, § 84; Laws 1997, LB 764, § 40; Laws 2005, LB 566, § 23.

32-323. Validity of registration for petition purposes; when.

Registration pursuant to section 32-304 or 32-308 or by mail shall not constitute a valid registration for purposes of signing any type of petition requiring the validation of the signatures of registered voters until a complete and correct registration application has been received by the election commissioner or county clerk. A signature on a petition shall be considered a valid signature as of the date that the election commissioner or county clerk receives the registration application of the registrant.

Source: Laws 1994, LB 76, § 85; Laws 1997, LB 764, § 41; Laws 2005, LB 566, § 24; Laws 2014, LB661, § 11.

32-324. Change of address; election commissioner or county clerk; duties; acknowledgment of registration; when.

(1) When a person who previously has been registered to vote in another state registers to vote in Nebraska, the election commissioner or county clerk accepting the registration shall notify the appropriate election official in the other state that the voter has registered in Nebraska. The notification shall contain the printed or typewritten name and previous address of the registered voter and the signature or certification of the election commissioner or county clerk.

(2) The election commissioner or county clerk accepting an application for registration from a voter who was previously registered in a different county in Nebraska shall update the voter's voter registration record with the information from the application and shall send an acknowledgment to the voter indicating that the change of registration has been completed. The acknowledgment shall advise the voter of the address of his or her new polling place.

Source: Laws 1994, LB 76, § 86; Laws 1997, LB 764, § 42; Laws 2005, LB 566, § 25.

32-325. Update of voter registration record; deadline; effect.

(1) A registration application completed and signed by a registered voter seeking to update his or her voter registration record shall be completed in person at or delivered or mailed to the office of the election commissioner or county clerk or submitted pursuant to section 32-304 to the Secretary of State. To avoid additional requirements at the polling place pursuant to section 32-914.01, 32-914.02, or 32-915, an application to update a voter registration record must be:

(a) Completed or delivered by the applicant in person at the office of the election commissioner or county clerk on or before the deadline prescribed in section 32-302; or

(b) Delivered by a personal messenger or personal agent, submitted pursuant to section 32-304, or mailed so that it is received by the election commissioner or county clerk on or before the deadline prescribed in section 32-321.

(2) After verifying the signature on the previous registration of the registered voter, the election commissioner or county clerk shall make the change of name, party affiliation, or address on all pertinent election records. The election commissioner or county clerk shall send an acknowledgment card to the registered voter indicating that the change of registration has been completed and shall include the address of the registered voter's new polling place.

Source: Laws 1994, LB 76, § 87; Laws 1997, LB 764, § 43; Laws 2005, LB 566, § 26; Laws 2014, LB661, § 12.

32-326. Removal of name and cancellation of registration; conditions.

The election commissioner or county clerk shall remove the name of a registered voter from the 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 voter has moved from the address at which he or she is registered to vote from the National Change of Address program of the United States Postal Service pursuant to section 32-329 and 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;

(4) The election commissioner or county clerk has received information that the registrant has moved out of the state and has registered to vote or voted in another territory or state pursuant to section 32-314;

(5) The election commissioner or county clerk has received information from the Department of Motor Vehicles that the registrant has changed the registrant's state of residence by surrendering the registrant's Nebraska motor vehicle operator's license or state identification card to another state; or

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

Source: Laws 1994, LB 76, § 88; Laws 1999, LB 234, § 4; Laws 2005, LB 566, § 27; Laws 2022, LB843, § 20.

Effective Date: July 21, 2022

32-327. Death of registered voter; removal from registration records; Department of Health and Human Services; duty.

The election commissioner or county clerk may at any time remove from the 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 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.

Source: Laws 1994, LB 76, § 89; Laws 1997, LB 307, § 14; Laws 1999, LB 234, § 5; Laws 2007, LB296, § 52.

32-328. Voter registration register; precinct list; issuance of ballots; correction of errors; procedures.

(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 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 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 does not appear on the precinct list of registered voters through an error and the election commissioner or county clerk informs the precinct inspector or judge of election that credible evidence exists that substantiates that an error has been made, 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 to the voter as directed by the election commissioner or county clerk and receive his or her vote. The election commissioner or county clerk shall designate whether the voter is entitled to a regular ballot or a provisional ballot as provided in section 32-915. The election commissioner or county clerk shall implement the policy regarding designation of ballots uniformly throughout the county. All corrections shall be entered on the voter registration register as soon as possible after the election.

Source: Laws 1994, LB 76, § 90; Laws 1999, LB 234, § 6; Laws 2005, LB 566, § 28; Laws 2010, LB325, § 1.

Annotations

The election commissioner acts quasi-judicially when performing the duties prescribed by this section. *State ex rel. Williams v. Moorhead*, 96 Neb. 559, 148 N.W. 552 (1914), reversing 95 Neb. 80, 144 N.W. 1055 (1914).

32-329. Registration list; maintenance; voter registration register; verification; training; procedure; voter registration systems; information exempt from disclosure, when; Secretary of State; report.

(1) The Secretary of State with the assistance of the election commissioners and county clerks shall perform list maintenance with respect to the computerized statewide voter registration list on a regular basis. The list maintenance shall be conducted in a manner that ensures that:

(a) The name of each registered voter appears in the computerized list;

(b) Only persons who have been entered into the register in error or who are not eligible to vote are removed from the computerized list; and

(c) Duplicate names are eliminated from the computerized list.

(2) The election commissioner or county clerk shall verify the 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 (3) 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 voter registration register for the sole reason that such person has not voted for any length of time.

(3) 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 update the voter registration register to indicate that the voter may have moved and mail a confirmation notice by forwardable first-class mail. If a nonforwardable notice under subdivision (2)(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 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.

(4) 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.

(5) If information from the National Change of Address program or the nonforwardable notice under subdivision (2)(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 voter registration register.

(6)(a) In the event that the Secretary of State becomes a member of a nongovernmental entity whose sole purpose is to share and exchange information in order to improve the accuracy and efficiency of voter registration systems, information received by the Secretary of State from such nongovernmental entity is exempt from disclosure as a public record pursuant to sections 84-712 to 84-712.09 and any other provision of law, except that the Secretary of State may provide such information to the election commissioners and county clerks to conduct voter registration list maintenance activities.

(b) If the Secretary of State becomes a member of a nongovernmental entity as described in subdivision (6)(a) of this section, the Secretary of State shall submit an annual report electronically to the Clerk of the Legislature by February 1 encompassing the preceding calendar year. The report shall describe the terms of membership in the nongovernmental entity and provide information on the total number of voters removed from the voter registration register as a result of information received by such membership and the reasons for the removal of such voters.

Source: Laws 1994, LB 76, § 91; Laws 1997, LB 764, § 44; Laws 1999, LB 234, § 7; Laws 2003, LB 357, § 8; Laws 2005, LB 566, § 29; Laws 2010, LB325, § 2; Laws 2021, LB285, § 5.

32-330. Voter registration register; public record; exception; examination; lists of registered voters; availability; breach in security; notice required.

(1) Except as otherwise provided in subsection (3) of section 32-301, the 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 no person other than the Secretary of State, the election commissioner, the county clerk, or law enforcement shall be allowed to make copies of the register. Copies of the register shall only be used for list maintenance as provided in section 32-329 or law enforcement purposes. The electronic records of the original voter registrations created pursuant to section 32-301 may constitute the voter registration register. The Secretary of State, election commissioner, or county clerk shall withhold information in the register designated as confidential under section 32-331. No portion of the register made available to the public and no list distributed pursuant to this section shall include the digital signature of any voter.

(2) The Secretary of State, election commissioner, or county clerk shall make available a list of registered voters that contains no more than the information authorized in subsections (3) and (7) of this section and, if requested, a list that only contains such information for registered voters who have voted in an election held more than thirty days prior to the request for the list. The Secretary of State, 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 posted, displayed, or used for commercial purposes or made accessible on the Internet.

(3)(a) The Secretary of State, election commissioner, or county clerk shall withhold from any list of registered voters distributed pursuant to subsection (2) of this section any information in the voter registration records which is designated as confidential under section 32-331 or marked private on the voter registration application or voter registration record.

(b) Except as otherwise provided in subdivision (a) of this subsection, a list of registered voters distributed pursuant to subsection (2) of this section shall contain no more than the following information:

- (i) The registrant's name;
- (ii) The registrant's residential address;
- (iii) The registrant's mailing address;
- (iv) The registrant's telephone number;

- (v) The registrant's voter registration status;
- (vi) The registrant's voter identification number;
- (vii) The registrant's birth year;
- (viii) The registrant's date of voter registration;
- (ix) The registrant's voting precinct;
- (x) The registrant's polling site;
- (xi) The registrant's political party affiliation;
- (xii) The political subdivisions in which the registrant resides; and
- (xiii) The registrant's voter history.

(4) Any person who acquires a list of registered voters under subsection (2) of this section shall provide his or her name, address, telephone number, email address, and campaign committee name or organization name, if applicable, the state of organization, if applicable, and the reason for requesting the list, and 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, (or the State of Nebraska) only for the purposes prescribed in section 32-330 and for no other purpose, that I will not permit the use or copying of such list for unauthorized purposes, and that I will not post, display, or make such list accessible on the Internet.

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 20.. .

(Signature of officer)

(Name and official title of officer)

(5) The Secretary of State, 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.

(6) The Secretary of State, election commissioner, or county clerk shall provide, upon request and free of charge, a complete and current listing of all registered voters containing only the information authorized under subsection (3) of this section to the state party headquarters of each political party and to the county chairperson of each political party.

(7) The Secretary of State shall make available to each jury commissioner a list of registered voters that contains the information authorized in this section and the registrant's motor vehicle operator's license number or state identification card number.

(8) Nothing in this section shall prevent a political party or candidate from using the list of registered voters for campaign activities.

(9) Any person who acquires a list of registered voters under subsection (2) of this section shall, following discovery or notification of a breach in the security of the storage of the information, disclose the breach in security to the Secretary of State, election commissioner, or county clerk without delay.

Source: Laws 1994, LB 76, § 92; Laws 1995, LB 514, § 2; Laws 1997, LB 764, § 45; Laws 1999, LB 234, § 8; Laws 2015, LB575, § 10; Laws 2018, LB1065, § 5; Laws 2019, LB411, § 36; Laws 2021, LB285, § 6; Laws 2022, LB843, § 21.

Effective Date: July 21, 2022

32-331. Confidential records; procedure.

A registered voter may file an affidavit with the election commissioner or county clerk to have the information relating to his or her name, residence address, and telephone number remain confidential. If the registered voter is a program participant under the Address Confidentiality Act, the affidavit shall state that fact. If the registered voter is not a program participant under the act, the affidavit shall state that the county court or district court has issued an order upon a showing of good cause that a life-threatening circumstance exists in relation to the voter or a member of his or her household. The registered voter shall vote under sections 32-938 to 32-951 in elections held after the filing of the affidavit. To terminate the affidavit and withdraw the confidential designation, the registered voter shall notify the election commissioner or county clerk in writing. The registered voter shall provide a valid mailing address to be used in place of the residence address for election, research, and government purposes. If the registered voter is a program participant under the Address Confidentiality Act, the mailing address shall be as provided in the act. The election commissioner or county clerk may use the mailing address or the word "confidential" or a similar designation in place of the residence address in producing any list, roster, or register required under the Election Act. Those records declared confidential under this section shall be kept in a separate file from the other registered voter information. A county, election commissioner, or county clerk shall be liable in an action for negligence as a result of the disclosure of the confidential information if there is a showing of gross negligence or willfulness.

Source: Laws 1995, LB 514, § 3; Laws 2003, LB 228, § 11; Laws 2005, LB 98, § 4; Laws 2022, LB843, § 22.

Effective Date: July 21, 2022

Cross References

Address Confidentiality Act, see section 42-1201.

32-401. Statewide primary election; when held; purposes.

The statewide primary election shall be held on the first Tuesday after the second Monday in May in even-numbered years. The statewide primary election shall be held for the purposes of (1) nominating all candidates to be voted for at the statewide general election except (a) candidates who were unopposed at the primary election and not required to be on the ballot and (b) candidates who petition on the ballot or are nominated by their political party, (2) electing delegates to the county, state, and national political party conventions, if applicable, (3) in each presidential election year, voting on a preference for President of the United States, and (4) electing officers in political subdivisions which hold their general elections at the time of the statewide primary election.

Source: Laws 1994, LB 76, § 93.

Annotations

The liberal construction of the primary law required by this section is to further the real will of the electors as distinguished from that of candidates or would-be candidates. *State ex rel. Smith v. Marsh*, 120 Neb. 287, 232 N.W. 99 (1930), 72 A.L.R. 285 (1930).

The purpose of the primary election law was to provide an easy method by which a person might become a candidate for state office, either on his own initiative, or by petition of a designated number of electors. *State ex rel. Maupin v. Amsberry*, 104 Neb. 550, 178 N.W. 176 (1920).

Under former law a candidate for nomination as the candidate of a political party must have been a member of the party, and, where two parties had affiliated for the general election, a candidate could affiliate with both and be the candidate of both. *State ex rel. Curyea v. Wells*, 92 Neb. 337, 138 N.W. 165 (1912), 41 L.R.A.N.S. 1088 (1912).

The closed primary law enacted in 1911 recognized the existence of political parties and attempted to delegate to the members of each party the right to vote at the primary and general elections for the candidates of their own party without interference from the members of any other political party. *State ex rel. Nebraska Rep. State C. Com. v. Wait*, 92 Neb. 313, 138 N.W. 159 (1912), 43 L.R.A.N.S. 282 (1912).

Under former statute, a person was permitted to be a candidate of more than one political party in the primary election. *State ex rel. Sundean v. Junkin*, 80 Neb. 1, 113 N.W. 801 (1907).

The method of electing United States Senators in Nebraska was outlined in the opinion. *U.S. v. Seymour*, 50 F.2d 930 (8th Cir. 1931).

32-402. Other primary election; when held.

Any primary election other than a primary election provided for in sections 14-204 and 32-401 shall be held on Tuesday four weeks before the general election.

Source: Laws 1994, LB 76, § 94.

32-403. Statewide general election; when held.

The statewide general election shall be held on the first Tuesday following the first Monday in November in each even-numbered year.

Source: Laws 1994, LB 76, § 95.

Annotations

There is more than one type of general election. This section does not govern time of holding general municipal election. *Allen v. Tobin*, 155 Neb. 212, 51 N.W.2d 338 (1952).

32-404. Political subdivisions; elections; how held; notice of filing deadlines; certifications required; forms.

(1) When any political subdivision holds an election in conjunction with the statewide primary or general election, the election shall be held as provided in the Election Act. Any other election held by a political subdivision shall be held as provided in the act unless otherwise provided by the charter, code, or bylaws of the political subdivision.

(2) No later than December 1 of each odd-numbered year, the Secretary of State, election commissioner, or county clerk shall give notice to each political subdivision of the filing deadlines for the statewide primary election. No later than January 5 of each even-numbered year, the governing board of each political subdivision which will hold an election in conjunction with a statewide primary election shall certify to the Secretary of State, the election commissioner, or the county clerk the name of the subdivision, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(3) No later than June 15 of each even-numbered year, the governing board of each reclamation district, county weed district, village, county under township organization, public power district receiving annual gross revenue of less than forty million dollars, or educational service unit which will hold an election in conjunction with a statewide general election shall certify to the Secretary of State, the election commissioner, or the county clerk the name of the subdivision, the number of officers to be elected, the length of the terms of office, the vacancies to be filled by election and length of remaining term, and the number of votes to be cast by a registered voter for each office.

(4) The Secretary of State shall prescribe the forms to be used for certification to him or her, and the election commissioner or county clerk shall prescribe the forms to be used for certification to him or her.

Source: Laws 1994, LB 76, § 96; Laws 1997, LB 764, § 46; Laws 2004, LB 927, § 1; Laws 2017, LB451, § 6; Laws 2021, LB285, § 7.

32-405. Special election; when held.

Any special election under the Election Act shall be held on the first Tuesday following the second Monday of the selected month unless otherwise specifically provided. No special election shall be held under the Election Act in April, May, June, October, November, or December of an even-numbered year unless it is held in conjunction with the statewide primary or general election. No special election shall be held under the Election Act in September of an even-numbered year except for a special election by a political subdivision pursuant to section 13-519 or 77-3444 to approve a property tax levy or exceed a property tax levy limitation. A special election for a Class III, IV, or V school district which is located in whole or in part in a county in which a city of the primary or metropolitan class is located may be held in conjunction with the primary or general election for a city of the primary or metropolitan class which is governed by a home rule charter.

Source: Laws 2003, LB 521, § 4; Laws 2014, LB946, § 6; Laws 2020, LB1055, § 6.

32-501. Residence requirement; restriction; home rule charter; legislative findings and declarations.

No person to be elected to office at any election or nominated at any primary election, except for state officers, shall be required to meet a residence requirement of longer than six months in order to be eligible to be a candidate for such office. The Legislature finds and declares that the election of public officials and the qualifications related thereto are a matter of general statewide concern notwithstanding the provisions of any home rule charter.

Source: Laws 1994, LB 76, § 97.

Annotations

The provisions of the act creating an office control the election of the officers and their terms of office. *Saling v. Bahensky*, 97 Neb. 789, 151 N.W. 320 (1915).

32-502. United States Senators; terms; qualifications; partisan ballot.

Two United States Senators shall be elected for terms of six years at the statewide general election. One senator shall be elected in 1994 and every six years thereafter, and one senator shall be elected in 1996 and every six years thereafter. Candidates for the United States Senate shall meet the qualifications found in Article I, section 3, of the Constitution of the United States. The senators shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 98.

Annotations

The method of election of United States senators in Nebraska is outlined in the opinion. U.S. v. Seymour, 50 F.2d 930 (8th Cir. 1931).

32-503. United States Representatives in Congress; terms; qualifications; partisan ballot.

The United States Representatives in Congress shall be elected from the three congressional districts established in section 32-504 for terms of two years at the statewide general election in each even-numbered year. Candidates for the United States House of Representatives shall meet the qualifications found in Article I, section 2, of the Constitution of the United States. The representatives shall be elected on the partisan ballot. The representatives shall be elected in accordance with the laws of the United States.

Source: Laws 1994, LB 76, § 99.

Annotations

Cited but not discussed. *Exon v. Tiemann*, 279 F.Supp. 609 (D. Neb. 1968).

32-504. Congressional districts; numbers; boundaries; established by maps; Clerk of Legislature; Secretary of State; duties.

(1) Based on the 2020 Census of Population by the United States Department of Commerce, Bureau of the Census, the State of Nebraska is hereby divided into three districts for electing Representatives in the Congress of the United States, and each district shall be entitled to elect one representative.

(2) The numbers and boundaries of the districts are designated and established by maps identified and labeled as maps CONG21-39002, CONG21-39002-1, CONG21-39002-2, and CONG21-39002-3, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2021, LB1, One Hundred Seventh Legislature, First Special Session.

(3)(a) The Clerk of the Legislature shall transfer possession of the maps referred to in subsection (2) of this section to the Secretary of State on October 1, 2021.

(b) When questions of interpretation of district boundaries arise, the maps referred to in subsection (2) of this section in possession of the Secretary of State shall serve as the indication of the legislative intent in drawing the district boundaries.

(c) Each election commissioner or county clerk shall obtain copies of the maps referred to in subsection (2) of this section for the election commissioner's or clerk's county from the Secretary of State.

(d) The Secretary of State shall also have available for viewing on his or her website the maps referred to in subsection (2) of this section identifying the boundaries for the districts.

Source: Laws 1994, LB 76, § 100; Laws 2001, LB 851, § 1; Laws 2011, LB704, § 1; Laws 2021, First Spec. Sess., LB1, § 1.

Effective Date: October 1, 2021

Annotations

This act does not violate the one person, one vote standard, and is constitutional. Exon v. Tiemann, 279 F.Supp. 609 (D. Neb. 1968).

32-505. Congressional districts; population figures and maps; basis.

For purposes of section 32-504, the Legislature adopts the official population figures and maps from the 2020 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census.

Source: Laws 1994, LB 76, § 101; Laws 2001, LB 851, § 2; Laws 2011, LB704, § 2; Laws 2021, First Spec. Sess., LB1, § 2.

Effective Date: October 1, 2021

32-506. Governor and Lieutenant Governor; terms; qualifications; partisan ballot.

The Governor and Lieutenant Governor shall be elected at the statewide general election in 1994 and each four years thereafter. Such officers shall serve for terms of four years or until their successors are elected and qualified. Candidates for Governor and Lieutenant Governor shall meet the qualifications found in Article IV, sections 1 and 2, of the Constitution of Nebraska. The Governor and Lieutenant Governor shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 102.

32-507. State Treasurer; Auditor of Public Accounts; Secretary of State; Attorney General; terms; qualifications; partisan ballot.

The State Treasurer, Auditor of Public Accounts, Secretary of State, and Attorney General shall be elected at the statewide general election in 1994 and each four years thereafter. Such officers shall serve for terms of four years or until their successors are elected and qualified. Candidates for State Treasurer shall meet the qualifications found in Article IV, section 3, of the Constitution of Nebraska. Such officers shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 103.

32-508. Members of the Legislature; districts; terms; qualifications; nonpartisan ballot.

The State of Nebraska is divided into forty-nine legislative districts as provided and described in sections 50-1153 and 50-1154. The members of the Legislature from the even-numbered districts shall be elected for terms of four years at the statewide general election in 1994 and each four years thereafter. The members of the Legislature from the odd-numbered districts shall be elected for terms of four years at the statewide general election in 1996 and each four years thereafter. Candidates for the Legislature shall meet the qualifications found in Article III, sections 8 and 9, of the Constitution of Nebraska. The members of the Legislature shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 104; Laws 2011, LB703, § 1.

32-509. Public service commissioners; districts; qualifications; partisan ballot; terms.

(1) The State of Nebraska is divided into five public service commissioner districts as provided and described in sections 75-101.01 and 75-101.02. A candidate for the office of public service commissioner shall meet the qualifications found in section 75-101. The commissioners shall be elected on the partisan ballot.

(2) Each public service commissioner shall be elected for a term of six years. One public service commissioner from public service commissioner district number one and one public service commissioner from public service commissioner district number three shall be elected at the statewide general election in 1994 and each six years thereafter. One public service commissioner from public service commissioner district number four and one public service commissioner from public service commissioner district number five shall be elected at the statewide general election in 1992 and each six years thereafter. One public service commissioner from public service commissioner district number two shall be elected at the statewide general election in 1996 and each six years thereafter.

Source: Laws 1994, LB 76, § 105; Laws 2001, LB 855, § 1.

32-510. Board of Regents of the University of Nebraska, districts; terms; nonpartisan ballot.

The State of Nebraska is divided into eight districts for the election of the Board of Regents of the University of Nebraska as provided and described in sections 85-103.01 and 85-103.02. One regent from district number one and one regent from district number two shall be elected at the statewide general election in 1996 and each six years thereafter. One regent from district number six and one regent from district number seven shall be elected at the statewide general election in 1992 and each six years thereafter. One regent from district number three, one regent from district number four, one regent from district number five, and one regent from district number eight shall be elected at the statewide general election in 1994 and each six years thereafter. The regents shall serve for terms of six years or until their successors are elected and qualified. The regents shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 106; Laws 2001, LB 854, § 1.

32-511. State Board of Education; districts; terms; qualifications; nonpartisan ballot.

The State of Nebraska is divided into eight districts for the election of the State Board of Education as provided and described in sections 79-311 and 79-312. One member from district number one, one member from district number two, one member from district number three, and one member from district number four shall be elected at the statewide general election in 1996 and each four years thereafter. One member from district number five, one member from district number six, one member from district number seven, and one member from district number eight shall be elected at the statewide general election in 1994 and each four years thereafter. The members shall serve for terms of four years or until their successors are elected and qualified. Candidates for the State Board of Education shall meet the qualifications found in section 79-313. The members shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 107; Laws 1996, LB 900, § 1038; Laws 2001, LB 856, § 1.

32-512. Public power district; public power and irrigation district; board of directors; nonpartisan ballot; terms; qualifications; qualified voters.

(1) After the selection of the original board of directors of a public power district as provided for in sections 70-803 and 70-805 or a district as provided for in sections 70-604 and 70-609, their successors shall be nominated and elected on the nonpartisan ballot, except that in districts receiving annual gross revenue of less than forty million dollars, the candidates for the board of directors shall not appear on the ballot in the primary election. The term of each elected director shall be not more than six years or until his or her successor is elected and qualified. Candidates for the board of directors shall meet the qualifications found in sections 70-610 and 70-619.

(2) Registered voters residing within the chartered territory and registered voters duly certified in accordance with section 70-604.03 shall be qualified to vote in the district as certified pursuant to section 70-611. The registered voters of a subdivision created under subsection (1) of section 70-612 may only cast their ballots for candidates for directors to be elected from such subdivision and for candidates for directors to be elected at large from the whole district. The registered voters of a subdivision created under subsection (2) or (3) of section 70-612 may only cast their ballots for candidates for directors to be elected from such subdivision.

Source: Laws 1994, LB 76, § 108; Laws 2013, LB646, § 1.

32-513. Natural resources districts; board of directors; terms; subdistricts; qualifications; nonpartisan ballot.

Except as provided in section 2-3213, candidates for the board of directors of natural resources districts shall be elected for four-year terms at the statewide general election. The number of directors, the length of their terms, and the subdistrict which they are to represent if any shall be determined by the board of directors pursuant to sections 2-3213 and 2-3214. Candidates for the board of directors shall meet the qualifications found in section 2-3214. District directors shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 109.

32-514. Community college area board of governors; districts; terms; nonpartisan ballot.

Candidates for membership on the community college area board of governors shall be elected from the election districts established by the board of governors pursuant to section 85-1512. Two members of the board shall be elected from each election district, and one member shall be elected at large from the area. Board members shall be elected for four-year terms. Board members shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 110.

32-515. Educational service unit board; terms; qualifications; nonpartisan ballot.

Candidates for the boards of educational service units, except boards of educational service units with only one member school district, shall be elected to represent the geographical boundaries of the educational service unit as provided in section 79-1217. The terms of members elected in 2008 to represent odd-numbered election districts established pursuant to section 79-1217.01 shall expire in 2011. The terms of members elected in 2008 to represent even-numbered election districts established under such section shall expire in 2013. Successors to the members elected in 2008 shall be elected for terms of four years. Candidates for the board of educational service units shall meet the qualifications found in section 79-1217. Board members shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 111; Laws 1996, LB 900, § 1039; Laws 1999, LB 802, § 11; Laws 2007, LB603, § 2.

32-516. Reclamation district; board of directors; nonpartisan ballot; terms.

After the selection of the original board of directors of a reclamation district as provided for in subdivision (5) of section 46-516, their successors shall be elected at a statewide general election on the nonpartisan ballot. The term of each member of the board thus elected shall be six years or until his or her successor is elected and qualified.

Source: Laws 1994, LB 76, § 112.

32-517. County clerk; terms; qualifications; partisan ballot.

Except as provided in section 22-417, a county clerk shall be elected in each county having a population of four hundred thousand inhabitants or less at the statewide general election in 1994 and each four years thereafter and in counties having a population in excess of four hundred thousand inhabitants at the statewide general election in 1996 and each four years thereafter. The county clerk shall meet the qualifications found in sections 23-1301 and 23-3203 if applicable. The county clerk shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 113; Laws 1996, LB 1085, § 44.

32-518. Register of deeds; terms; continuation of office; when; qualifications; partisan ballot.

Except as provided in section 22-417, (1) a register of deeds shall be elected in each county having a population of more than twenty thousand and not more than four hundred thousand inhabitants at the statewide general election in 1962 and each four years thereafter and in counties having a population in excess of four hundred thousand inhabitants at the statewide general election in 1964 and each four years thereafter and (2) if the population of a county which has a separate office of register of deeds pursuant to this section falls below twenty thousand inhabitants after establishing such an office or if a county which has a separate office of register of deeds immediately prior to July 10, 1990, has a population of twenty thousand inhabitants or less, the office of the register of deeds shall continue and the officer shall be elected pursuant to this section as if the county had a population of more than twenty thousand and not more than four hundred thousand inhabitants. The term of the register of deeds shall be four years or until his or her successor is elected and qualified. The register of deeds shall meet the qualifications found in section 23-1501. The register of deeds shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 114; Laws 1996, LB 1085, § 45.

Annotations

The County Manager Act, held unconstitutional, did not abolish the office of register of deeds in counties where that form of government was adopted. The 1933 amendment to this section did not repeal the County Manager Act. State ex rel. O'Connor v. Tusa, 130 Neb. 528, 265 N.W. 524 (1936).

Under former law this section authorized the election of a register of deeds in only those counties having the required population, as determined by the last preceding state or national census, at the date of the election. State ex rel. Miller v. Lewis, 38 Neb. 191, 56 N.W. 885 (1893).

32-519. County assessor; election; when required; terms; qualifications; partisan ballot.

(1) Except as provided in section 22-417, at the statewide general election in 1990 and each four years thereafter, a county assessor shall be elected in each county having a population of more than three thousand five hundred inhabitants and more than one thousand two hundred tax returns. The county assessor shall serve for a term of four years.

(2) The county board of any county shall order the submission of the question of electing a county assessor in the county to the registered voters of the county at the next statewide general election upon presentation of a petition to the county board (a) conforming to the provisions of section 32-628, (b) not less than sixty days before any statewide general election, (c) signed by at least ten percent of the registered voters of the county secured in not less than two-fifths of the townships or precincts of the county, and (d) asking that the question be submitted to the registered voters in the county. The form of submission upon the ballot shall be as follows: For election of county assessor; Against election of county assessor. If a majority of the votes cast on the question are against the election of a county assessor in such county, the duties of the county assessor shall be performed by the county clerk and the office of county assessor shall either cease with the expiration of the term of the incumbent or continue to be abolished if no such office exists at such time. If a majority of the votes cast on the question are in favor of the election of a county assessor, the office shall continue or a county assessor shall be elected at the next statewide general election.

(3) The county assessor shall meet the qualifications found in sections 23-3202 and 23-3204. The county assessor shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 115; Laws 1996, LB 1085, § 46; Laws 2009, LB121, § 4.

Annotations

Under this section, the office of county assessor in a county which has elected to abolish it, continues only during the incumbency of the county assessor then holding office, and immediately upon his resignation, the county clerk becomes ex officio county assessor. *Hatcher & Co. v. Gosper County*, 95 Neb. 543, 145 N.W. 993 (1914).

32-520. County sheriff; terms; qualifications; partisan ballot.

A county sheriff shall be elected in each county at the statewide general election in 1990 and each four years thereafter. The term of the county sheriff shall be four years or until his or her successor is elected and qualified. The county sheriff shall meet the qualifications found in sections 23-1701 and 23-1701.01. The county sheriff shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 116.

32-521. County treasurer; terms; qualifications; partisan ballot.

A county treasurer shall be elected in each county at the statewide general election in 1990 and each four years thereafter. The term of the county treasurer shall be four years or until his or her successor is elected and qualified. The county treasurer shall meet the qualifications found in section 23-1601.01. The county treasurer shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 117.

32-522. County attorney; terms; qualifications; partisan ballot.

Except as provided in section 23-1201.01, a county attorney shall be elected in each county at the statewide general election in 1990 and each four years thereafter. The term of the county attorney shall be four years or until his or her successor is elected and qualified. Candidates for the office of county attorney shall meet the qualifications found in sections 23-1201.01 and 23-1201.02. The county attorney shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 118.

Annotations

Office of county attorney is to be treated as a legislative office as distinguished from a constitutional office. *Fitzgerald v. Kuppinger*, 163 Neb. 286, 79 N.W.2d 547 (1956).

The term of office of a county attorney is not limited to four years, but continues until a successor is elected, or appointed, and qualified. *State ex rel. Schroeder v. Swanson*, 121 Neb. 459, 237 N.W. 407 (1931).

Under the Constitution, Article IX, section 4, the Legislature has power to create the office of county attorney. *Dinsmore v. State*, 61 Neb. 418, 85 N.W. 445 (1901).

Although county attorneys now have the same duties and powers as district attorneys formerly had, a county attorney is a county officer and the county court has original jurisdiction over contests of election for that office. *Bell v. Templin*, 26 Neb. 249, 41 N.W. 1093 (1889).

32-523. Public defender; election; when required; terms; qualifications; partisan ballot.

Except as otherwise provided in sections 23-3401 and 23-3404, the public defender shall, in counties having a population in excess of one hundred thousand inhabitants which have not elected a public defender prior to July 10, 1984, be elected at the next statewide general election following July 10, 1984, or the year in which the county attains a population of one hundred thousand inhabitants and shall, in other counties, be elected at the first statewide general election of county officers following approval by the county board and every four years thereafter. The term of the public defender shall be four years or until his or her successor is elected and qualified. The public defender shall meet the qualifications found in section 23-3401. The public defender shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 119.

32-524. Clerk of the district court; election; when required; terms; partisan ballot.

(1) Except as provided in section 22-417:

(a) In counties having a population of seven thousand inhabitants or more, there shall be elected one clerk of the district court at the statewide general election in 1962 and every four years thereafter; and

(b) In counties having a population of less than seven thousand inhabitants, there shall be elected a clerk of the district court at the first statewide general election following a determination by the county board and the district judge for the county that such officer should be elected and each four years thereafter. When such a determination is not made in such a county, the county clerk shall be ex officio clerk of the district court and perform the duties by law devolving upon that officer, unless there is an agreement between the State Court Administrator and the county board that the clerk of the county court for such county shall be the ex officio clerk of the district court and perform such duties.

(2) In any county upon presentation of a petition to the county board (a) not less than sixty days before the statewide general election in 1976 or every four years thereafter, (b) signed by registered voters of the county equal in numbers to at least fifteen percent of the total vote cast for Governor at the most recent gubernatorial election in the county, secured in not less than two-fifths of the townships or precincts of the county, and (c) asking that the question of not electing a clerk of the district court in the county be submitted to the registered voters therein, the county board, at the next statewide general election, shall order the submission of the question to the registered voters of the county. The form of submission upon the ballot shall be as follows:

For election of a clerk of the district court;

Against election of a clerk of the district court.

(3) If a majority of the votes cast on the question are against the election of a clerk of the district court in such county, the duties of the clerk of the district court shall be performed by the county clerk, unless there is an agreement between the State Court Administrator and the county board that the clerk of the county court for such county shall be the ex officio clerk of the district court and perform such duties, and the office of clerk of the district court shall either cease with the expiration of the term of the incumbent or continue to be abolished if no such office exists at such time.

(4) If a majority of the votes cast on the question are in favor of the election of a clerk of the district court, the office shall continue or a clerk of the district court

shall be elected at the next statewide general election as provided in subsection (1) of this section.

(5) The term of the clerk of the district court shall be four years or until his or her successor is elected and qualified. The clerk of the district court shall meet the qualifications found in section 24-337.04. The clerk of the district court shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 120; Laws 1996, LB 1085, § 47; Laws 2009, LB7, § 2; Laws 2011, LB669, § 24.

Annotations

Method of giving notice of appeal in this particular case from freeholders' board, in a county where by law county clerk is ex officio clerk of the district court, held sufficient. *Elson v. Harbert*, 190 Neb. 437, 208 N.W.2d 703 (1973).

The United States census reports are not conclusive evidence, but are prima facie evidence of the population in any given territory unless overcome by other competent evidence. *State ex rel. Blessing v. Davis*, 66 Neb. 333, 92 N.W. 740 (1902).

The language of this section, providing for an election in a designated year and every four years thereafter, refers to regular elections and not to the filling of vacancies. *State ex rel. Franci v. Dodson*, 21 Neb. 218, 31 N.W. 788 (1887).

This section refers to the population of each county ascertained as of the date of election, from the best evidence obtainable, and not exclusively from a previous census. *State ex rel. McBride v. Long*, 17 Neb. 502, 23 N.W. 337 (1885).

The office of clerk of the district court is not separate from the office of county clerk in counties containing less than the required population at the date of election. *State ex rel. Bd. of County Commissioners of Hamilton County v. Whittemore*, 12 Neb. 252, 11 N.W. 310 (1882).

Under this section, an election may be held only in the designated year and every four years thereafter and only in counties having the required population in the designated years. *State ex rel. Graybill v. Whittemore*, 11 Neb. 175, 9 N.W. 93 (1881); *State ex rel. Newman v. Stauffer*, 11 Neb. 173, 8 N.W. 432 (1881).

The office of clerk of the district court does not exist in counties having less than the required population at the date of election, but the county clerk of such counties is an ex officio clerk of the district court. *State ex rel. Welna v. Steuffer*, 10 Neb. 506, 6 N.W. 604 (1880).

32-525. County surveyor; election; when required; terms; qualifications; question of electing county surveyor; county board; powers; form of ballot; partisan ballot.

(1) Except as provided in section 22-417 and except for counties which vote not to elect the county surveyor as provided in subsection (2) or (4) of this section, a county surveyor on either a full-time or part-time basis, as determined by the county board in accordance with section 23-1901, shall be elected in each county having a population of less than one hundred fifty thousand inhabitants at the statewide general election in 1990 and each four years thereafter.

(2)(a) Except as provided in section 22-417 and in subsection (3) of this section, in each county having a population of less than one hundred fifty thousand inhabitants, the question of electing a county surveyor in the county shall be submitted to the registered voters of the county at the statewide general election in 2020. The form of submission upon the ballot shall be as follows: For election of county surveyor; Against election of county surveyor.

(b) If a majority of the votes cast on the question are against the election of a county surveyor in such county, the office of county surveyor shall cease as an elected office with the expiration of the term of the incumbent or shall remain as it exists if no elected official holds that office. In such counties, the office shall be filled as provided in subsection (2) of section 23-1901.01.

(c) If a majority of the votes cast on the question are in favor of the election of a county surveyor, the office shall continue to be elected as provided in subsection (1) of this section or, if no elected county surveyor is in office, a county surveyor shall be elected at the next statewide general election as provided in subsection (1) of this section.

(3) If a county having a population of less than one hundred fifty thousand inhabitants has an elected county surveyor in office on January 1, 2020, the county board may, prior to February 1, 2020, following a public hearing, adopt a resolution to continue to elect the county surveyor for the county and not to submit the question pursuant to subsection (2) of this section.

(4)(a) Beginning in 2021, in each county having a population of less than one hundred fifty thousand inhabitants, the county board shall submit the question of electing a county surveyor in the county to the registered voters of the county at the next statewide general election if (i) the county board, by majority vote of all the members of the county board, adopts a resolution on or before September 1 prior to the next statewide general election to submit the question to the voters or (ii) a petition conforming to section 32-628 asking for the submission of the question to the voters is presented to the election commissioner or county clerk on or before September 1 prior to the next statewide general election signed by at least ten

percent of the registered voters of the county. The election commissioner or county clerk shall verify the signatures pursuant to section 32-631 and place the question on the ballot if he or she determines that at least ten percent of the registered voters of the county have signed the petition.

(b) The form of submission upon the ballot shall be as follows: For election of county surveyor; Against election of county surveyor.

(c) If a majority of the votes cast on the question are against the election of a county surveyor in such county, the office of county surveyor shall cease as an elected office with the expiration of the term of the incumbent or shall remain as it exists if no elected official holds that office. In such counties, the office shall be filled as provided in subsection (2) of section 23-1901.01.

(d) If a majority of the votes cast on the question are in favor of the election of a county surveyor, the office shall continue to be elected as provided in subsection (1) of this section or, if no elected county surveyor is in office, a county surveyor shall be elected at the next statewide general election as provided in subsection (1) of this section.

(5) The term of the county surveyor shall be four years or until his or her successor is elected and qualified. The county surveyor shall meet the qualifications found in sections 23-1901 and 23-1901.01. The county surveyor shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 121; Laws 1996, LB 1085, § 48; Laws 2014, LB946, § 7.

32-526. County engineer; election; when required; terms; qualifications; partisan ballot.

Except as provided in section 22-417, a county engineer shall be elected in each county having a population of one hundred fifty thousand inhabitants or more at the statewide general election in 1990 and each four years thereafter. The term of the county engineer shall be four years or until his or her successor is elected and qualified. The county engineer shall meet the qualifications found in section 23-1901. The county engineer shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 122; Laws 1996, LB 1085, § 49.

32-527. Repealed. Laws 1999, LB 272, § 118.

32-528. County board of commissioners; terms; qualifications; partisan ballot; nomination and election by district; change of number of commissioners; procedure.

(1) In counties having a county board of three commissioners, two commissioners shall be elected at the statewide general election in 1994 and each four years thereafter, and one commissioner shall be elected at the statewide general election in 1996 and each four years thereafter. In counties having a county board of five commissioners, three commissioners shall be elected at the statewide general election in 1994 and each four years thereafter, and two commissioners shall be elected at the statewide general election in 1996 and each four years thereafter. In counties having a county board of seven or more commissioners, one commissioner shall be elected in each odd-numbered commissioner district at the statewide general election in 1994 and each four years thereafter, and one commissioner shall be elected in each even-numbered commissioner district at the statewide general election in 1996 and each four years thereafter.

(2) Except for commissioners first elected after the county adopts the commissioner form of government or has increased the number of commissioners, the term of each county commissioner shall be four years or until his or her successor is elected and qualified. At the first election held to choose the board of commissioners in any county having three commissioners, the person having the highest number of votes shall serve for four years and the two receiving the next highest number of votes shall serve for two years, and if any three or more persons have the same number of votes, their terms of office shall be determined by the county canvassing board. The county commissioners shall meet the qualifications found in section 23-150. Nothing in this section shall be construed to prohibit the reelection of a commissioner holding office if the commissioner is reelected to represent his or her respective district. The county commissioners shall be elected on the partisan ballot.

(3)(a) In counties having not more than one hundred fifty thousand inhabitants as determined by the most recent federal decennial census, one commissioner shall be nominated and elected from each district by the registered voters of the district.

(b) In counties having a population of more than one hundred fifty thousand but not more than four hundred thousand inhabitants as determined by the most recent federal decennial census, one commissioner shall be nominated and elected from each district by the registered voters of the district as provided in subsection (5) of this section.

(c) In counties having more than four hundred thousand inhabitants as determined by the most recent federal decennial census, one commissioner shall be nominated and elected from each district by the registered voters of the district.

(4) In counties in which a majority has voted to have five commissioners as provided in section 23-148, the three commissioners of such county whose terms of office will 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. Two commissioners shall be appointed pursuant to sections 32-567 and 32-574 to serve until the first Thursday after the first Tuesday in January following the next statewide general election. At the next statewide general election, commissioners shall be elected to fill the positions of any commissioners appointed under this section. At the first primary election after such appointments, filings shall be accepted for terms of two years and for terms of four years so that two commissioners will be elected to four-year terms at one election and three commissioners will be elected to four-year terms at the next election.

(5) In counties having more than one hundred fifty thousand but not more than four hundred thousand inhabitants as determined by the most recent federal decennial census:

(a) At the primary election in 2010, one commissioner shall be nominated from each odd-numbered district, and at the ensuing general election, one commissioner shall be elected from each odd-numbered district. Their successors shall be nominated and elected every four years thereafter; and

(b) At the primary election in 2012, one commissioner shall be nominated from each even-numbered district, and at the ensuing general election, one commissioner shall be elected from each even-numbered district. Their successors shall be nominated and elected every four years thereafter.

Source: Laws 1994, LB 76, § 124; Laws 2008, LB268, § 2; Laws 2015, LB575, § 11; Laws 2016, LB742, § 17.

Annotations

Term of county commissioner is four years. *Cavey v. Reigle*, 101 Neb. 807, 165 N.W. 153 (1917); *State ex rel. Fitch v. McFarland*, 98 Neb. 854, 154 N.W. 719 (1915); *Calling v. Gilland*, 97 Neb. 788, 151 N.W. 322 (1915).

The election of more than one commissioner is not forbidden if terms of two commissioners have expired or will the succeeding January. *State ex rel. Calling v. Smith*, 101 Neb. 805, 165 N.W. 152 (1917).

This section expresses legislative construction of former conflicting statutes. *De Larm v. Van Camp*, 98 Neb. 857, 154 N.W. 717 (1915).

In counties not under township organization, the term of office of a county commissioner is four years and is controlled by the act that created the office and prescribed the term thereof. *Saling v. Bahensky*, 97 Neb. 789, 151 N.W. 320 (1915).

32-529. County board of supervisors; districts; terms; qualifications; partisan ballot.

At the first general election after the adoption of township organization by a county, one supervisor shall be elected in each supervisor district. Thereafter one supervisor shall be elected in each odd-numbered supervisor district at the general election two years after the first general election and each four years thereafter, and one supervisor shall be elected in each even-numbered supervisor district at the general election four years after the first general election and each four years thereafter. Each county supervisor shall be nominated and elected by the registered voters of the district from which he or she is elected. Except for supervisors first elected after the county has adopted township organization, the term of each county supervisor shall be four years or until his or her successor is elected and qualified. The county supervisors shall meet the qualifications found in section 23-268. The county supervisors shall be elected on the partisan ballot.

Source: Laws 1994, LB 76, § 125.

Annotations

County supervisors are elected for four years, but have staggered terms of office. *Foote v. County of Adams*, 163 Neb. 406, 80 N.W.2d 179 (1956).

The 1891 amendment to the election laws did not repeal or change the laws relating to the election of township officers or temporary organization, but merely provided for future elections. *Albert v. Twohig*, 35 Neb. 563, 53 N.W. 582 (1892).

This section, as enacted in 1879, referred to the first general election after the adoption of township organization at which the county officers named were to be elected. *State ex rel. Crossley v. Hedlund*, 16 Neb. 566, 20 N.W. 876 (1884).

32-530. Township officers; terms; qualifications; nonpartisan ballot.

After the initial appointments as provided for in sections 23-214 and 23-215, the officers of the township board shall be elected in counties under township government at the statewide general election in 1994 and every four years thereafter. Except for officers first appointed after the county has adopted township organization, the term of each officer shall be four years or until his or her successor is elected and qualified. The three candidates receiving the highest number of votes at the general election shall be the officers of the township board, and the three officers shall determine by majority vote which officer shall serve as township clerk, township treasurer, and chairperson of the township board. The township officers shall meet the qualifications found in sections 23-214 and 23-215. The township officers shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 126; Laws 1997, LB 764, § 47; Laws 2003, LB 461, § 2.

32-531. County weed district board; terms; qualifications; nonpartisan ballot.

After the initial appointments to the county weed district board in counties in which the members are elected, the two members from cities, villages, or townships shall thereafter be elected at the statewide general election in 1994 and each four years thereafter, and the three members from rural areas shall be elected at the statewide general election in 1996 and each four years thereafter. After the initial appointments, the term of each member shall be four years or until his or her successor is elected and qualified. The members shall meet the qualifications found in section 2-953.01. The members shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 127.

32-532. Village board of trustees; terms; qualifications.

The members of a village board of trustees shall be elected at the statewide general election as provided in section 17-202 and each four years thereafter. Except as provided in such section, the term of each board member shall be four years or until his or her successor is elected and qualified. The board members shall meet the qualifications found in section 17-203.

Source: Laws 1994, LB 76, § 128; Laws 1995, LB 194, § 7.

32-533. Cities of the second class; officers; terms.

Commencing with the primary election in 1976 and every two years thereafter, all elected officers in all cities of the second class shall be nominated at the statewide primary election and elected at the statewide general election. All elected officers in a city of the second class shall serve for terms of four years or until their successors are elected and qualified.

Source: Laws 1994, LB 76, § 129.

32-534. Certain cities of the first class; officers; wards; terms; qualifications.

(1) In a city of the first class except a city having adopted the commissioner or city manager plan of government, a mayor shall be elected at large and council members shall be elected by ward or at large and by ward as provided in section 32-554. If members are elected by ward, one or two council members shall be elected from each ward, except that there shall be at least four council members, and two council members shall be required for each ward in any city having fewer than four wards. The council may provide for the election of the treasurer and clerk as provided in section 16-302.01.

(2) All elected officers in a city of the first class shall serve for terms of four years or until their successors are elected and qualified. The council members shall be nominated at the statewide primary election and elected at the statewide general election. The council members shall meet the qualifications found in section 16-302.01.

Source: Laws 1994, LB 76, § 130; Laws 2001, LB 730, § 2; Laws 2002, LB 970, § 2.

32-535. Cities of the primary class; city council; terms.

The members of the city council of a city of the primary class shall be elected at the general city election as provided in section 15-301. The term of each council member shall be four years or until his or her successor is elected and qualified.

Source: Laws 1994, LB 76, § 131.

32-536. Cities of the metropolitan class; city council; terms; districts; qualifications.

In a city of the metropolitan class, seven council members shall be elected to the city council for terms of four years at the general city election in 1993 pursuant to section 14-201. One council member shall be nominated and elected from each of the districts into which the city is divided pursuant to section 14-201.03. The council members shall meet the qualifications found in sections 14-204 and 14-230.

Source: Laws 1994, LB 76, § 132.

32-537. City with home rule charter; city council; qualifications; nominating petition or filing fee.

(1) In a city which adopts a home rule charter pursuant to sections 19-501 to 19-503 and Article XI, sections 2 to 5, of the Constitution of Nebraska, the number of city council members shall be determined by the home rule charter. The council members of a city of the metropolitan class which adopts a home rule charter shall meet the qualifications found in sections 14-204 and 14-230.

(2) Any city having a home rule charter may provide in such charter for a nominating petition or filing fee or both for any person desiring to be a candidate for the office of council member or mayor.

Source: Laws 1994, LB 76, § 133.

32-538. City with city manager plan of government; city council; members; nomination and election; terms.

(1) In a city which adopts the city manager plan of government pursuant to the City Manager Plan of Government Act, the city council members shall be nominated at the statewide primary election and elected at the statewide general election.

(2) City 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 the city council members by wards, the number and boundaries of which are provided for in section 16-104. City council members shall serve for terms of four years or until their successors are elected and qualified. The city council members shall meet the qualifications found in sections 19-613 and 19-613.01.

(3) The first election under an ordinance changing the number of city council members or their manner of election shall take place at the next statewide primary and general elections. City 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. At the first election under an ordinance changing the number of city council members or their manner of election, one-half or the bare majority of city 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 city 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 city council member is to be elected at large at such first election, such member shall serve for four years.

Source: Laws 1994, LB 76, § 134; Laws 2001, LB 71, § 2; Laws 2001, LB 730, § 3; Laws 2017, LB113, § 37; Laws 2019, LB193, § 240; Laws 2020, LB1003, § 184.

Cross References

City Manager Plan of Government Act, see section 19-601.

32-539. City with commission plan of government; city council; members; nonpartisan ballot; mayor and council members; terms.

(1) In a city which adopts the commission plan of government pursuant to the Municipal Commission Plan of Government Act, the number of city council members shall be determined by the class and population of the city. In cities having two thousand or more but not more than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, there shall be five members, in cities of the primary class, there shall be five members, and in cities of the metropolitan class, there shall be seven members. Council members shall be elected from the city at large. Nomination and election of all council members shall be by nonpartisan ballot. The mayor shall be elected for a four-year term.

(2) If a city elects to adopt the commission plan of government, the council member elected as the commissioner of the department of public works and the council member elected as the commissioner of the department of public accounts and finances shall each serve a term of four years and the council member elected as the commissioner of the department of streets, public improvements, and public property and the council member elected as the commissioner of the department of parks and recreation shall each serve a term of two years. Upon the expiration of such terms, all council members shall serve terms of four years and until their successors are elected and qualified.

(3) Commencing with the statewide primary election in 2000, and every two years thereafter, candidates shall be nominated at the statewide primary election and elected at the statewide general election except as otherwise provided in section 19-405.

Source: Laws 1994, LB 76, § 135; Laws 1999, LB 250, § 3; Laws 2017, LB113, § 38; Laws 2019, LB193, § 241.

Cross References

Municipal Commission Plan of Government Act, see section 19-401.

32-540. Metropolitan utilities district; board of directors; election subdivisions; board; duties; nonpartisan ballot; terms; qualifications.

(1) Except as otherwise provided in subsection (2) of this section, in each metropolitan utilities district service area, two of the members of the board of directors shall be chosen at large by the registered voters within the district at the time of the statewide primary and statewide general elections held in the even-numbered years, except that at the primary and general elections held in 1978 and every six years thereafter, three members, one of whom shall be known as the outside member, shall be elected at large by the registered voters within the district.

(2)(a) The board of directors of a metropolitan utilities district may by resolution provide for the division of the territory of the district into seven election subdivisions composed of substantially equal population and compact and contiguous territory and number the subdivisions consecutively. One member of the board of directors shall be elected from each subdivision.

(b) If the board of directors provides for seven election subdivisions prior to February 1, 2016, the board of directors shall assign each position on the board of directors to represent a numbered election subdivision for the remainder of the term of office for which the member is elected, regardless of whether the member resides in the subdivision, and shall make such assignments so that members representing election subdivisions numbered one and two hold office until the first Tuesday after the first Monday in January 2019 or until their successors are elected and qualified, members representing election subdivisions numbered three, four, and five hold office until the first Tuesday after the first Monday in January 2021 or until their successors are elected and qualified, and members representing election subdivisions six and seven hold office until the first Tuesday after the first Monday in January 2023 or until their successors are elected and qualified.

(c) A successor who resides in the numbered election subdivision shall be nominated and elected at the statewide primary and general elections held in the calendar year prior to the expiration of the term of the member who represents such numbered election subdivision.

(d) After each federal decennial census, the board of directors shall create new boundaries for the election subdivisions. In establishing the boundaries of the election subdivisions, the board of directors shall follow county lines wherever practicable, shall provide for the subdivisions to be composed of substantially equal population and compact and contiguous territory, and shall, as nearly as possible, follow the precinct lines created by the election commissioner or county clerk after each federal decennial census.

(3) Nomination and election of all directors shall be by nonpartisan ballot. Except as provided in subsection (2) of this section, members of the board shall

hold office for a period of six years from the first Tuesday after the first Monday in January following their election or until their successors are elected and qualified. The directors shall meet the qualifications found in sections 14-2102 and 14-2103.

Source: Laws 1994, LB 76, § 136; Laws 2014, LB1014, § 3.

32-541. Repealed. Laws 2018, LB377, § 87.

32-542. Repealed. Laws 2018, LB377, § 87.

32-543. Class III school district; board of education members; terms; qualifications.

(1) If a caucus is held for nominations under section 79-549 for a Class III school district, the board of education shall consist of six members to be elected by the registered voters of the school district at the statewide primary election. Two members shall be elected at each election for a term of six years. The members shall meet the qualifications found in section 79-543.

(2) Except as provided in subsection (1) of this section, members of the board of education of a Class III school district shall be nominated at the statewide primary election and elected at the statewide general election. The board of education of a Class III school district shall have no fewer than five members and no more than nine members as provided in section 79-549 or 79-550, and the members shall be nominated and elected at large or by district or ward as provided in section 32-554 or nominated by district or ward and elected at large as provided in section 79-550. The number of members to be nominated at the statewide primary election and elected at the statewide general election and the terms for which they will be nominated and elected shall be determined by the election commissioner or county clerk with the aid of the elected secretary of the board of education of the district. The terms of office of members of such board shall expire on the first Thursday after the first Tuesday in January. Terms shall be staggered so that approximately one-half of the members are elected to the board at each general election for terms of four years. When it becomes necessary to establish the staggering of terms by electing members for terms of different duration at the same election, candidates receiving the greatest number of votes shall be elected for the longest terms. The members shall meet the qualifications found in section 79-543.

Source: Laws 1994, LB 76, § 139; Laws 1996, LB 900, § 1042; Laws 1997, LB 595, § 1; Laws 1997, LB 764, § 48; Laws 2006, LB 1024, § 4; Laws 2014, LB946, § 9.

32-544. Class IV school district; board of education members; districts; terms; nonpartisan ballot; qualifications.

Candidates for the board of education of a Class IV school district shall be nominated and elected by district as provided in section 32-552 for four-year terms at the same time as members of the city council of the city in which the district is located. A member of the board shall be elected from each district pursuant to such section. Candidates shall be nominated and elected upon a nonpartisan ballot. At the general city election in 1979 and each four years thereafter, one member shall be elected from each even-numbered district. At the general city election in 1981 and each four years thereafter, one member shall be elected from each odd-numbered district. The members shall meet the qualifications found in section 79-543.

Source: Laws 1994, LB 76, § 140; Laws 1996, LB 900, § 1043.

32-545. Class V school district; board of education members; districts; qualifications; terms; nonpartisan ballot.

(1) A member of the board of education of a Class V school district shall be elected from each district provided for in section 32-552. Such election shall be held on the date provided in subsection (2) of this section. The members of such board of education shall meet the qualifications found in sections 79-543 and 79-552.

(2) In 2014, candidates for election to such board of education from even-numbered districts shall be nominated at the statewide primary election and elected at the statewide general election and shall take office on the first Monday in January 2015. In 2016, candidates for election to such board of education from odd-numbered districts shall be nominated at the statewide primary election and elected at the statewide general election and shall take office on the first Monday in January 2017. Thereafter, all members shall be nominated at the statewide primary election and elected at the statewide general election, shall take office on the first Monday in January following their election, and shall serve terms of four years or until their successors are elected and qualified. Candidates for election to such board of education shall be nominated upon the nonpartisan ballot.

Source: Laws 1994, LB 76, § 141; Laws 1996, LB 900, § 1044; Laws 2013, LB125, § 1; Laws 2020, LB1055, § 7.

32-546. Repealed. Laws 2018, LB377, § 87.

32-546.01. Learning community coordinating council; members; election; appointment; vacancies; terms; per diem; expenses.

(1) Each learning community shall be governed by a learning community coordinating council. Through January 4, 2017, each council shall consist of eighteen voting members, with twelve members elected on a nonpartisan ballot from six numbered subcouncil districts created pursuant to section 32-555.01 and with six members appointed from such subcouncil districts pursuant to this section. Beginning January 5, 2017, each learning community coordinating council shall consist of twelve members elected on a nonpartisan ballot from six numbered subcouncil districts created pursuant to section 32-555.01. Members elected at the general election in 2014 shall continue to serve until the terms for which they were elected expire, and such members may run for reelection. Each voter shall be allowed to cast votes for one candidate at both the primary and general elections to represent the subcouncil district in which the voter resides. The four candidates receiving the most votes at the primary election shall advance to the general election. The two candidates receiving the most votes at the general election shall be elected. A candidate shall reside in the subcouncil district for which he or she is a candidate. Coordinating council members shall be elected on the nonpartisan ballot.

(2) The initial elected members shall be nominated at the statewide primary election and elected at the statewide general election immediately following the certification of the establishment of the learning community, and subsequent members shall be nominated at subsequent statewide primary elections and elected at subsequent statewide general elections. Except as provided in this section, such elections shall be conducted pursuant to the Election Act.

(3) Vacancies in office for elected members shall occur as set forth in section 32-560. Whenever any such vacancy occurs, the remaining elected members of such council shall appoint an individual residing within the geographical boundaries of the subcouncil district for the balance of the unexpired term.

(4) Members elected to represent odd-numbered districts in the first election for the learning community coordinating council shall be elected for two-year terms. Members elected to represent even-numbered districts in the first election for the learning community coordinating council shall be elected for four-year terms. Members elected in subsequent elections shall be elected for four-year terms and until their successors are elected and qualified.

(5) The appointed members shall be appointed in November of each even-numbered year through 2014 after the general election. Appointed members shall be school board members of school districts in the learning community either elected to take office the following January or continuing their current term of

office for the following two years. For learning communities to be established prior to July 21, 2016, pursuant to orders issued pursuant to section 79-2102, the Secretary of State shall hold a meeting of the school board members of the school districts in such learning community to appoint one member from such school boards to represent each of the subcouncil districts on the coordinating council of such learning community. For subsequent appointments, the current appointed members of the coordinating council shall hold a meeting of the school board members of such school districts to appoint one member from such school boards to represent each of the subcouncil districts on the coordinating council of the learning community. The appointed members shall be selected by the school board members of the school districts in the learning community who reside in the subcouncil district to be represented pursuant to a secret ballot, shall reside in the subcouncil district to be represented, and shall be appointed for two-year terms and until their successors are appointed and qualified.

(6) Vacancies in office for appointed members shall occur upon the resignation, death, or disqualification from office of an appointed member. Disqualification from office shall include ceasing membership on the school board for which membership qualified the member for the appointment to the learning community coordinating council or ceasing to reside in the subcouncil district represented by such member of the learning community coordinating council. Whenever such vacancy occurs, the remaining appointed members shall hold a meeting of the school board members of the school districts in such learning community to appoint a member from such school boards who lives in the subcouncil district to be represented to serve for the balance of the unexpired term.

(7) Through January 4, 2017, each learning community coordinating council shall also have a nonvoting member from each member school district which does not have either an elected or an appointed member who resides in the school district on the council. Such nonvoting members shall be appointed by the school board of the school district to be represented to serve for two-year terms, and notice of the nonvoting member selected shall be submitted to the Secretary of State by such board prior to December 31 of each even-numbered year through 2014. Each such nonvoting member shall be a resident of the appointing school district and shall not be a school administrator employed by such school district. Whenever a vacancy occurs, the school board of such school district shall appoint a new nonvoting member and submit notice to the Secretary of State and to the learning community coordinating council.

(8) Members of a learning community coordinating council shall take office on the first Thursday after the first Tuesday in January following their election, except that members appointed to fill vacancies shall take office immediately following administration of the oath of office. Each voting member shall be eligible for reimbursement of reasonable expenses related to service on the learning community coordinating council. Each nonvoting member shall be eligible for

reimbursement of reasonable expenses related to service on the learning community coordinating council.

Source: Laws 2007, LB641, § 49; Laws 2008, LB1154, § 3; Laws 2009, LB392, § 5; Laws 2010, LB937, § 1; Laws 2010, LB1070, § 1; Laws 2016, LB1067, § 4.

32-547. City airport authority board; members; terms; qualifications.

Each airport authority board created pursuant to the Cities Airport Authorities Act in cities of the primary, first, and second classes and in villages shall consist of five members. Except for members initially appointed pursuant to section 3-502, members of the board shall serve for terms of six years and shall be nominated and elected in the manner provided by law for the election of officers of the city concerned and shall take office at the same time as the officers of such city. One member shall be elected at the first general city election after creation of the authority, two members at the second general city election after creation of the authority, and two members at the third general city election after the creation of the authority. The members shall meet the qualifications found in such section.

Source: Laws 1994, LB 76, § 143.

Cross References

Cities Airport Authorities Act, see section 3-514.

32-548. County airport authority board; members; terms; qualifications.

Each airport authority board created pursuant to sections 3-601 to 3-622 shall consist of five members. Except for members initially appointed pursuant to section 3-611, members shall serve for terms of six years and shall be nominated and elected in the manner provided by law for election of nonpartisan officers of the county. Two members shall be elected at the first general election after creation of the authority, two members at the second general election after creation of the authority, and one member at the third general election after the creation of the authority. The members shall meet the qualifications found in section 3-611.

Source: Laws 1994, LB 76, § 144.

32-549. Joint airport authority board; members; terms; qualifications.

Each airport authority board created pursuant to the Joint Airport Authorities Act shall consist of at least five members from districts as established in section 3-703. Except for members initially appointed pursuant to such section, members of the board shall serve for terms of six years and shall be nominated and elected in the manner provided by law for nonpartisan officers. The terms of all elected members shall commence on the first Thursday after the first Tuesday in January following their election. One member shall be elected at the first general election after creation of the authority, two members at the second general election after creation of the authority, and two members at the third general election after the creation of the authority. The members shall meet the qualifications found in such section.

Source: Laws 1994, LB 76, § 145.

Cross References

Joint Airport Authorities Act, see section 3-716.

32-550. Local hospital district board of directors; terms; nonpartisan ballot.

Two members of a local hospital district board of directors shall be elected at the first statewide primary election after the initial appointment of members pursuant to section 23-3534, and three members shall be elected at the second statewide primary election after such initial appointment. Members shall be elected from the hospital district at large for terms which begin on the first Tuesday in June following their election. Except as otherwise provided in this section, each member shall serve for a term of four years or until his or her successor is elected and qualified. The members shall be elected on the nonpartisan ballot.

Source: Laws 1994, LB 76, § 146.

32-551. Regional metropolitan transit authority; terms.

(1) Members of the board of directors of a regional metropolitan transit authority shall be nominated at the statewide primary election and elected at the statewide general election following the effective date of the conversion of such transit authority established under the Transit Authority Law into a regional metropolitan transit authority as provided in section 18-808, and subsequently elected members shall be nominated at subsequent statewide primary elections and elected at subsequent statewide general elections. Candidates for election shall be nominated upon a nonpartisan ballot.

(2) Members elected to represent odd-numbered districts in the first election of board members shall be elected for two-year terms. Members elected to represent even-numbered districts in the first election of board members shall be elected for four-year terms. Members elected in subsequent elections shall be elected for four-year terms and until their successors are elected and qualified.

(3) Members shall take office on the first Thursday after the first Tuesday in January following their election, except that members appointed to fill vacancies shall take office immediately following administration of the oath of office.

Source: Laws 2019, LB492, § 36.

Cross References

Transit Authority Law, see section 14-1826.

32-552. Election districts; adjustment of boundaries; when; procedure; Class IV school district; Class V school district; districts.

(1) Except as provided by subsection (4) of this section, at least five months prior to an election, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting political subdivision's governing board and subjected to all public review and challenge ordinances of the political subdivision.

(2) After the next federal decennial census, the election commissioner of the county in which the greater part of a Class IV school district is situated shall, subject to review by the school board, divide the school district into seven numbered districts, substantially equal in population as determined by the most recent federal decennial census. The election commissioner shall consider the location of schools within the district and their boundaries. The election commissioner shall adjust the boundaries of the election districts, subject to final review and adjustment by the school board, to conform to changes in the territory and population of the school district and also following each federal decennial census. Except when specific procedures are otherwise provided, section 32-553 shall apply to all Class IV school districts.

(3) For purposes of election of members to the board of education of a Class V school district:

(a)(i) The Legislature hereby divides such school district into nine numbered election districts of compact and contiguous territory and of as nearly equal population as may be practical. Each election district shall be entitled to one member on the board of education of such Class V school district. The Legislature adopts the official population figures and maps from the 2010 Census Redistricting (Public Law 94-171) TIGER/Line Shapefiles published by the United States Department of Commerce, Bureau of the Census. The numbers and boundaries of the election districts are designated and established by a map identified and labeled as OPS-13-002, filed with the Clerk of the Legislature, and incorporated by reference as part of Laws 2013, LB125. Such districts are drawn using the boundaries of the Class V school district as they existed on February 12, 2013; (ii) the Clerk of the Legislature shall transfer possession of the map referred to in subdivision (a)(i) of this subsection to the Secretary of State and the election commissioner of the county in which the greater part of the school district is situated on February 12, 2013; (iii) when questions of interpretation of such election district boundaries arise, the map referred to in subdivision (a)(i) of this subsection in possession of such election commissioner shall serve as the

indication of the legislative intent in drawing the election district boundaries; and (iv) the Secretary of State and such election commissioner shall also have available for viewing on his or her website the map referred to in subdivision (a)(i) of this subsection identifying the boundaries for such election districts; and

(b) After the next federal decennial census, the election commissioner of the county in which the greater part of a Class V school district is situated shall divide the school district into nine numbered districts of compact and contiguous territory and of as nearly equal population as may be practical. The election commissioner shall adjust the boundaries of such districts, subject to final review and adjustment by the school board, to conform to changes in the territory of the school district and also following each federal decennial census.

(4) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the governing board of any political subdivision requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting political subdivision's governing board and subjected to all public review and challenge ordinances of the political subdivision by December 30, 2021.

(5) The Secretary of State may grant additional days upon request of the political subdivision if precinct maps are not delivered to the political subdivision by November 1, 2021, or for an extraordinary circumstance.

Source: Laws 1994, LB 76, § 148; Laws 1997, LB 764, § 49; Laws 2002, LB 935, § 5; Laws 2013, LB125, § 2; Laws 2019, LB411, § 37; Laws 2020, LB1055, § 8; Laws 2021, LB285, § 8.

Annotations

Read together, this section and section 32-553 authorize an election commissioner to draw or adjust the boundaries of school districts following a federal decennial census only as is necessary to maintain substantial population equality within the districts. This section and section 32-553 do not authorize an election commissioner to take into account political considerations when adjusting boundaries following a federal decennial census. *State ex rel. Steinke v. Lautenbaugh*, 263 Neb. 652, 642 N.W.2d 132 (2002).

32-553. Political subdivision; redistrict; when; procedure.

(1)(a) 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.

(b) Except as provided by subdivision (c) of this subsection, (i) 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 and (ii) 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.

(c) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, 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 and submitted to the election commissioner or county clerk by December 30, 2021, 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 and submit the boundaries to the election commissioner or county clerk pursuant to this section by December 30, 2021.

(d) The Secretary of State may grant additional days upon request of the political subdivision if precinct maps are not delivered to the political subdivision by November 1, 2021, or for an extraordinary circumstance.

(e) 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 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.

Source: Laws 1994, LB 76, § 149; Laws 1997, LB 595, § 2; Laws 2001, LB 71, § 3; Laws 2021, LB285, § 9.

Annotations

This section does not limit redrawing of district boundaries to only once every 10 years. *Chambers v. Lautenbaugh*, 263 Neb. 920, 644 N.W.2d 540 (2002).

Read together, section 32-552 and this section authorize an election commissioner to draw or adjust the boundaries of school districts following a federal decennial census only as is necessary to maintain substantial population equality within the districts. Section 32-552 and this section do not authorize an election commissioner to take into account political considerations when adjusting boundaries following a federal decennial census. *State ex rel. Steinke v. Lautenbaugh*, 263 Neb. 652, 642 N.W.2d 132 (2002).

32-554. Village, county, school district, or certain cities; elections at large or by district or ward; procedure.

(1)(a) Any city not under a home rule charter, village, county, or school district nominating and electing members to its governing board at large may, either by majority vote of the governing body or by petition of registered voters pursuant to subsection (2) of this section, submit, at a general election, the question of nominating and electing members to its governing board by district or ward.

(b) Any city not under a home rule charter, village, county having not more than four hundred thousand inhabitants as determined by the most recent federal decennial census, or school district nominating and electing members to its governing board by district or ward may, either by majority vote of the governing body or by petition of registered voters pursuant to subsection (2) of this section, submit, at a general election, the question of nominating and electing members to its governing board at large.

(c) Any city of the first class, except a city having adopted the commissioner or city manager plan of government, nominating and electing members to its governing body by ward may, either by ordinance by majority vote of the governing body or by petition of registered voters pursuant to subsection (2) of this section, submit, at a general election, the question of nominating and electing some of the members to its governing body by ward and some at large. No more than four members of the city council may be elected on an at-large basis, and at least four members of the city council shall be elected by ward. The ordinance of the governing body or petition shall specify the number of at-large members to be elected. At the first election in which one or more at-large members are to be elected to the city council, the members shall be elected to serve for initial terms of office of the following lengths: (i) If one at-large member is to be elected, he or she shall serve for a four-year term; (ii) if two at-large members are to be elected, the candidate receiving the highest number of votes shall be elected to serve for a four-year term and the other elected member shall be elected to serve for a two-year term; (iii) if three at-large members are to be elected, the two candidates receiving the highest number of votes shall be elected to serve for four-year terms and the other elected member shall be elected to serve for a two-year term; and (iv) if four at-large members are to be elected, the two candidates receiving the highest number of votes shall be elected to serve for four-year terms and the other elected members shall be elected to serve for two-year terms. Following the initial term of office, all at-large council members shall be elected to serve for four-year terms. No candidate may file as both an at-large candidate and a candidate by ward at the same election.

(2) Petitions for submission of the question shall be signed by registered voters of the city, village, county, or school district desiring to change the procedures for

electing the governing board of the city, village, county, or school district. The petition or petitions shall be signed by registered voters equal in number to twenty-five percent of the votes cast for the person receiving the highest number of votes in the city, village, county, or school district at the preceding general election for electing the last member or members to its governing board. Each sheet of the petition shall have printed the full and correct copy of the question as it will appear on the official ballot. The petitions shall be filed with the county clerk or election commissioner not less than seventy days prior to the date of the general election, and no signatures shall be added or removed from the petitions after they have been so filed. Petitions shall be verified as provided in section 32-631. If the petition or petitions are found to contain the required number of valid signatures, the county clerk or election commissioner shall place the question on a separate ballot to be issued to the registered voters of the city, village, county, or school district entitled to vote on the question.

(3)(a) Any city, village, county, or school district voting to change from nominating and electing the members of its governing board by district or ward to nominating and electing some or all of such members at large shall notify the public and instruct the filing officer to accept the appropriate filings on an at-large basis. Candidates to be elected at large shall be nominated and elected on an at-large basis at the next primary and general election following submission of the question.

(b) Any city, village, county, or school district voting to change from nominating and electing the members of its governing board at large to nominating and electing by district or ward shall notify the public and instruct the filing officer to accept all filings by district or ward. Candidates shall be nominated and elected by district or ward at the next primary and general election following submission of the question. When district or ward elections have been approved by the majority of the electorate, the governing board of any city, village, county, or school district approving such question shall establish districts substantially equal in population as determined by the most recent federal decennial census except as provided in subsection (2) of section 32-553.

(4) Except as provided in section 14-201, each city not under a home rule charter, village, county, and school district which votes to nominate and elect members to its governing board by district or ward shall establish districts or wards so that approximately one-half of the members of its governing board may be nominated and elected from districts or wards at each election. Districts or wards shall be created not later than October 1 in the year following the general election at which the question was voted upon. If the governing board fails to draw district boundaries by October 1, the procedures set forth in section 32-555 shall be followed.

Source: Laws 1994, LB 76, § 150; Laws 1997, LB 595, § 3; Laws 1997, LB 764, § 50; Laws 2001, LB 730, § 4; Laws 2003, LB 444, § 4; Laws 2005, LB 566, § 30; Laws 2013, LB299, § 3; Laws 2016, LB742, § 18.

32-555. City, village, county, or school district; failure to redistrict; county attorney or election commissioner; duties; penalty.

(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 any county having more than four hundred thousand inhabitants as determined by the most recent federal decennial census pursuant to 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 four hundred thousand inhabitants as determined by the most recent federal decennial census 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.

Source: Laws 1994, LB 76, § 151; Laws 1997, LB 595, § 4; Laws 2001, LB 71, § 4; Laws 2016, LB742, § 19.

32-555.01. Learning community; districts; redistricting.

The election commissioners of the applicable counties, pursuant to certification of the establishment of a learning community pursuant to section 79-2102, shall divide the territory of the new learning community into six numbered districts for the purpose of electing members to the learning community coordinating council in compliance with section 32-553 and for the purpose of organizing achievement subcouncils pursuant to section 79-2117. Such districts shall be compact and contiguous and substantially equal in population. The newly established subcouncil districts shall be certified to the Secretary of State on or before November 1 immediately following such certification. The newly established subcouncil districts shall apply beginning with the election of the first council members for such learning community. Following the drawing of initial subcouncil districts pursuant to this section, additional redistricting thereafter shall be undertaken by the learning community coordinating council according to section 32-553.

Source: Laws 2007, LB641, § 37; Laws 2009, LB392, § 6.

32-556. City, village, and school elections; requirements; applicability of act.

All city, village, and school issues and offices shall be combined on the statewide primary and general election ballots whenever possible. The issuance of separate ballots shall be avoided in a statewide election if city, village, or school offices or issues can reasonably be combined with the nonpartisan ballot and state law does not require otherwise. All city and village elections involving the election of officers, except cities with home rule charters, shall be held in accordance with the Election Act and in conjunction with the statewide primary or general election. All city elections in cities with home rule charters shall be held in accordance with the home rule charter except as otherwise provided in the Election Act and may be held in conjunction with the statewide primary or general election. If the home rule charter is silent as to any subject covered by the act, the act shall apply.

Source: Laws 1994, LB 76, § 152.

32-557. City, village, and school officers; partisan ballot; when allowed; requirements.

All elective city, village, and school officers shall be nominated and elected on a nonpartisan ballot unless a city or village provides for a partisan ballot by ordinance. No ordinance providing for nomination and election on a partisan ballot shall permit affiliation with any party not recognized as a political party for purposes of the Election Act. Such ordinance providing for nomination and election on a partisan ballot shall be adopted and effective not less than sixty days prior to the filing deadline.

Source: Laws 1994, LB 76, § 153.

32-558. City, village, and school elections; ballots; results; certificates of nomination or election.

City, village, and school district ballots shall be prepared for each city, village, or school election. The election commissioner, county clerk, or city or village clerk may certify and deliver all ballots, including ballots for early voting, across county lines to the election commissioner, county clerk, or city or village clerk in the adjoining county. The election commissioner, county clerk, or city or village clerk shall certify the results and shall issue certificates of nomination or election to the successful candidates.

Source: Laws 1994, LB 76, § 154; Laws 2005, LB 98, § 5.

32-559. Political subdivision; special election; certification; cancellation; procedure.

(1)(a) Except as provided in section 77-3444, any issue to be submitted to the registered voters at a special election by a political subdivision shall be certified by the clerk of the political subdivision to the election commissioner or county clerk on or before the eighth Friday prior to the election. A special election may be held by mail as provided in sections 32-952 to 32-959. Any other special election under this section shall be subject to section 32-405.

(b) In lieu of submitting the issue at a special election, any political subdivision may submit the issue at a statewide primary or general election or at any scheduled county election, except that no such issue shall be submitted at a statewide election or scheduled county election unless the issue to be submitted has been certified by the clerk of the political subdivision to the election commissioner or county clerk by March 1 for the primary election and by September 1 for the general election. After the election commissioner or county clerk has received the certification of the issue to be submitted, he or she shall be responsible for all matters relating to the submission of the issue to the registered voters, except that the clerk of the political subdivision shall be responsible for the publication or posting of any required special notice of the submission of such issue other than the notice required to be given of the statewide election issues. The election commissioner or county clerk shall prepare the ballots and issue ballots for early voting and shall also conduct the submission of the issue, including the receiving and counting of the ballots on the issue. The election returns shall be made to the election commissioner or county clerk. The ballots shall be counted and canvassed at the same time and in the same manner as the other ballots. Upon completion of the canvass of the vote by the county canvassing board, the election commissioner or county clerk shall certify the election results to the governing body of the political subdivision. The canvass by the county canvassing board shall have the same force and effect as if made by the governing body of the political subdivision.

(2)(a) A political subdivision that has submitted an issue for a special election under subdivision (1)(a) of this section may cancel the special election if the Secretary of State, election commissioner, or county clerk receives a resolution adopted by the political subdivision canceling the special election on or before the fourth Thursday prior to the election. No cancellation shall be effective after such date. If a special election is canceled in such manner, the political subdivision shall be responsible for the costs incurred that are related to the canceled election. Such costs shall include all chargeable costs as provided in section 32-1202 associated with preparing for and conducting a special election.

(b) A political subdivision that has submitted an issue at a statewide primary or general election or at any scheduled county election under subdivision (1)(b) of

this section may withdraw the issue from the ballot if the Secretary of State, election commissioner, or county clerk receives a resolution adopted by the political subdivision withdrawing the issue from the ballot no later than March 1 prior to a statewide primary election or September 1 prior to a statewide general election. No withdrawal shall be effective after such date. Any issue withdrawn in this manner shall not be printed on the ballot.

Source: Laws 1994, LB 76, § 155; Laws 1996, LB 964, § 3; Laws 1998, LB 306, § 4; Laws 2003, LB 521, § 4; Laws 2005, LB 98, § 6; Laws 2022, LB843, § 23.

Effective Date: July 21, 2022

Cross References

School bonds, special elections, see sections 10-703 and 10-703.01.

32-560. Elective office; vacancy; when.

Every elective office shall be vacant, except as provided in section 32-561, upon the happening of any one of the following events at any time before the expiration of the term of such office:

- (1) Resignation of the incumbent;
- (2) Death of the incumbent;
- (3) Removal of the incumbent from office;
- (4) Decision of a competent tribunal declaring the office of the incumbent vacant;
- (5) Incumbent ceasing to be a resident of the state, district, county, township, or precinct 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 an election when there is no incumbent to continue in office until his or her successor is elected and qualified;
- (7) The candidate who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate;
- (8) Forfeiture of office as provided by law;
- (9) Conviction of a felony or of any public offense involving the violation of the oath of office of the incumbent; or
- (10) Incumbent of a high elective office assuming another elective office as provided in subsections (2) through (4) of section 32-604.

Source: Laws 1994, LB 76, § 156; Laws 1997, LB 221, § 1; Laws 1997, LB 764, § 51; Laws 2002, LB 251, § 1.

Cross References

Political subdivisions, civil offices, applicability of provisions, see section 13-404.
State civil offices, applicability of provisions, see section 81-2901.

Annotations

- 1. Right to hold over**
- 2. Vacancies by removal**

3. Miscellaneous

1. Right to hold over

A sheriff appointed by the county board, to fill a vacancy caused by the death of the incumbent, is an incumbent to continue in office until his successor is elected and qualified under subdivision (6) of this section. *State ex rel. Boone County Attorney v. Willott*, 103 Neb. 798, 174 N.W. 429 (1919).

The county commissioners, elected at the first election for officers of a new county, hold their offices only until their successors are elected, at the next general election, and have qualified. *State ex rel. Nichols v. Field*, 26 Neb. 393, 41 N.W. 988 (1889).

2. Vacancies by removal

Question as to the removal by a district judge of his family residence from the judicial district ipso facto creating a vacancy in the office of district judge was raised but not decided. *Wustrack v. Hall*, 95 Neb. 384, 145 N.W. 835 (1914).

Redistricting of county, where there was no removal by incumbent, does not vacate office of commissioner. *State ex rel. Connolly v. Haverly*, 62 Neb. 767, 87 N.W. 959 (1901).

The removal of a county commissioner from the district in which he was elected vacates his office even though he may continue to reside within the county. *State ex rel. Malloy v. Skirving*, 19 Neb. 497, 27 N.W. 723 (1886).

3. Miscellaneous

This section is silent about compensation. *Hogan v. Garden County*, 268 Neb. 631, 686 N.W.2d 356 (2004).

This provision preserves office for the holder thereof engaged in military service upon his return under certain conditions. *State ex rel. Johnson v. Chase*, 147 Neb. 758, 25 N.W.2d 1 (1946).

Conduct on the part of nominee for the office of presidential elector which clearly indicates that his intention, if elected, is to vote for the candidates of another political party, creates a vacancy in the office of each as a candidate, and a judicial determination of the existence of the vacancy is necessary. *State ex rel. Nebraska Rep. State C. Com. v. Wait*, 92 Neb. 313, 138 N.W. 159 (1912), 43 L.R.A.N.S. 282 (1912).

The general law providing for the filling of vacancies was intended as a regulation for all vacancies and includes offices created after its enactment unless full provision is contained in the law creating the office. *State ex rel. Mortensen v. Furse*, 89 Neb. 652, 131 N.W. 1030 (1911).

An office does not become vacant for failure to elect a successor if there is an incumbent to continue in office until his successor is elected and qualified. *State ex rel. Shaw v. Rosewater*, 79 Neb. 450, 113 N.W. 206 (1907).

This section and section 11-115 are in pari materia and should be construed together. Section 11-115 merely provides another cause of vacancy in addition to those included within this section. *State ex rel. Berge v. Lansing*, 46 Neb. 514, 64 N.W. 1104 (1895), 35 L.R.A. 124 (1895).

The ineligibility of a candidate declared elected does not create a vacancy where there is an incumbent to continue in office. *Richards v. McMillin*, 36 Neb. 352, 54 N.W. 566 (1893).

The words ceasing to be a resident of refer to an absence with an intention to remain away indefinitely as distinguished from a temporary absence for a definite period. *Prather v. Hart*, 17 Neb. 598, 24 N.W. 282 (1885).

32-561. Elective officer; military or naval service; no vacancy; exception; acting officer; appointment; powers; compensation.

(1) The acceptance of a commission to any military or naval office or the enlistment in or induction into the military or naval service of the United States which may require an incumbent in an elective office, except the office of member of the Legislature, to exercise military or naval duties within or without the state for any period of time within the term for which such person has been elected or appointed shall not create a vacancy of such office. While the incumbent exercises such military or naval duties within or without this state, he or she shall not be (a) entitled to receive any compensation, perquisites, or emoluments of the elective office, (b) required to keep and maintain an official bond or equivalent commercial insurance policy in force, or (c) responsible for the acts and defalcations of an acting officer duly appointed and qualified to take the place of the incumbent in such office during the time the incumbent is in such military or naval office or is inducted into or enlists in the military or naval service.

(2) If the incumbent accepts a commission to any military or naval office or enlists in or is inducted into the military or naval service of the United States, the county board, the governing body of the city, village, or other political subdivision, or the Governor or other appointive power, officer, or agency of the state in or under which such incumbent holds office may appoint an acting officer for such office for the period during which the elected or appointed incumbent will be absent by reason of the exercise of such military or naval duties or during the period of the term for which the incumbent has been elected or appointed. The acting officer so appointed shall qualify for such office in the manner provided by law and shall, during the time of such service as such acting officer, be entitled to all the compensation, perquisites, and emoluments of such office, including the power to appoint a deputy in the manner provided by law.

Source: Laws 1994, LB 76, § 157; Laws 2004, LB 884, § 16.

Annotations

Elected county officials are required to give individual official bonds. Blanket bond is not sufficient. *Foote v. County of Adams*, 163 Neb. 406, 80 N.W.2d 179 (1956).

This provision preserves office for the holder thereof engaged in military service upon his return under certain conditions. *State ex rel. Johnson v. Chase*, 147 Neb. 758, 25 N.W.2d 1 (1946).

Action of acting county attorney could not be collaterally attacked. *Canada v. Jones*, 170 F.2d 606 (8th Cir. 1948).

32-562. Resignations; how made.

The resignation of the incumbent of an elective office may be made as follows:

(1) By the Governor to the Legislature if in session or, if not, to the Secretary of State;

(2) By United States Senators and Representatives in the Congress of the United States, by incumbents elected by all the registered voters of the state, by judges of the Supreme Court, Court of Appeals, district courts, separate juvenile courts, Nebraska Workers' Compensation Court, and county courts, and by Regents of the University of Nebraska to the Governor;

(3) By members of the Legislature to the presiding officer of the Legislature if in session, who shall immediately transmit information of the same to the Governor, or if such body is not in session, to the Governor;

(4) By all county officers to the county board or the county clerk;

(5) By members of the county board to the county clerk;

(6) By all township officers to the township clerk;

(7) By the township clerk to the township board;

(8) By all city or village officers to the city council or village board;

(9) By all school board members to the school board;

(10) By all officers holding appointments to the officer or body by whom they were appointed; and

(11) By all elective officers for which no other method is provided to the body on which they serve.

Such resignation shall be in writing and shall not take effect until accepted by the board or officer to whom the resignation is tendered.

Source: Laws 1994, LB 76, § 158; Laws 2008, LB312, § 1.

Annotations

The resignation of a city attorney does not take effect until accepted by the mayor and council. *Darnell v. City of Broken Bow*, 139 Neb. 844, 299 N.W. 274 (1941).

The resignation of a township supervisor should be addressed to the township clerk. *State ex rel. Godard v. Taylor*, 26 Neb. 580, 42 N.W. 729 (1889).

32-563. Vacancies; pending appointment or election; possession and control of office; persons authorized.

When a vacancy occurs and before the election or appointment and qualification of a successor, possession shall be taken of all things pertaining to the office and the functions of the office shall be exercised as follows:

(1) Of any of the county offices, by the deputy if there is one and, if not, by a replacement appointed by the county board to perform the functions of the office until a permanent successor is duly appointed or elected; and

(2) Of any of the state offices, by the Governor or, in his or her absence or inability at the time of the occurrence, as follows:

(a) Of the Secretary of State by the State Treasurer;

(b) Of the Auditor of Public Accounts by the Secretary of State; and

(c) Of the State Treasurer by the Secretary of State or Auditor of Public Accounts.

The officer performing the functions of the State Treasurer shall make and sign an inventory of the money and warrants in the care of the office and transmit it to the Governor if he or she is in the state, and the Secretary of State shall take the keys of the safes and desks after depositing the books, papers, money, and warrants in such safes and desks and shall keep the key to the office.

Source: Laws 1994, LB 76, § 159.

32-564. Representatives in Congress; vacancy; how filled; special election; procedure.

(1) Except as otherwise provided in subsection (2) of this section:

(a) If a vacancy occurs in the office of Representative in Congress on or after August 1 in an even-numbered year and prior to the statewide general election in such year, the Governor shall order a special election to be held in conjunction with such statewide general election. The only candidates who may appear on the ballot for such office at such special election are those who were nominated at the statewide primary election in such year, those who comply with section 32-616, and those who comply with section 32-627 to fill a vacancy on the ballot if such a vacancy exists. The candidate receiving the most votes at such special election shall serve for the remainder of the vacated term and for the succeeding term of office;

(b) If a vacancy occurs in the office of Representative in Congress on or after the day of the statewide general election and prior to the end of the term of the office which is vacated, no special election shall be called; and

(c) If a vacancy occurs in such office at any time other than as described in subdivision (a) or (b) of this subsection, the Governor shall order a special election to be held within ninety days after the vacancy occurs. Each political party which polled at least five percent of the entire vote in the district in which the vacancy occurs may select a candidate following the applicable procedures in subsection (2) of section 32-627, except that the certificate and filing fee shall be submitted at least sixty-five days prior to the day of the election. Any candidate so selected shall have his or her name placed on the ballot with the appropriate political party designation. Any other person may have his or her name placed on the ballot without a political party designation by filing petitions pursuant to sections 32-617 and 32-618 and paying the filing fee as provided by section 32-608, except that the deadline for filing the petitions and paying the fee shall be sixty-five days prior to the day of the election. The candidate receiving the most votes at such special election shall serve for the remainder of the vacated term.

(2)(a) If the Speaker of the United States House of Representatives announces that there are more than one hundred vacancies in the House of Representatives requiring special elections according to 2 U.S.C. 8, as such section existed on July 18, 2008, and there is any vacancy in the office of Representative in Congress representing Nebraska, the Governor shall issue a writ of election. The writ of election shall specify the date of a special election to fill such vacancy to be held within forty-nine days after the Speaker's announcement.

(b) The Secretary of State shall notify the chairperson and secretary of each political party which polled at least five percent of the entire vote in the district in

which the vacancy occurs that the party may select a candidate following the applicable procedures in subsection (2) of section 32-627, except that the certificate and filing fee shall be submitted within seven days after notification by the Secretary of State. Any candidate so selected shall have his or her name placed on the ballot with the appropriate political party designation.

(c) The ballot for any voter meeting the criteria of section 32-939 shall be transmitted to such voter within fifteen days after the Speaker's announcement and shall be accepted if received by the election commissioner or county clerk within forty-five days after transmission to the voter.

(d) The candidate receiving the most votes at such special election shall serve for the remainder of the vacated term.

Source: Laws 1994, LB 76, § 160; Laws 2005, LB 682, § 1; Laws 2008, LB856, § 1.

32-565. United States Senator; vacancy; how filled.

(1) When a vacancy occurs in the representation of the State of Nebraska in the Senate of the United States, the office shall be filled by the Governor. The Governor shall appoint a suitable person possessing the qualifications necessary for senator to fill such vacancy.

(2)(a) If the vacancy occurs sixty days or less prior to a statewide general election and if the term vacated expires on the following January 3, the appointee shall serve until the following January 3.

(b) If the vacancy occurs sixty days or less prior to a statewide general election and if the term extends beyond the following January 3, the appointee shall serve until January 3 following the second statewide general election next succeeding his or her appointment and at such election a senator shall be elected to serve the unexpired term if any.

(3) If the vacancy occurs more than sixty days prior to a statewide general election, the appointee shall serve until January 3 following the statewide general election and at such election a senator shall be elected to serve the unexpired term if any.

Source: Laws 1994, LB 76, § 161; Laws 1997, LB 764, § 52.

32-566. Legislature; vacancy; how filled.

(1) When a vacancy occurs in the Legislature, the office shall be filled by the Governor. The Governor shall appoint a suitable person possessing the qualifications necessary for a member of the Legislature.

(2) If the vacancy occurs at any time on or after May 1 of the second year of the term of office, the appointee shall serve for the remainder of the unexpired term. If the vacancy occurs at any time prior to May 1 of the second year of the term of office, the appointee shall serve until the first Tuesday following the first Monday in January following the next regular general election and at the regular general election a member of the Legislature shall be elected to serve the unexpired term as provided in subsection (3) of this section.

(3)(a) If the vacancy occurs on or after February 1 and prior to May 1 during the second year of the term of office, the vacancy shall be filled at the regular election in November of that year. Candidates shall file petitions to appear on the ballot for such election as provided in section 32-617.

(b) If the vacancy occurs at any time prior to February 1 of the second year of the term of office, the procedure for filling the vacated office shall be the same as the procedure for filling the office at the expiration of the term and candidates shall be nominated and elected at the statewide primary and general elections during the second year of the term.

Source: Laws 1994, LB 76, § 162; Laws 2017, LB451, § 7.

32-567. Vacancies; offices listed; how filled.

Vacancies in office shall be filled as follows:

(1) In state and judicial district offices and in the membership of any board or commission created by the state when no other method is provided, by the Governor;

(2) In county offices, by the county board;

(3) In the membership of the county board, by the county clerk, county attorney, and county treasurer;

(4) In the membership of the city council, according to section 32-568 or 32-569, as applicable;

(5) In township offices, by the township board or, if there are two or more vacancies on the township board, by the county board;

(6) In offices in public power and irrigation districts, according to section 70-615;

(7) In offices in natural resources districts, according to section 2-3215;

(8) In offices in community college areas, according to section 85-1514;

(9) In offices in educational service units, according to section 79-1217;

(10) In offices in hospital districts, according to section 23-3534;

(11) In offices in metropolitan utilities districts, according to section 14-2104;

(12) In membership on airport authority boards, according to section 3-502, 3-611, or 3-703, as applicable;

(13) In membership on the board of trustees of a road improvement district, according to section 39-1607;

(14) In membership on the council of a municipal county, by the council;

(15) For learning community coordinating councils, according to section 32-546.01; and

(16) For regional metropolitan transit authority boards, according to section 18-808.

Source: Laws 1994, LB 76, § 163; Laws 1996, LB 900, § 1046; Laws 2001, LB 142, § 38; Laws 2007, LB641, § 1; Laws 2014, LB946, § 10; Laws 2015, LB575, § 12; Laws 2019, LB492, § 37.

Cross References

Public Service Commission, vacancy, how filled, see section 75-103.

State Board of Education, vacancy, how filled, see section 79-314.

Annotations

1. State offices

2. County and precinct offices

3. Township offices

4. Municipal offices

1. State offices

All vacancies in the office of railway commissioner should be filled by appointment by the Governor until the next general election at which a commissioner can be elected for the unexpired term. *State ex rel. Mortensen v. Furse*, 89 Neb. 652, 131 N.W. 1030 (1911).

Under former law, when a vacancy in the office of district judge was caused by the resignation of an incumbent more than thirty days before a general election, the Governor could fill the vacancy by appointment until the election, at which time the vacancy should be filled by election. *State ex rel. Bates v. Thayer*, 31 Neb. 82, 47 N.W. 704 (1891).

2. County and precinct offices

When a new position is created, and the act creating it does not provide otherwise, the position is vacant from the instant of its creation. *State ex rel. Redmond v. Smith*, 207 Neb. 21, 295 N.W.2d 297 (1980).

Upon an increase in number of county commissioner districts, appointment of additional commissioners should be made pending the next general election. *Ludwig v. Board of County Commissioners*, 170 Neb. 600, 103 N.W.2d 838 (1960).

Section 23-207, and not this section, governs vacancies in the office of county supervisor. *State ex rel. Hunker v. West*, 62 Neb. 461, 87 N.W. 176 (1901).

Under former law, a vacancy in the office of county judge should be filled by election where the unexpired term exceeded one year. *State ex rel. Berge v. Lansing*, 46 Neb. 514, 64 N.W. 1104 (1895), 35 L.R.A. 124 (1895).

The office of clerk of the district court is a county office and, under this section, the county board has the power to fill a vacancy therein. *State ex rel. Dodson v. Meeker*, 19 Neb. 444, 27 N.W. 427 (1886).

3. Township offices

A vacancy in the office of township supervisor may be filled in the manner provided by this section or by the electors at a special town meeting. State ex rel. Godard v. Taylor, 26 Neb. 580, 42 N.W. 729 (1889).

This section governs vacancies in town offices created by the erection of new towns, and, where the town offices are all vacant, it is the duty of the county clerk to fill the vacancies by appointment. State ex rel. Davis v. Forney, 21 Neb. 223, 31 N.W. 802 (1887).

4. Municipal offices

Vacancies in the office of councilman in cities of the second class are to be filled by appointment by the mayor and council, and an appointment made by the councilman without the concurrence of the mayor is void. State ex rel. Einstein v. Northup, 79 Neb. 822, 113 N.W. 540 (1907).

A vacancy in the office of supervisor of a city in a county under township organization can be filled by appointment by the mayor and council. State ex rel. Truesdell v. Plambeck, 36 Neb. 401, 54 N.W. 667 (1893).

Vacancies in the office of city treasurer should be filled by appointment by the mayor and council until the next general election for city purposes. State ex rel. Sexauer v. Buck, 13 Neb. 273, 13 N.W. 406 (1882).

32-568. Cities and villages; vacancy; how filled.

(1) If any vacancy occurs in the office of city council member of a city of the metropolitan class, the remaining members of the council shall appoint a person to fill such vacancy from the district in which the vacancy occurred for the remainder of the term. The person thus appointed shall qualify and give bond as by law provided for council members elected to such office. A vacancy in the office of mayor of a city of the metropolitan class shall be filled as provided by local law.

(2) The city council of a city of the primary class may provide for filling any vacancies that occur in any elective office by appointment by the mayor, with the advice and consent of the council, to hold office until the next general city election. In case of vacancy in the office of mayor of a city of the primary class or his or her absence or disability, the president of the council shall exercise the powers and duties of the office until such vacancy is filled or disability removed or, in case of temporary absence, until the mayor returns, and such acting mayor shall perform such other duties as may be required by law.

(3) In a city of the first class except a city which has adopted the commissioner or city manager plan of government, any vacancy on the council resulting from causes other than expiration of the term shall be filled by appointment by the mayor with the consent of the city council to hold office for the remainder of the term. When there is a vacancy in the office of the mayor in a city of the first class, the president of the city council shall serve as mayor for the unexpired term. In case of any temporary absence or disability on the part of the mayor, the president of the council shall exercise the powers and duties of the office of mayor until such disability is removed, or in case of temporary absence until the mayor returns, and shall perform such other duties as may be required by law.

(4) Any vacancy on the city council of a city of the second class shall be filled as provided in section 32-569. In the case of any vacancy in the office of mayor, or in case of his or her disability or absence, the president of the council shall exercise the office of mayor for the unexpired term, until such disability is removed, or in case of temporary absence, until the mayor returns. If the president of the council assumes the office of mayor for the unexpired term, there shall be a vacancy on the council.

(5) A vacancy on the board of trustees of a village shall be filled as provided in section 32-569, except that the board of trustees of a village situated in more than one county shall have power to fill by appointment any vacancy that may occur in their number.

(6) If any vacancy occurs in the office of council member in a city under the commission plan of government, the vacancy shall be filled as provided in section 32-569. If an incumbent in a city under the commission plan of government files

for a city office other than the office he or she holds, the office he or she holds shall become vacant as of the date of the commencement of the term of the office for which he or she has filed. If such vacancy results in an unexpired term, such vacancy shall be filled by election for the remainder of the unexpired term. In a city under the commission plan of government, the vice president of the city council shall perform the duties of the mayor of the city in the absence or inability of the mayor to serve. If a vacancy occurs in the office of mayor by death or otherwise, the vice president shall perform the duties of mayor of the city until such time as the council shall fill such vacancy, which shall be done at the first council meeting after such vacancy occurs or as soon thereafter as may be practicable.

(7) If a vacancy occurs in the office of council member in a city under a city manager plan, a successor council member shall be elected at the next regular city election to serve for the remainder of the term, except that a majority of the remaining members of the council shall appoint a registered voter to serve as council member until the successor is so elected and has qualified. If the council members are elected by ward, the council member elected or appointed to fill the vacancy shall be a registered voter of the ward in which the vacancy exists. If for any reason the seats of one-half or more of the members of the council become vacant, the Secretary of State shall conduct a special election to fill the vacancies for the unexpired portion of each term. A vacancy in any office to which the council elects shall be filled by the council for the unexpired term.

(8) Vacancies in city offices in any city under home rule charter shall be filled as provided in the home rule charter.

Source: Laws 1994, LB 76, § 164; Laws 1997, LB 734, § 2; Laws 1997, LB 764, § 53; Laws 2006, LB 1067, § 1; Laws 2012, LB878, § 2.

32-569. Vacancies in city and village elected offices; procedure for filling.

(1)(a) Except as otherwise provided in subsection (2) or (3) of this section or section 32-568, vacancies in city and village elected offices shall be filled by the mayor and council or board of trustees for the balance of the unexpired term. Notice of a vacancy, except a vacancy resulting from the death of the incumbent, shall be in writing and presented to the council or board of trustees at a regular or special meeting and shall appear as a part of the minutes of such meeting. The council or board of trustees shall at once give public notice of the vacancy by causing to be published in a newspaper of general circulation within the city or village or by posting in three public places in the city or village the office vacated and the length of the unexpired term.

(b) The mayor or chairperson of the board shall call a special meeting of the council or board of trustees or place the issue of filling such vacancy on the agenda at the next regular meeting at which time the mayor or chairperson shall submit the name of a qualified registered voter to fill the vacancy for the balance of the unexpired term. The regular or special meeting shall occur upon the death of the incumbent or within four weeks after the meeting at which such notice of vacancy has been presented. The council or board of trustees shall vote upon such nominee, and if a majority votes in favor of such nominee, the vacancy shall be declared filled. If the nominee fails to receive a majority of the votes, the nomination shall be rejected and the mayor or chairperson shall at the next regular or special meeting submit the name of another qualified registered voter to fill the vacancy. If the subsequent nominee fails to receive a majority of the votes, the mayor or chairperson shall continue at such meeting to submit the names of qualified registered voters in nomination and the council or board of trustees shall continue to vote upon such nominations at such meeting until the vacancy is filled. The mayor shall cast his or her vote for or against the nominee in the case of a tie vote of the council. All council members and trustees present shall cast a ballot for or against the nominee. Any member of the city council or board of trustees who has been appointed to fill a vacancy on the council or board shall have the same rights, including voting, as if such person were elected.

(2) The mayor and council or chairperson and board of trustees may, in lieu of filling a vacancy in a city or village elected office as provided in subsection (1) of this section or subsection (3) of section 32-568, call a special city election to fill such vacancy.

(3) If vacancies exist in the offices of one-half or more of the members of a city council or village board, the Secretary of State shall conduct a special city election to fill such vacancies.

32-570. School board; vacancy; how filled.

(1) A vacancy in the membership of a school board shall occur as set forth in section 32-560 or in the case of absences, unless excused by a majority of the remaining members of the board, when a member is absent from the district for a continuous period of sixty days at one time or from more than two consecutive regular meetings of the board. The resignation of a member or any other reason for a vacancy shall be made a part of the minutes of the school board. The school board shall give notice of the date the vacancy occurred, the office vacated, and the length of the unexpired term (a) in writing to the election commissioner or county clerk and (b) by a notice published in a newspaper of general circulation in the school district.

(2) Except as provided in subsection (3) of this section, a vacancy in the membership of a school board resulting from any cause other than the expiration of a term shall be filled by appointment of a qualified registered voter by the remaining members of the board for the remainder of the unexpired term. A registered voter appointed pursuant to this subsection shall meet the same requirements as the member whose office is vacant.

(3) Any vacancy in the membership of a school board of a school district described in section 79-549 which does not nominate candidates at a primary election and elect members at the following general election shall be filled by appointment of a qualified registered voter by the remaining members of the board for the remainder of the unexpired term.

(4) If any school board fails to fill a vacancy on the board, the vacancy may be filled by election at a special election or school district meeting called for that purpose. Such election or meeting shall be called in the same manner and subject to the same procedures as other special elections or school district meetings.

(5) If there are vacancies in the offices of one-half or more of the members of a school board, the Secretary of State shall conduct a special school district election to fill such vacancies.

Source: Laws 1994, LB 76, § 166; Laws 1999, LB 272, § 15; Laws 2010, LB965, § 1; Laws 2012, LB878, § 3; Laws 2013, LB125, § 3; Laws 2016, LB874, § 1; Laws 2018, LB377, § 2.

32-571. Vacancy; appointments; how made; term; filing; qualifications.

Appointments made pursuant to sections 32-565 to 32-570 and 32-573 shall be in writing and shall continue for the unexpired term and until a successor is elected and qualified except as otherwise provided in such sections. The written appointment shall be filed with the Secretary of State or county or township clerk. No person shall be appointed to fill a vacancy unless he or she has the qualifications required to be elected to such office at the time of the appointment unless otherwise specifically provided. Appointments made to fill vacancies created as the result of the recall process shall be subject to subsection (5) of section 32-1308.

Source: Laws 1994, LB 76, § 167; Laws 2003, LB 181, § 3; Laws 2005, LB 682, § 2; Laws 2008, LB312, § 2.

Annotations

The term of office of a sheriff appointed by the county board to fill a vacancy caused by the death of the incumbent, continues until a successor is elected and qualified. *State ex rel. Boone County Attorney v. Willott*, 103 Neb. 798, 174 N.W. 429 (1919).

The words general election when used with reference to city elections and without any qualifying words mean the election for municipal officers in general. *State ex rel. Castle v. Schroeder*, 79 Neb. 759, 113 N.W. 192 (1907).

Under former law, a vacancy in the office of county judge should be filled by election where the unexpired term exceeded one year. *State ex rel. Berge v. Lansing*, 46 Neb. 514, 64 N.W. 1104 (1895), 35 L.R.A. 124 (1895).

Where the county treasurer-elect is not eligible to hold office, the incumbent is entitled to hold over and become his own successor. *Richards v. McMillin*, 36 Neb. 352, 54 N.W. 566 (1893).

Under former law, the term of office of a district judge, appointed to fill a vacancy caused by the resignation of an incumbent, expired when his successor had been elected and qualified. *State ex rel. Bates v. Thayer*, 31 Neb. 82, 47 N.W. 704 (1891).

Where, by separate act, specific provision is made for the filling of a vacancy in a county office, this section does not apply. *State ex rel. Hull v. Walker*, 30 Neb. 501, 46 N.W. 648 (1890).

Where a vacancy occurs in the office of county judge, it is the duty of the county board to appoint some person to discharge the duties of the office until an election is held at which the vacancy can be filled. *Prather v. Hart*, 17 Neb. 598, 24 N.W. 282 (1885).

32-572. Officers for a fixed term; service until successor qualified; vacancy.

(1) Every officer elected or appointed for a fixed term shall hold office until his or her successor is elected or appointed and is qualified. The fixed term shall end and the successor, whether elected or appointed, shall qualify on the day for taking office as provided by law. This section shall not be construed in any way to prevent the removal or suspension of such officer during or after his or her term in cases provided by law.

(2) The appointment to fill any vacancy if the elective or appointive officer fails to qualify shall be made as provided in sections 32-566 to 32-570 and 32-573. If the vacancy is created by the elective or appointive officer on or before the day for taking office, the incumbent shall remain in office until his or her successor is appointed and qualified and sworn into office, and the swearing in shall not be more than one calendar month from the day for taking office as provided by law. The appointing board or officer shall have the authority to appoint any qualified registered voter to fill the vacancy.

Source: Laws 1994, LB 76, § 168; Laws 2002, LB 251, § 2; Laws 2003, LB 181, § 4.

Annotations

Provisions for holding over until a successor is elected and qualified prolong term of a rightful incumbent for a reasonable time only to allow successor to qualify. *Stasch v. Weber*, 188 Neb. 710, 199 N.W.2d 391 (1972).

Provision for holding office until appointment of successor does not apply to cases of resignation. *State ex rel. Strom v. Marsh*, 162 Neb. 593, 77 N.W.2d 163 (1956).

Officer appointed to fill vacancy continues to serve until his successor is appointed and qualified. *State ex rel. Johnson v. Hagemeister*, 161 Neb. 475, 73 N.W.2d 625 (1955).

A candidate for the office of county attorney, who has been elected and has accepted a certificate of election, has not qualified until he has taken an oath of office and has executed an official bond. *State ex rel. Schroeder v. Swanson*, 121 Neb. 459, 237 N.W. 407 (1931).

The term of office of a sheriff, appointed by the county board to fill a vacancy caused by the death of the incumbent, continues until a successor is elected and qualified. *State ex rel. Boone County Attorney v. Willott*, 103 Neb. 798, 174 N.W. 429 (1919).

The Legislature has authority to extend the term of office as to all offices created by statute, and, in such cases, the incumbents hold office during the extended term. *State ex rel. Martin v. Ryan*, 91 Neb. 696, 136 N.W. 1077 (1912).

The failure of an incumbent to qualify anew within the time required by section 11-117, where he is otherwise entitled to hold over, creates a vacancy. State ex rel. Roche v. Cosgrove, 34 Neb. 386, 51 N.W. 974 (1892).

32-573. Board of Regents of the University of Nebraska; vacancy; how filled.

(1) When a vacancy occurs in the Board of Regents of the University of Nebraska, the office shall be filled by the Governor. The Governor shall appoint a suitable person possessing the qualifications necessary for a member of the Board of Regents.

(2)(a) If the vacancy occurs during the first year of the term or before February 1 during a calendar year in which a statewide general election will be held, the appointee shall serve until the first Thursday following the first Tuesday in January following such general election and at such general election a member of the Board of Regents shall be elected to serve the unexpired term if any.

(b) If the vacancy occurs on or after February 1 during a calendar year in which a statewide general election will be held and if the term vacated expires on the first Thursday following the first Tuesday in January following such general election, the appointee shall serve the unexpired term.

(c) If the vacancy occurs on or after February 1 during a calendar year in which a statewide general election will be held and if the term vacated extends beyond the first Thursday following the first Tuesday in January following such general election, the appointee shall serve until the first Thursday following the first Tuesday in January following the second general election next succeeding his or her appointment and at such election a member of the Board of Regents shall be elected to serve the unexpired term if any.

Source: Laws 2003, LB 181, § 2; Laws 2017, LB451, § 8.

32-574. Vacancies.

Unless otherwise provided by law, all vacancies shall be filled within forty-five days after the vacancy occurs unless good cause is shown that the requirement imposes an undue burden.

Source: Laws 2015, LB575, § 13.

32-601. Political subdivision; offices to be filled; filing deadlines; notices required.

(1) Each political subdivision shall notify the election commissioner or county clerk of the offices to be filled no later than:

(a) January 5 of any election year as provided in subsection (2) of section 32-404; or

(b) June 15 of any election year as provided in subsection (3) of section 32-404.

(2) The election commissioner or county clerk shall give notice of the offices to be filled by election and the filing deadlines for such offices by publication in at least one newspaper of general circulation in the county once at least fifteen days prior to such deadlines.

Source: Laws 1994, LB 76, § 169; Laws 2017, LB451, § 9.

32-602. Candidate; general requirements; limitation on filing for office.

(1) Any person seeking an elective office shall be a registered voter at the time of filing for the office pursuant to section 32-606 or 32-611.

(2) Any person filing for office shall meet the constitutional and statutory requirements of the office for which he or she is filing. If a person is filing for a partisan office, he or she shall be a registered voter affiliated with the appropriate political party if required pursuant to section 32-702. If the person is required to sign a contract or comply with a bonding or equivalent commercial insurance policy requirement prior to holding such office, he or she shall be at least nineteen years of age at the time of filing for the office.

(3) A person shall not be eligible to file for an office if he or she holds the office and his or her term of office expires after the beginning of the term of office for which he or she would be filing. This subsection does not apply to filing for an office to represent a different district, ward, subdistrict, or subdivision of the same governmental entity as the office held at the time of filing.

(4)(a) Except as provided in subdivision (b) of this subsection, a person shall not be eligible to file for an office until he or she has paid any outstanding civil penalties and interest imposed pursuant to the Nebraska Political Accountability and Disclosure Act. The filing officer shall determine such eligibility before accepting a filing. The Nebraska Accountability and Disclosure Commission shall provide the filing officers with current information or the most current list of such outstanding civil penalties and interest owed pursuant to subdivision (13) of section 49-14,123.

(b) A person owing a civil penalty to the commission shall be eligible to file for an office if:

(i) The matter in which the civil penalty was assessed is pending on appeal before a state court; and

(ii) The person files with the commission a surety bond running in favor of the State of Nebraska with surety by a corporate bonding company authorized to do business in this state and conditioned upon the payment of the civil penalty imposed under the Nebraska Political Accountability and Disclosure Act.

(5) The governing body of the political subdivision swearing in the officer shall determine whether the person meets all requirements prior to swearing in the officer.

Source: Laws 1994, LB 76, § 170; Laws 2004, LB 884, § 17; Laws 2011, LB499, § 1; Laws 2017, LB85, § 1.

Cross References

Nebraska Political Accountability and Disclosure Act, see section 49-1401.

32-603. Candidacy for two or more elected offices at same election; prohibited; exception; filing officer; duties.

(1) No candidate for member of the Legislature or an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. No candidate for any other high elective office as defined in subsection (6) of section 32-604 shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one high elective office to be filled at the same election. Any such person who has filed for a high elective office shall withdraw such filing prior to filing for any other elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. Any such person who has won a nomination in a primary election and who is nominated to any additional offices by a write-in vote or by a political party convention or committee shall decline one of the nominations pursuant to section 32-623 and shall do so within seven days after receiving any subsequent nomination. If the candidate fails to take such action, any subsequent nomination shall be declared void. Any filing made in violation of this section shall be void, and the Secretary of State, election commissioner, or county clerk shall not place the name of any person on the ballot for any office for which such person filed in violation of this section.

(2) If a filing officer determines that a candidate has filed for more than one office in violation of subsection (1) of this section, the filing officer shall notify the Secretary of State, the Secretary of State shall determine the order of the filings and notify the candidate that the subsequent filing is invalid, and the candidate's name shall not be printed on the ballot for such office. The Secretary of State shall notify the filing officers of the counties involved of the action taken on such subsequent filing.

(3) When the name of a candidate appears on the ballot for more than one office during an election in violation of subsection (1) of this section, the filing officer when possible shall correct the error by removing the candidate's name from the ballot and reprinting corrected ballots. When it is not possible to print a corrected set of ballots in time for the election, all votes cast for such candidate as a candidate for the subsequent office appearing on the ballot shall not be counted, and no certificate of nomination or election shall be issued to such candidate for such subsequent office.

Source: Laws 1994, LB 76, § 171; Laws 1997, LB 221, § 2.

Annotations

If an individual files to run for two offices in the same general election contrary to the provisions of this section, the second filing by inference withdraws the first. *State ex rel. Chambers v. Beermann*, 229 Neb. 696, 428 N.W.2d 883 (1988).

This section applies to general, not primary, elections. *State ex rel. Chambers v. Beermann*, 229 Neb. 696, 428 N.W.2d 883 (1988).

This section prohibits an individual from running for reelection to the Nebraska Legislature and for the U.S. Senate in the same general election. *State ex rel. Chambers v. Beermann*, 229 Neb. 696, 428 N.W.2d 883 (1988).

32-604. Multiple office holding; when allowed.

(1) Except as provided in subsection (2) or (4) 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 or 20, or Article VII, section 3 or 10, 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 serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska 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) No person serving in a high elective office shall simultaneously serve in any other high elective office, except that a county attorney may serve as the county attorney for more than one county if appointed under subsection (2) of section 23-1201.01.

(5) Notwithstanding subsection (4) of this section, any person holding more than one high elective office upon July 15, 2010, shall be entitled to serve the remainder of all terms for which he or she was elected or appointed.

(6) For purposes of this section, (a) elective office has the meaning found in section 32-109 and includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature but does not include a member of a learning community coordinating council appointed pursuant to subsection (5) or (7) of section 32-546.01 prior to January 5, 2017, and (b) high elective office means a member of the Legislature, an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska, or a county, city, community college area, learning community, regional metropolitan transit authority, or school district elective office.

Source: Laws 1994, LB 76, § 172; Laws 1997, LB 221, § 3; Laws 2003, LB 84, § 2; Laws 2007, LB641, § 2; Laws 2008, LB1154, § 4; Laws 2010, LB951, § 2; Laws 2016, LB1067, § 5; Laws 2019, LB492, § 38.

32-605. Defeated candidate; prohibited acts; exception.

No candidate defeated at a primary election shall be permitted to file an affidavit declaring a write-in candidacy, file by petition, or file a nomination, if nominated by party convention or committee, for the following general election for the same office except as provided in section 32-615, 32-616, or 32-625.

Source: Laws 1994, LB 76, § 173; Laws 2002, LB 251, § 3; Laws 2014, LB144, § 1.

Annotations

A candidate for nomination for the office of Governor, who is defeated at the primary election, is not eligible to be a candidate by petition for the office of United States Senator at the following election. State ex rel. O'Sullivan v. Swanson, 127 Neb. 806, 257 N.W. 255 (1934).

A candidate for the nomination for the office of Secretary of State, who is defeated in the primary election is not eligible to be a candidate by petition for the office of Auditor of Public Accounts at the following general election. State ex rel. Driscoll v. Swanson, 127 Neb. 715, 256 N.W. 872 (1934).

32-606. Candidate filing form; filing period.

(1) Any candidate may place his or her name on the primary election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. Except as otherwise provided in subsection (4) of this section, if a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between January 5 and February 15 prior to the date of the primary election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after February 15 of that election year. All other candidates shall file for office between January 5 and March 1 prior to the date of the primary election. A candidate filing form and a copy of payment of the filing fee, if applicable, may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form and payment of the filing fee, if applicable, is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(2) Any candidate for a township office in a county under township organization, the board of trustees of a village, the board of directors of a reclamation district, the county weed district board, the board of directors of a public power district receiving annual gross revenue of less than forty million dollars, or the board of an educational service unit may place his or her name on the general election ballot by filing a candidate filing form prescribed by the Secretary of State as provided in section 32-607. Except as otherwise provided in subsection (4) of this section, if a candidate for an elective office is an incumbent of any elective office, the filing period for filing the candidate filing form shall be between January 5 and July 15 prior to the date of the general election. No incumbent who resigns from elective office prior to the expiration of his or her term shall file for any office after July 15 of that election year. All other candidates shall file for office between January 5 and August 1 prior to the date of the general election. A candidate filing form may be transmitted by facsimile for the offices listed in subdivision (1) of section 32-607 if (a) the transmission is received in the office of the filing officer by the filing deadline and (b) the original filing form is mailed to the filing officer with a legible postmark bearing a date on or prior to the filing deadline and is in the office of the filing officer no later than seven days after the filing deadline.

(3) Any city having a home rule charter may provide for filing deadlines for any person desiring to be a candidate for the office of council member or mayor.

(4) If a candidate for an elective office was appointed to an elective office to fill a vacancy after the deadline for an incumbent to file a candidate filing form in

subsection (1) or (2) of this section but before the deadline for all other candidates, the candidate may file a candidate filing form for any office on or before the deadline for all other candidates.

Source: Laws 1994, LB 76, § 174; Laws 1996, LB 967, § 2; Laws 1997, LB 764, § 54; Laws 1999, LB 802, § 12; Laws 2007, LB641, § 3; Laws 2009, LB392, § 7; Laws 2011, LB449, § 4; Laws 2011, LB550, § 1; Laws 2013, LB125, § 4; Laws 2018, LB377, § 3; Laws 2020, LB1055, § 9; Laws 2021, LB285, § 10.

Annotations

Under former act candidate was required to file not less than forty days before the primary election. *Fitzgerald v. Kuppinger*, 163 Neb. 286, 79 N.W.2d 547 (1956).

City councilman could file for office of member of Legislature within time herein prescribed. *State ex rel. Strom v. Marsh*, 162 Neb. 593, 77 N.W.2d 163 (1956).

Under the statute, a candidate's nominating papers must be actually received and filed in the proper office before the time for filing has expired. *State ex rel. Wood v. Marsh*, 120 Neb. 296, 232 N.W. 103 (1930).

Under former law this section required that all nominating papers be filed at least forty days before the primary election, and the time for filing cannot be extended by custom or practice so as to include nominating papers postmarked before but not received until after the time for filing had expired. *State ex rel. Smith v. Marsh*, 120 Neb. 287, 232 N.W. 99 (1930), 72 A.L.R. 285 (1930).

32-607. Candidate filing forms; contents; filing officers.

All candidate filing forms shall contain the following statement: I hereby swear that I will abide by the laws of the State of Nebraska regarding the results of the primary and general elections, that I am a registered voter and qualified to be elected, and that I will serve if elected. Candidate filing forms shall also contain the following information regarding the candidate: Name; residence address; mailing address if different from the residence address; telephone number; office sought; party affiliation if the office sought is a partisan office; a statement as to whether or not civil penalties are owed pursuant to the Nebraska Political Accountability and Disclosure Act; and, if civil penalties are owed, whether or not a surety bond has been filed pursuant to subdivision (4)(b) of section 32-602. An email address shall also be included on the filing form as an optional field. Candidate filing forms shall be filed with the following filing officers:

(1) For candidates for national, state, or congressional office, directors of public power and irrigation districts, directors of reclamation districts, directors of natural resources districts, directors of metropolitan utilities districts, members of the boards of educational service units, members of governing boards of community colleges, delegates to national conventions, and other offices filled by election held in more than one county and judges desiring retention, in the office of the Secretary of State;

(2) For officers elected within a county, in the office of the election commissioner or county clerk;

(3) For officers in school districts which include land in adjoining counties, in the office of the election commissioner or county clerk of the county in which the greatest number of registered voters entitled to vote for the officers reside; and

(4) For city or village officers, in the office of the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 175; Laws 1997, LB 764, § 55; Laws 1999, LB 571, § 2; Laws 2007, LB603, § 3; Laws 2009, LB501, § 2; Laws 2010, LB325, § 3; Laws 2015, LB575, § 15; Laws 2017, LB85, § 2; Laws 2019, LB411, § 38; Laws 2022, LB843, § 24.

Effective Date: July 21, 2022

Cross References

Nebraska Political Accountability and Disclosure Act, see section 49-1401.

32-608. Filing fees; payment; amount; not required; when; refund; when allowed.

(1) Except as provided in subsection (4) or (5) of this section, a filing fee shall be paid by or on behalf of each candidate prior to filing for office. For candidates who file in the office of the Secretary of State as provided in subdivision (1) of section 32-607, the filing fee shall be paid to the Secretary of State who shall remit the fee to the State Treasurer for credit to the Election Administration Fund. For candidates for any city or village office, the filing fee shall be paid to the city or village treasurer of the city or village in which the candidate resides. For candidates who file in the office of the election commissioner or county clerk, the filing fee shall be paid to the election commissioner or county clerk in the county in which the office is sought. The election commissioner or county clerk shall remit the fee to the county treasurer. The fee shall be placed in the general fund of the county, city, or village. No candidate filing forms shall be filed until the proper payment or the proper receipt showing the payment of such filing fee is presented to the filing officer. On the day of the filing deadline, the city or village treasurer's office shall remain open to receive filing fees until the hour of the filing deadline.

(2) Except as provided in subsection (4) or (5) of this section, the filing fees shall be as follows:

(a) For the office of United States Senator, state officers, including members of the Legislature, Representatives in Congress, county officers, and city or village officers, except the mayor or council members of cities having a home rule charter, a sum equal to one percent of the annual salary as of November 30 of the year preceding the election for the office for which he or she files as a candidate;

(b) For directors of public power and irrigation districts in districts receiving annual gross revenue of forty million dollars or more, twenty-five dollars, and in districts receiving annual gross revenue of less than forty million dollars, ten dollars;

(c) For directors of reclamation districts, ten dollars; and

(d) For Regents of the University of Nebraska, members of the State Board of Education, and directors of metropolitan utilities districts, twenty-five dollars.

(3) All declared write-in candidates shall pay the filing fees that are required for the office at the time that they present the write-in affidavit to the filing officer.

(4) No filing fee shall be required for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than five hundred dollars per year. No filing fee shall be required for any candidate for membership on a school board, on the board of an educational service unit, on

the board of governors of a community college area, on the board of directors of a natural resources district, or on the board of trustees of a sanitary and improvement district.

(5) No filing fee shall be required of any candidate completing an affidavit requesting to file for elective office in forma pauperis. A pauper shall mean a person whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his or her requirements and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own. Available resources shall include every type of property or interest in property that an individual owns and may convert into cash except:

(a) Real property used as a home;

(b) Household goods of a moderate value used in the home; and

(c) Assets to a maximum value of three thousand dollars used by a recipient in a planned effort directed towards self-support.

(6) If any candidate dies prior to an election, the spouse of the candidate may file a claim for refund of the filing fee with the proper governing body prior to the date of the election. Upon approval of the claim by the proper governing body, the filing fee shall be refunded.

Source: Laws 1994, LB 76, § 176; Laws 1997, LB 764, § 56; Laws 1998, LB 896, § 9; Laws 1998, LB 1161, § 12; Laws 1999, LB 272, § 16; Laws 1999, LB 802, § 13; Laws 2003, LB 537, § 1; Laws 2004, LB 323, § 2; Laws 2014, LB946, § 12; Laws 2021, LB285, § 11.

Annotations

Where no objection was made within three days after the nominating papers had been filed, the failure to present a county treasurer's receipt to the Secretary of State, as required by this section, did not invalidate the nomination. State ex rel. Maupin v. Amsberry, 104 Neb. 550, 178 N.W. 176 (1920).

32-609. Candidate filing form; designation of political affiliation prohibited; when.

The candidate filing form filed pursuant to sections 32-606 and 32-607 by each candidate for the State Board of Education, member of the Legislature, Regent of the University of Nebraska, director of a public power and irrigation district, reclamation district, or natural resources district, every other nonpartisan office created by law, member of a school board of a Class IV or V school district, and candidate for elective office of a city of the first or second class or a village shall not in any way refer to or designate the political affiliation of the candidate except as otherwise provided pursuant to section 32-557.

Source: Laws 1994, LB 76, § 177; Laws 1997, LB 764, § 57; Laws 1999, LB 272, § 17.

Annotations

The nonpartisan judiciary act was a statute complete in itself and related to an independent subject. *State ex rel. Zeilinger v. Thompson*, 134 Neb. 739, 279 N.W. 462 (1938); *State ex rel. Acton v. Penrod*, 102 Neb. 734, 169 N.W. 266 (1918).

The purpose of the 1923 amendment to another act was to eliminate the apparent conflict that had previously existed with regard to the manner of electing county superintendents. *McQuiston v. Griffith*, 128 Neb. 260, 258 N.W. 553 (1935).

The nonpartisan judiciary act was independent legislation and constitutional although it materially changed certain provisions of the election laws without referring to the sections changed. *State ex rel. Kaspar v. Lehmkuhl*, 127 Neb. 812, 257 N.W. 229 (1934).

The nonpartisan judiciary act did not contemplate write-in candidates for such offices. *State ex rel. Oleson v. Minor*, 105 Neb. 228, 180 N.W. 84 (1920).

The nonpartisan judiciary act incorporates by reference all provisions of the general election laws which do not conflict with the act. *State ex rel. Hughes v. Hogeboom*, 103 Neb. 603, 173 N.W. 589 (1919).

32-610. Partisan elections; candidate; requirements.

No person shall be allowed to file a candidate filing form as a partisan candidate or to have his or her name placed upon a primary election ballot of a political party if subsection (2) of section 32-720 applies to the political party. For any other political party, no person shall be allowed to file a candidate filing form as a partisan candidate or to have his or her name placed upon a primary election ballot of a political party unless (1) he or she is a registered voter of the political party if required pursuant to section 32-702 and (2)(a) the political party has at least ten thousand persons affiliated as indicated by voter registration records in Nebraska or (b) at one of the two immediately preceding statewide general elections, (i) a candidate nominated by the political party polled at least five percent of the entire vote in the state in a statewide race or (ii) a combination of candidates nominated by the political party for a combination of districts that encompass all of the voters of the entire state polled at least five percent of the vote in each of their respective districts. A candidate filing form filed in violation of this section shall be void.

Source: Laws 1994, LB 76, § 178; Laws 2012, LB1035, § 1; Laws 2014, LB1048, § 2; Laws 2017, LB34, § 1.

Annotations

Names of candidates for President and Vice President cannot be placed on ballot unless appropriate action is taken by political party organized in this state. State ex rel. Beeson v. Marsh, 150 Neb. 233, 34 N.W.2d 279 (1948).

A candidate is not entitled to have his name placed upon the primary ballot unless his party polled the vote required by this section at the last election, or is a newly formed party. State ex rel. Nelson v. Marsh, 123 Neb. 423, 243 N.W. 277 (1932).

32-611. Nomination by registered voters; affidavit; requirements; candidate filing form; when required.

Twenty-five registered voters of the same political party may seek to have a person's name placed on the primary election ballot as a partisan candidate by filing an affidavit stating that they are registered voters, the political party with which they are registered, the name of the proposed candidate, and that the proposed candidate is a registered voter of the same political party. The affidavit shall be filed in the same manner and with the same filing officer as provided for candidate filing forms. The proposed candidate shall, within five days from the date of the filing of the affidavit, file a candidate filing form as provided in section 32-607 stating that he or she is a registered voter and is affiliated with the political party named in the affidavit. If the candidate filing form is not filed within such five-day period, the name of the candidate shall not be placed upon the primary election ballot.

Source: Laws 1994, LB 76, § 179.

32-612. Change of political party affiliation; requirements for candidacy; prohibited acts.

(1) A change of political party affiliation by a registered voter so as to affiliate with the political party named in the candidate filing form or in an affidavit as a write-in candidate pursuant to section 32-615 after the first Friday in December prior to the statewide primary election shall not be effective to meet the requirements of section 32-610 or 32-611 or subsection (4) of this section, except that any person may change his or her political party affiliation after the first Friday in December prior to the statewide primary election to become a candidate of a new political party which has successfully completed the petition process required by section 32-716.

(2) No registered voter, candidate, or proposed candidate shall swear falsely as to political party affiliation or shall swear that he or she affiliates with two or more political parties. Any candidate who swears falsely as to political party affiliation or swears that he or she affiliates with two or more political parties shall not be the candidate of such party and shall not be entitled to assume the office for which he or she filed even if he or she receives a majority or plurality of the votes therefor at the following general election.

(3) The name of a candidate shall not appear printed on more than one political party ballot. A candidate who is the nominee of one political party shall not accept the nomination of another political party.

(4) In order to count write-in votes on a political party ballot in the primary election, the candidate who receives the votes must be a registered voter of that political party unless the political party allows candidates not affiliated with the party by not adopting a rule under section 32-702.

Source: Laws 1994, LB 76, § 180; Laws 1997, LB 764, § 58; Laws 2007, LB646, § 4; Laws 2015, LB575, § 16.

Annotations

A person who has no "political party affiliation" cannot change his or her "political party affiliation." *Davis v. Gale*, 299 Neb. 377, 908 N.W.2d 618 (2018).

The phrase "political party affiliation" is a term of art specifically referencing an existing relationship with one of Nebraska's established political parties. Nonpartisan has no relationship with any of Nebraska's established political parties and thus has no "political party affiliation" as that phrase is used in the Election Act. *Davis v. Gale*, 299 Neb. 377, 908 N.W.2d 618 (2018).

A candidate for a newly formed political party need not comply with the provisions of this section. *State ex rel. Chambers v. Beermann*, 229 Neb. 696, 428 N.W.2d 883 (1988).

32-613. President; nominating petition; consent of candidate required; form of petition.

Any petition to place a person's name on the primary election ballot for President of the United States shall contain the names of not less than one hundred voters registered with the appropriate political party from each congressional district of the state, except that if the political party dissolves as provided in subsection (2) of section 32-720, the Secretary of State shall not accept a petition under this section. The name of the candidate for President shall be placed upon the ballot only when written consent of such person has been filed with the Secretary of State not less than sixty days before the primary election. The form of the petition shall comply with the requirements of section 32-628 and shall as nearly as possible conform to the form prescribed by the Secretary of State.

Source: Laws 1994, LB 76, § 181; Laws 1997, LB 764, § 59; Laws 2014, LB1048, § 3.

32-614. President; petition candidates or advocated or recognized candidates; placing on ballot; affidavit of rejection of candidacy; purged candidate, when.

The names of persons in the political party (1) who are presented by petition of their supporters to be party candidates for President of the United States or (2) who have been determined by the Secretary of State to be generally advocated or recognized as candidates in national news media throughout the United States shall be printed on the primary election ballot for the office of President of the United States. This section does not apply if the political party dissolves as provided in subsection (2) of section 32-720.

If a person does not want his or her name on the Nebraska primary election ballot, he or she shall, by March 10 of the presidential election year, execute and file an affidavit with the Secretary of State stating without qualification that he or she is not now and does not intend to become a candidate for office of President of the United States at the next presidential election in Nebraska or any other state. If a presidential candidate files such affidavit removing his or her name and subsequently becomes a presidential candidate in another state, the candidate's affidavit in Nebraska shall be purged and shall have no force and effect. The Secretary of State shall then place such candidate's name on the primary election ballot.

Source: Laws 1994, LB 76, § 182; Laws 1997, LB 764, § 60; Laws 2014, LB1048, § 4.

32-615. Write-in candidate; requirements.

(1) Except as otherwise provided in subsection (2) of this section, any candidate engaged in or pursuing a write-in campaign shall file a notarized affidavit of his or her intent together with the receipt for any filing fee with the filing officer as provided in section 32-608 no earlier than January 5 and no later than the second Friday prior to the election.

(2) For any county office elected pursuant to sections 32-517 to 32-529 which is subject to subdivision (1)(b) of section 32-811, a candidate may engage in or pursue a write-in campaign if he or she files a notarized affidavit of his or her intent together with the receipt for the filing fee with the filing officer as provided in section 32-608 on or before March 3 of the year of the statewide primary election. If such an affidavit is filed as prescribed, the election commissioner or county clerk shall place that county office on the statewide primary election ballot with the names of the candidate properly filed for the nomination of the applicable political party and a line for write-in candidates.

(3) A candidate submitting an affidavit under this section for a partisan office shall be a registered voter of the political party named in the affidavit unless the political party allows candidates not affiliated with the party by not adopting a rule under section 32-702.

(4) A candidate who has been defeated as a candidate in the primary election or defeated as a write-in candidate in the primary election shall not be eligible as a write-in candidate for the same office in the general election unless (a) a vacancy on the ballot exists pursuant to section 32-625 or (b) the candidate was a candidate for an office described in sections 32-512 to 32-550 and the candidate lost the election as a result of a determination pursuant to section 32-1122 in the case of a tie vote.

(5) A candidate who files a notarized affidavit shall be entitled to all write-in votes for the candidate even if only the last name of the candidate has been written if such last name is reasonably close to the proper spelling.

Source: Laws 1994, LB 76, § 183; Laws 2002, LB 251, § 4; Laws 2003, LB 537, § 2; Laws 2011, LB449, § 5; Laws 2014, LB56, § 1; Laws 2014, LB144, § 2; Laws 2015, LB575, § 17; Laws 2022, LB843, § 25.

Effective Date: July 21, 2022

32-616. Nomination for general election; other methods.

(1) Any registered voter who was not a candidate in the primary election and who was not registered to vote with a party affiliation on or after March 1 and before the general election in the calendar year of the general election may have his or her name placed on the general election ballot for a partisan office by filing petitions as prescribed in sections 32-617 to 32-621 or by nomination by political party convention or committee pursuant to section 32-627 or 32-710.

(2) Any candidate who was defeated in the primary election and any registered voter who was not a candidate in the primary election may have his or her name placed on the general election ballot if a vacancy exists on the ballot under subsection (2) of section 32-625 and the candidate files for the office by petition as prescribed in sections 32-617 and 32-618, files as a write-in candidate as prescribed in section 32-615, or is nominated by political party convention or committee pursuant to section 32-627 or 32-710.

Source: Laws 1994, LB 76, § 184; Laws 1997, LB 764, § 61; Laws 2002, LB 251, § 5; Laws 2011, LB368, § 1; Laws 2011, LB449, § 6; Laws 2014, LB946, § 13.

32-617. Nomination by petition; requirements; procedure.

(1) Petitions for nomination for partisan and nonpartisan offices shall conform to the requirements of section 32-628. Petitions shall state the office to be filled and the name and address of the candidate. Petitions for partisan office shall also indicate the party affiliation of the candidate. A sample copy of the petition shall be filed with the filing officer prior to circulation. Petitions shall be signed by registered voters residing in the district or political subdivision in which the officer is to be elected and shall be filed with the filing officer in the same manner as provided for candidate filing forms in section 32-607. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. No petition for nomination shall be filed unless there is attached thereto a receipt showing the payment of the filing fee required pursuant to section 32-608. Such petitions shall be filed by September 1 in the year of the general election.

(2) The filing officer shall verify the signatures according to section 32-631. Within three days after the signatures on a petition for nomination have been verified pursuant to such section and the filing officer has determined that pursuant to section 32-618 a sufficient number of registered voters signed the petitions, the filing officer shall notify the candidate so nominated by registered or certified mail, and the candidate shall, within five days after the date of receiving such notification, file with such officer his or her acceptance of the nomination or his or her name will not be printed on the ballot.

(3) A candidate placed on the ballot by petition shall be termed a candidate by petition. The words BY PETITION shall be printed upon the ballot after the name of each candidate by petition.

Source: Laws 1994, LB 76, § 185; Laws 2003, LB 537, § 3; Laws 2011, LB499, § 2.

Annotations

Where no objection was made within three days after the nominating papers had been filed, the failure to present a county treasurer's receipt to the Secretary of State, as required by this section, did not invalidate the nomination. State ex rel. Maupin v. Amsberry, 104 Neb. 550, 178 N.W. 176 (1920).

32-618. Nomination by petition; number of signatures required.

(1) The number of signatures of registered voters needed to place the name of a candidate upon the nonpartisan ballot for the general election shall be as follows:

(a) For each nonpartisan office other than members of the Board of Regents of the University of Nebraska and board members of a Class III school district, at least ten percent of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the district or political subdivision in which the officer is to be elected, not to exceed two thousand;

(b) For members of the Board of Regents of the University of Nebraska, at least ten percent of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election in the regent district in which the officer is to be elected, not to exceed one thousand; and

(c) For board members of a Class III school district, at least twenty percent of the total number of votes cast for the board member receiving the highest number of votes at the immediately preceding general election in the school district.

(2) The number of signatures of registered voters needed to place the name of a candidate for an office upon the partisan ballot for the general election shall be as follows:

(a) For each partisan office to be filled by the registered voters of the entire state, at least four thousand, and at least seven hundred fifty signatures shall be obtained in each congressional district in the state;

(b) For each partisan office to be filled by the registered voters of a county, at least twenty percent of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election within the county, not to exceed two thousand, except that the number of signatures shall not be required to exceed twenty-five percent of the total number of registered voters voting for the office at the immediately preceding general election; and

(c) For each partisan office to be filled by the registered voters of a political subdivision other than a county, at least twenty percent of the total number of registered voters voting for Governor or President of the United States at the immediately preceding general election within the political subdivision, not to exceed two thousand.

Source: Laws 1994, LB 76, § 186; Laws 1997, LB 764, § 62; Laws 2003, LB 181, § 5; Laws 2003, LB 461, § 3; Laws 2007, LB298, § 1; Laws 2011, LB399, § 1; Laws 2016, LB874, § 2; Laws 2019, LB411, § 39.

Annotations

This section does not apply to nomination by petition of candidates for office of presidential elector. State ex rel. Beeson v. Marsh, 150 Neb. 233, 34 N.W.2d 279 (1948).

A candidate for the nomination for the office of Secretary of State who is defeated in the primary election is not eligible to be a candidate by petition for the office of Auditor of Public Accounts at the following general election. State ex rel. Driscoll v. Swanson, 127 Neb. 715, 256 N.W. 872 (1934).

This section sets out a method by which a candidate, not entitled to have his name placed on the primary ballot, may have his name placed on the general election ballot as a candidate by petition. State ex rel. Nelson v. Marsh, 123 Neb. 423, 243 N.W. 277 (1932).

This section applies to elections in general but is not applicable to elections under the nonpartisan judiciary act. State ex rel. Acton v. Penrod, 102 Neb. 734, 169 N.W. 266 (1918).

32-619. Governor; selection of running mate; when.

Any candidate for the office of Governor circulating petitions or having petitions circulated in his or her behalf after the primary election and prior to the general election shall, prior to the circulation of such petitions, select the person whom he or she wishes to be his or her Lieutenant Governor for ballot purposes and have such person's name placed on the petitions. The written consent required under section 32-619.01 of the Lieutenant Governor candidate shall be submitted when the petitions are submitted for verification.

Source: Laws 1994, LB 76, § 187; Laws 1997, LB 764, § 63; Laws 2001, LB 768, § 3.

32-619.01. Governor; selection of running mate; filing; procedure.

The candidate for Governor of each political party receiving the highest number of votes in the primary election shall select a candidate for Lieutenant Governor of the same political party by filing an affidavit indicating his or her choice with the Secretary of State. The candidate for Lieutenant Governor shall file a written consent with the Secretary of State. Both the affidavit and the written consent shall be filed on or before September 1 for the names to be on the general election ballot. The written consent shall be in lieu of a candidate filing form, and no filing fees shall be required for the candidate for Lieutenant Governor.

Source: Laws 2001, LB 768, § 2.

32-620. President and Vice President; candidates; certification; new political party; how treated; requirements; nonpartisan status; filing; application; contents.

(1) Partisan candidates for the offices of President and Vice President of the United States on the general election ballot shall be certified to the Governor and Secretary of State by the national nominating convention as provided by law.

(2) Candidates for the offices of President and Vice President of the United States of newly established political parties may obtain general election ballot position by filing with the Secretary of State an application containing:

(a) The name or names to be printed on the ballot;

(b) The name of the political party;

(c) The written consent of the designated vice-presidential candidate to have his or her name printed on the ballot; and

(d) The names and addresses of the persons who will represent the applicant as presidential elector candidates together with the written consent of such persons to become candidates.

(3) Candidates for the offices of President and Vice President of the United States of nonpartisan status may obtain general election ballot position by filing with the Secretary of State:

(a) An application containing:

(i) The name or names to be printed on the ballot;

(ii) The status of the candidacy as nonpartisan;

(iii) The written consent of the designated vice-presidential candidate to have his or her name printed on the ballot; and

(iv) The names and addresses of the persons who will represent the applicant as presidential elector candidates together with the written consent of such persons to become candidates; and

(b) A petition signed by not less than two thousand five hundred registered voters. Such petitions shall conform to the requirements of section 32-628 and shall be filed with the Secretary of State by August 1 in the year of the presidential general election.

Source: Laws 1994, LB 76, § 188; Laws 1997, LB 764, § 64; Laws 2013, LB349, § 3.

Annotations

This statute is unconstitutional as relates to requirements for independent candidates for President and Vice President of United States. *MacBride v. Exon*, 558 F.2d 443 (8th Cir. 1977).

Although Nebraska's statutes unconstitutionally deny an independent candidate access to appear on the ballot in presidential elections, the court directed the independent be included upon a determination he was a serious candidate, truly independent, with a satisfactory level of community support. *McCarthy v. Exon*, 424 F.Supp. 1143 (D. Neb. 1976).

32-621. New political party; candidates; filing fee; petition of nomination.

When a new political party has been properly established under section 32-716 prior to the general election and after the primary election of the same year, all candidates except candidates for President or Vice President of the United States shall pay the filing fee as provided in section 32-608, file a candidate filing form with the filing officer as provided in section 32-607 no later than September 1 prior to the general election accompanied by a petition of nomination containing the names of not less than twenty-five registered voters of the political party obtained from the appropriate jurisdiction, and comply with the Nebraska Political Accountability and Disclosure Act.

Source: Laws 1994, LB 76, § 189; Laws 1997, LB 764, § 65.

Cross References

Nebraska Political Accountability and Disclosure Act, see section 49-1401.

Annotations

Certificate of nomination for a new party may be filed with Secretary of State. *State ex rel. Beeson v. Marsh*, 150 Neb. 233, 34 N.W.2d 279 (1948).

A new political party, formed after the time when it would have been possible for it to participate in the primary election, may participate in the general election. *Morrissey v. Wait*, 92 Neb. 271, 138 N.W. 186 (1912).

32-622. Candidates; withdrawal after filing; notice, to whom given; extension of time for declination.

(1) If any person who has filed for elective office pursuant to subsection (1) of section 32-606 notifies the filing officer in writing duly acknowledged by March 1 before the primary election that he or she declines to be a candidate, the name shall not be printed on the primary election ballot, but no declination shall be effective after such date. A filing of nomination pursuant to section 32-611 shall extend the time for declination until March 6 before the primary election.

(2) If any person who has filed for elective office pursuant to subsection (2) of section 32-606 notifies the filing officer in writing duly acknowledged by August 1 before the general election that he or she declines to be a candidate, the name shall not be printed on the general election ballot, but no declination shall be effective after such date.

(3) Any election commissioner or county clerk receiving notice of declination for a candidate who originally filed with the Secretary of State shall immediately notify the office of the Secretary of State by telephone and forward the declination statement.

Source: Laws 1994, LB 76, § 190; Laws 1999, LB 802, § 14.

Annotations

Under former law question as to the right of an applicant for a place on a party ballot at a primary election to withdraw less than thirty days preceding the election was raised but not decided. *State ex rel. Johnson v. Marsh*, 120 Neb. 297, 232 N.W. 104 (1930).

Under former law declinations of nominations, filed after the time provided by the statute, were valid if the certificates of nomination to fill the vacancy were filed within the time prior to the election that was prescribed by the statute. *State ex rel. Eastham v. Dewey*, 73 Neb. 396, 102 N.W. 1015 (1904).

32-623. Declination of nomination; deadline; notice, to whom given; vacancy, how filled.

If any person nominated for elective office for the general election notifies the filing officer with whom the candidate filing form or other acceptance of nomination was filed by filing a statement, in writing and duly acknowledged, that he or she declines such nomination on or before August 1 before the election, the person's name shall not be printed on the ballot, but no declination shall be effective after such date. The filing officer shall inform one or more persons whose names are attached to the nomination if the candidate was nominated by a political party convention or committee or, if nominated at a primary election, the chairperson or secretary of the campaign or political party committee of his or her political party if there is one within the jurisdiction of the filing officer and, if not, at least three of the prominent members of the candidate's political party within the jurisdiction of the filing officer that such candidate has declined the nomination by mailing or delivering to them personally notice of such fact. Such declination shall create a vacancy on the ballot which may be filled pursuant to section 32-627. In lieu of filing a declination with the Secretary of State, the person so nominated may file a declination with the election commissioner or county clerk in the county in which he or she resides. Any election commissioner or county clerk receiving such a declination shall within five days after its receipt forward a copy of the written declination statement to the Secretary of State. The Secretary of State shall make notifications required by this section for all individuals for whom he or she receives a copy of the written declination statement.

Source: Laws 1994, LB 76, § 191; Laws 2012, LB503, § 1; Laws 2022, LB843, § 26.

Effective Date: July 21, 2022

Annotations

Under former law question as to the right of an applicant for a place on a party ballot at a primary election to withdraw less than thirty days preceding the election was raised but not decided. *State ex rel. Johnson v. Marsh*, 120 Neb. 297, 232 N.W. 104 (1930).

Under former law declinations of nominations, filed after the time provided by the statute, were valid if the certificates of nomination to fill the vacancy were filed within the time prior to the election that was prescribed by the statute. *State ex rel. Eastham v. Dewey*, 73 Neb. 396, 102 N.W. 1015 (1904).

32-624. Candidate filing forms; objections; notice; actions authorized; filing officer; powers and duties.

A candidate filing form which appears to conform with sections 32-606 and 32-607 shall be deemed to be valid unless objections are made in writing within seven days after the filing deadline. If an objection is made, notice shall be mailed to all candidates who may be affected thereby. Any political party committee may institute actions in court based upon fraud or crime resorted to in connection with the candidate filing forms or the acceptance of a nomination. No county committee shall have the authority to bring such action as to candidates for congressional or state office or as to candidates to be elected from legislative districts composed of more than one county. A state political party committee may institute actions to determine the legality of any candidate for a state or congressional office or for any district office if the district composes more than one county. Objections to the use of the name of a political party may also be made and passed upon in the same manner as objections to a candidate filing form or other acceptance of nomination.

The filing officer with whom the candidate filing form was filed shall determine the validity of such objection, and his or her decision shall be final unless an order is made in the matter by a judge of the county court, district court, Court of Appeals, or Supreme Court on or before the fifty-fifth day preceding the election. Such order may be made summarily upon application of any political party committee or other interested party and upon such notice as the court or judge may require. The decision of the Secretary of State or the order of the judge shall be binding on all filing officers.

Source: Laws 1994, LB 76, § 192; Laws 2002, LB 1054, § 17.

Annotations

1. Constitutionality

2. Nature of proceedings

3. Filing of objections

4. Miscellaneous

1. Constitutionality

This section does not violate the separation of powers provision of the Constitution. *State ex rel. Meissner v. McHugh*, 120 Neb. 356, 233 N.W. 1 (1930).

2. Nature of proceedings

An original proceeding in the Supreme Court under this section is not a mandamus proceeding, although somewhat akin thereto, and, in respect to relief

asked, resembles a proceeding to obtain a mandatory injunction. *State ex rel. Smith v. Marsh*, 120 Neb. 287, 232 N.W. 99 (1930), 72 A.L.R. 285 (1930).

This section is valid and confers power upon the county court and judges of the district and Supreme Court to summarily review the action of the officer with whom the original certificate of nomination was filed, and to make such order therein as the law requires. *State ex rel. Offill v. Hallowell*, 77 Neb. 610, 110 N.W. 717 (1906).

3. Filing of objections

The Secretary of State may, by his own action, raise objections to a certificate of nomination or nomination statement and then enter an order sustaining his own objections. *State ex rel. Chambers v. Beermann*, 229 Neb. 696, 428 N.W.2d 883 (1988).

Although no transcript of the proceedings before the Secretary of State is required to be filed, a proceeding in court under this section is essentially appellate, and the objections that may be made are limited to those set up in the hearing before the Secretary of State. *State ex rel. Brazda v. Marsh*, 141 Neb. 817, 5 N.W.2d 206 (1942).

A proceeding under this section may be brought to object to the filing of a candidate whose nominating papers were not actually received and filed until the time for filing had expired. *State ex rel. Wood v. Marsh*, 120 Neb. 296, 232 N.W. 103 (1930).

Objections to the placing of a candidate's name on the primary ballot because a county treasurer's receipt showing payment of the filing fee was not presented to the Secretary of State must be filed within three days after the nominating papers were filed. *State ex rel. Maupin v. Amsberry*, 104 Neb. 550, 178 N.W. 176 (1920).

Where written objections are not filed in the manner and within the time prescribed by this section, the action of the State Central Committee in filing certificates of nomination to fill vacancies cannot be questioned. *State ex rel. Nebraska Rep. State C. Com. v. Wait*, 92 Neb. 313, 138 N.W. 159 (1912), 43 L.R.A.N.S. 282 (1912).

Objections to certificates of nomination can be filed only within the time prescribed by the statute. *State ex rel. Casper v. Piper*, 50 Neb. 40, 69 N.W. 383 (1896).

4. Miscellaneous

An order by any court made after the time period specified in this section violates the section, and no relief may be afforded to the party from such order after the 55th day. *Nebraska Republican Party v. Gale*, 283 Neb. 596, 812 N.W.2d 273 (2012).

Opinion rendered in special statutory proceeding is not an opinion of the Supreme Court. *State ex rel. Strom v. Marsh*, 162 Neb. 593, 77 N.W.2d 163 (1956).

This section authorizes a special action for judicial review of the action of the Secretary of State in passing upon nomination statements of candidates for public

office. State ex rel. Quinn v. Marsh, 141 Neb. 436, 3 N.W.2d 892 (1942).

The filing of a candidate who is not a good-faith candidate for office, but who files for the purpose of creating confusion among the electors, due to the similarity of his and other candidates' names, may be refused. State ex rel. Johnson v. Marsh, 120 Neb. 297, 232 N.W. 104 (1930).

When a protest has been filed, it is within the province of the Secretary of State both to investigate matters of form and to determine whether a convention such as the statute contemplates, was held. State ex rel. Stephens v. Marsh, 117 Neb. 579, 221 N.W. 708 (1928).

Certificates of nomination, which apparently conform to the law, are deemed valid unless objected to, and the ballots should be prepared with the candidates designated thereon the same as on the certificates of nomination. State ex rel. Crawford v. Norris, 37 Neb. 299, 55 N.W. 1086 (1893).

32-625. Vacancy on ballot; how filled.

(1) If there is a vacancy on the ballot for a nonpartisan office after the time for filing and before the primary election, the vacancy may only be filled by a petition candidate after the primary election pursuant to sections 32-617 and 32-618.

(2) A vacancy shall exist on the ballot for the general election when (a) any person ceases to be a candidate for the office for which he or she filed a candidate filing form in the primary election and the number of candidates for office is less than twice the number of positions to be filled, (b) no person was nominated for the office in the primary election, or (c) one of the candidates who received a certificate of nomination for a nonpartisan office as a result of a primary election is ineligible, disqualified, deceased, or for any other reason unable to assume the office for which he or she was a candidate. If such a vacancy exists for a nonpartisan office, such vacancy may be filled by filing petitions for nomination pursuant to such sections no later than September 1 prior to the general election.

Source: Laws 1994, LB 76, § 193; Laws 2002, LB 251, § 6.

32-626. Repealed. Laws 2002, LB 251, § 9.

32-627. Partisan office; vacancy on ballot; how filled.

(1) If a vacancy on the ballot arises for any partisan office except President and Vice President of the United States before a general election, the vacancy shall be filled by the majority vote of the proper committee of the same political party. If the vacancy exists for an office serving only a particular district of the state, only those members of the political party committee who reside within that district shall participate in selecting the candidate to fill the vacancy. No vacancy on the ballot shall be deemed to have occurred if a political party makes no nomination of a candidate at the primary election for the office. If a vacancy on the ballot arises for Governor, the vacancy shall be filled by the majority vote of the proper committee of the same political party, and the candidate for Governor shall select a person of the same political party to be the candidate for Lieutenant Governor on the general election ballot. If a vacancy on the ballot arises for the Lieutenant Governor on or before September 1, the candidate for Governor shall select a new candidate for Lieutenant Governor in the same manner as required in section 32-619.01.

(2) The chairperson and secretary of the executive committee for the political party shall make and file with the filing officer a certificate setting forth the cause of the vacancy, the name of the person so nominated, the office for which he or she was nominated, the name of the person for which the new nominee is to be substituted, the place of residence of the person so nominated, the street and number of the residence or place of business of the person so nominated if such person resides in a city, and the name of the political party with which the person so nominated affiliates which such committee represents. The certificate shall be signed by the chairperson and secretary with the name and places of their residences and sworn to by them before some officer authorized to administer oaths. If there is no executive committee of the political party or in lieu of the executive committee filling such vacancy, a mass convention of the political party may fill the vacancy and the chairperson and secretary of such convention shall make and file with the filing officer a certificate in form and manner substantially as is required to be filed by the chairperson and secretary of the executive committee under this subsection. The certificate shall be filed by September 1 for a general election and have the same force and effect as the candidate filing form provided for in section 32-607. The filing fee charged to candidates for such offices shall accompany the filing of the certificate.

Source: Laws 1994, LB 76, § 195; Laws 2001, LB 768, § 4; Laws 2012, LB503, § 2.

32-628. Petitions; requirements.

(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 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, the statements contained in this subsection, except that a petition for recall of an elected official shall also have the additional information specified in subsection (2) of section 32-1304. The statements shall be 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 qualified to sign the petition 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 as provided in this subsection, except that the affidavit for a petition for recall of an elected official shall also include the additional language specified in subsection (3) of section 32-1304. The affidavit shall be in substantially the following form:

STATE OF NEBRASKA)) COUNTY OF)	ss.
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....., (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 at least eighteen years of age, 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 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.

Source: Laws 1994, LB 76, § 196; Laws 1995, LB 337, § 3; Laws 1997, LB 460, § 1; Laws 1999, LB 234, § 9; Laws 2002, LB 1054, § 18; Laws 2003, LB 444, § 5; Laws 2008, LB39, § 1; Laws 2012, LB759, § 1.

Annotations

Under subsection (3) of this section, petition circulators are not required to read the object statement of the petition to signatories verbatim. *Chaney v. Evnen*, 307 Neb. 512, 949 N.W.2d 761 (2020).

The portion of this section which reads "Any circulator circulating petitions under sections 32-702 to 32-713 shall not be hired and salaried for the express purpose of circulating petitions" violates the first amendment and is for that reason void and of no force or effect. *State v. Radcliffe*, 228 Neb. 868, 424 N.W.2d 608 (1988).

Where actual and exact date on which the signature of an elector was signed is readily apparent, the omission or faulty rendition of the date should be treated as a clerical or technical error. *State ex rel. Morris v. Marsh*, 183 Neb. 521, 162 N.W.2d 262 (1968).

When a certificate of a circulator has been impeached by proof of fraud, all signatures appearing on any petition circulated by him must be rejected until proved genuine. *Barkley v. Pool*, 103 Neb. 629, 173 N.W. 600 (1919).

32-629. Petitions; signer; qualification; exception; circulator; qualification.

(1) Except as otherwise provided in section 32-1404 for initiative and referendum petitions, only a registered voter of the State of Nebraska shall qualify as a valid signer of a petition and may sign petitions under the Election Act.

(2) Only a person who is at least eighteen years of age shall qualify as a valid circulator of a petition and may circulate petitions under the Election Act.

Source: Laws 1994, LB 76, § 197; Laws 2003, LB 444, § 6; Laws 2008, LB39, § 2; Laws 2012, LB759, § 2.

32-630. Petitions; signers and circulators; duties; prohibited acts.

(1) Each person who signs a petition shall, at the time of and in addition to signing, personally affix the date, print his or her last name and first name in full, and affix his or her date of birth and address, including the street and number or a designation of a rural route or voting precinct and the city or village or a post office address. A person signing a petition may use his or her initials in place of his or her first name if such person is registered to vote under such initials. No signer shall use ditto marks as a means of personally affixing the date or address to any petition. A wife shall not use her husband's first name when she signs a petition but shall personally affix her first name and her last name by marriage or her surname. Any signature using ditto marks as a means of personally affixing the date or address of any petition or any signature using a spouse's first name instead of his or her own shall be invalid.

(2) Each circulator of a petition shall personally witness the signatures on the petition and shall sign the circulator's affidavit.

(3) No person shall:

(a) Sign any name other than his or her own to any petition;

(b) Knowingly sign his or her name more than once for the same petition effort or measure;

(c) Sign a petition if he or she is not a registered voter and qualified to sign the same except as provided in section 32-1404;

(d) Falsely swear to any signature upon any such petition;

(e) Accept money or other thing of value for signing any petition; or

(f) Offer money or other thing of value in exchange for a signature upon any petition.

Source: Laws 1994, LB 76, § 198; Laws 1997, LB 460, § 2; Laws 2003, LB 444, § 7; Laws 2008, LB39, § 3; Laws 2015, LB367, § 1.

Annotations

Where petition circulator has sworn to properly executed statutory form of affidavit that he is qualified voter, presumption raises that he is qualified elector; presumption does not disappear simply because full Christian name is not signed. *State ex rel. Morris v. Marsh*, 183 Neb. 521, 162 N.W.2d 262 (1968).

32-631. Petitions; signature verification; procedure.

(1) All petitions that are filed with the election commissioner or county clerk for signature verification shall be retained in the election office and shall be open to public inspection. Upon receipt of the pages of a petition, the election commissioner or county clerk shall issue a written receipt indicating the number of pages of the petition in his or her custody to the person filing the petition for signature verification. Petitions may be destroyed twenty-two months after the election to which they apply.

(2) The election commissioner or county clerk shall determine the validity and sufficiency of such petition by comparing the names, dates of birth if applicable, and addresses of the signers with the voter registration records to determine if the signers were registered voters on the date of signing the petition. If it is determined that a signer has affixed his or her signature more than once to any petition and that only one person is registered by that name, the election commissioner or county clerk shall strike from the pages of the petition all but one such signature. Only one of the duplicate signatures shall be added to the total number of valid signatures. All signatures, dates of birth, and addresses shall be presumed to be valid if the election commissioner or county clerk has found the signers to be registered voters on or before the date on which the petition was signed. This presumption shall not be conclusive and may be rebutted by any credible evidence which the election commissioner or county clerk finds sufficient.

(3) If the election commissioner or county clerk verifies signatures in excess of one hundred ten percent of the number necessary for the issue to be placed on the ballot, the election commissioner or county clerk may cease verifying signatures and certify the number of signatures verified to the person who delivered the petitions for verification.

(4) If the number of signatures verified does not equal or exceed the number necessary to place the issue on the ballot upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the petition page number and line number where the signature is found. If the signature or address is challenged for a reason other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reasons for the challenge of the signature.

Source: Laws 1994, LB 76, § 199; Laws 1997, LB 460, § 3; Laws 1997, LB 764, § 66; Laws 2003, LB 444, § 8; Laws 2019, LB411, § 40.

32-632. Petition; removal of name; procedure.

Any person may remove his or her name from a petition by an affidavit signed and sworn to by such person before the election commissioner, the county clerk, or a notary public. The affidavit shall be presented to the Secretary of State, election commissioner, or county clerk prior to or on the day the petition is filed for verification with the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 200; Laws 1997, LB 764, § 67; Laws 2011, LB499, § 3.

32-633. President; write-in campaign; filing; application; contents.

Any person engaged in or pursuing a write-in campaign for the office of President of the United States shall file with the Secretary of State a notarized affidavit of his or her intent together with an application containing:

- (1) The name of the person pursuing the write-in campaign;
- (2) The written consent of the designated vice-presidential candidate; and

(3) The names and addresses of the persons who will represent the applicant as presidential elector candidates together with the written consent of such persons to become candidates.

Source: Laws 2013, LB349, § 2.

32-701. Political party; file delegate selection plan; contents; President; preference vote.

(1) Each political party which is organized in Nebraska shall file a copy of the party's plan for selecting delegates and alternate delegates to the party's national convention with the Secretary of State on or before December 1 of the calendar year prior to each presidential election year and shall include a summary of the contents of the plan. The delegate selection plan shall:

(a) Require that at least eighty percent of the delegates and alternate delegates are committed to a candidate for President of the United States based on the results of a caucus or the primary election;

(b) Specify whether the delegates and alternate delegates are committed to a candidate for President of the United States based on the results of (i) a caucus system which is open to all Nebraska residents who are affiliated with the party for purposes of registering to vote in Nebraska, (ii) election at the statewide primary election, or (iii) a combination of the methods listed in subdivisions (i) and (ii) of this subdivision;

(c) Specify how the delegates and alternate delegates are committed for purposes of voting for candidates for President of the United States based on the results of the caucus or primary election; and

(d) Provide that the delegates and alternate delegates are either awarded to the winner of the caucus or primary election or awarded proportionally, based on the number of votes received by each presidential candidate at the caucus or primary election, to each presidential candidate who received at least fifteen percent of the votes for the nomination.

(2) When candidates for the office of President of the United States are to be nominated, every registered voter of a political party shall have the opportunity to vote his or her preference on his or her party nominating ballot for his or her choice for one person to be the candidate of his or her political party for President of the United States by writing the name of the person of his or her choice for President in the blank space to be left upon the ballot for such purpose and making a cross or mark in the square or oval opposite the written name or by making a cross or mark in the square or oval opposite the printed name of the person of his or her choice.

Source: Laws 1994, LB 76, § 201; Laws 2014, LB1048, § 5.

Annotations

The expression of a preference for President by those voting at primary election does not control presidential electors, and is only morally binding on delegates to

national party conventions. State ex rel. Nebraska Rep. State C. Com. v. Wait, 92 Neb. 313, 138 N.W. 159 (1912), 43 L.R.A.N.S. 282 (1912).

32-702. Partisan primary election; candidate; affiliation required; when; rule or revocation of rule; when effective.

Any political party may, by the adoption of a rule, require that any individual whose name is placed on such party's partisan primary election ballot be a registered voter affiliated with such party. If the political party adopts or revokes the rule and notifies the Secretary of State by filing the rule or notice of the revocation with the Secretary of State prior to December 1 of the calendar year before a statewide primary election, the rule or revocation is effective for the next and subsequent statewide primary elections. If a rule or notice of revocation is filed with the Secretary of State on or after December 1 of the calendar year before a statewide primary election and on or before the day of the statewide primary election, the rule or revocation is effective for the subsequent statewide primary elections.

Source: Laws 1994, LB 76, § 202; Laws 2014, LB1048, § 6.

32-703. Delegates to national convention; selection or election; national party rules; state political party; duty.

In each presidential election year, the total number of delegates and alternate delegates representing this state at the national conventions of the political parties and their method of selection or election shall be determined by the rules of the national political party holding the convention. The Secretary of State in consultation with the Attorney General shall have the authority to do all things necessary in the administration of the Election Act, including ballot preparation, separation of ballots, and ballot instructions, to comply with and carry out the intent of national political party rules and court decisions. Whenever the act is in conformity with national political party rules as to the election of delegates, the election procedures found in the act shall be followed. The state political party shall furnish a copy of the national political party rules regarding selection of delegates to the Secretary of State no later than December 1 of the year preceding each presidential election year.

Source: Laws 1994, LB 76, § 203; Laws 1997, LB 764, § 68; Laws 2014, LB1048, § 7.

32-704. Candidates; delegate or alternate delegate to national convention; filing form; contents; Secretary of State; duties.

Any person seeking to be elected as a delegate or alternate delegate to the national convention of a political party shall submit a filing form under this section regardless of the method of election used by the political party. The filing form for nomination of a candidate for election as a delegate or alternate delegate to the national convention of a political party shall (1) contain a statement of commitment to a candidate for the office of President of the United States or that he or she is uncommitted, (2) include a pledge swearing to support the candidate for President of the United States to which the candidate for delegate or alternate delegate to the national convention is committed until (a) such candidate receives less than thirty-five percent of the votes for nomination by such convention or releases the delegate from such commitment or (b) two convention nominating ballots have been taken, and (3) be filed with the Secretary of State. No filing form for nomination shall be accepted unless signed by the candidate. The Secretary of State shall prescribe the filing form for nomination.

Source: Laws 1994, LB 76, § 204; Laws 2014, LB1048, § 8.

Annotations

The expression of a preference for President by those voting at primary election does not control presidential electors, and is only morally binding on delegates to national party conventions. *State ex rel. Nebraska Rep. State C. Com. v. Wait*, 92 Neb. 313, 138 N.W. 159 (1912), 43 L.R.A.N.S. 282 (1912).

32-705. Delegates to national convention; certificates of election; Secretary of State shall issue.

The Secretary of State shall issue certificates of election to persons elected as delegates to national conventions of the political parties. The certificate shall show the number of votes received in the state by each candidate of the political party for President represented by such delegate.

Source: Laws 1994, LB 76, § 205.

32-706. Repealed. Laws 2014, LB 1048, § 13.

32-707. County conventions; time; place; notice; registration of delegates; procedure.

(1) A political party may conduct county conventions at an hour and place to be designated by a political party. The political party shall cause to be published, at least seven days prior to the date of the county convention, an official notice of the date, time, and place of the convention. The political party may elect to have delegates to the county convention register with the election commissioner or county clerk.

(2) If a political party elects to have delegates to the county convention register with the election commissioner or county clerk, such delegates shall register with the election commissioner or county clerk on or before March 1 of each year in which the political party conducts a county convention. The election commissioner or county clerk shall deliver to the state chairperson of a political party the roll, properly certified, showing the name, address, and precinct of each delegate registered for such convention, no later than March 15 of each presidential election year. If there is not a full quota of delegates for the county convention as established by the political party, the delegates at the county convention may select delegates to fill the quota from the registered voters affiliated with the political party in the county.

Source: Laws 1994, LB 76, § 207; Laws 1997, LB 764, § 69; Laws 2009, LB133, § 1; Laws 2014, LB1048, § 9.

32-708. Repealed. Laws 2014, LB 1048, § 13.

32-709. Repealed. Laws 2014, LB 1048, § 13.

32-710. State conventions; when held; organization; platform; selection of presidential electors.

Each political party shall hold a state convention biennially on a date to be fixed by the state central committee but not later than September 1. Candidates for elective offices may be nominated at such conventions pursuant to section 32-627 or 32-721. Such nominations shall be certified to the Secretary of State by the chairperson and secretary of the convention. The certificates shall have the same force and effect as nominations in primary elections. A political party may not nominate a candidate at the convention for an office for which the party did not nominate a candidate at the primary election except as provided for new political parties in section 32-621. The convention shall formulate and promulgate a state platform, select a state central committee, select electors for President and Vice President of the United States, and transact the business which is properly before it. One presidential elector shall be chosen from each congressional district, and two presidential electors shall be chosen at large. The officers of the convention shall certify the names of the electors to the Governor and Secretary of State.

Source: Laws 1994, LB 76, § 210; Laws 1997, LB 764, § 70; Laws 2011, LB368, § 2; Laws 2015, LB575, § 18.

Annotations

Political parties at their conventions select candidates for office of presidential electors. *State ex rel. Beeson v. Marsh*, 150 Neb. 233, 34 N.W.2d 279 (1948).

This statute is unconstitutional as relates to requirements for independent candidates for President and Vice President of United States. *MacBride v. Exon*, 558 F.2d 443 (8th Cir. 1977).

Although Nebraska's statutes unconstitutionally deny an independent candidate access to appear on the ballot in presidential elections, the court directed the independent be included upon a determination he was a serious candidate, truly independent, with a satisfactory level of community support. *McCarthy v. Exon*, 424 F.Supp. 1143 (D. Neb. 1976).

32-711. Repealed. Laws 2014, LB 1048, § 13.

32-712. President and Vice President; candidates; certification of names and addresses; time; Secretary of State; place names on ballot.

Not later than September 8 prior to any general election at which candidates for President and Vice President of the United States are to be voted upon by the registered voters of the state, the appropriate officers of the various national political party conventions shall certify the names and addresses of such candidates selected by convention to the Secretary of State. The Secretary of State shall then take appropriate steps to place the names of the presidential and vice-presidential candidates on the ballot.

Source: Laws 1994, LB 76, § 212; Laws 2008, LB857, § 1.

Annotations

Although Nebraska's statutes unconstitutionally deny an independent candidate access to appear on the ballot in presidential elections, the court directed the independent be included upon a determination he was a serious candidate, truly independent, with a satisfactory level of community support. *McCarthy v. Exon*, 424 F.Supp. 1143 (D. Neb. 1976).

32-713. Presidential electors; notice of appointment; meeting; pledge.

(1) The certificates of appointment for presidential electors shall be served by the Governor on each person appointed. The Governor shall notify the presidential electors to be at the State Capitol at noon on the first Monday after the second Wednesday in December after appointment and report to the Governor at his or her office in the capitol as being in attendance. The Governor shall serve the certificates of appointment by registered or certified mail. In submitting this state's certificate of ascertainment as required by 3 U.S.C. 6, the Governor shall certify this state's presidential electors and state in the certificate that:

(a) The presidential electors will serve as presidential electors unless a vacancy occurs in the office of presidential elector before the end of the meeting at which the presidential electors cast their votes, in which case a substitute presidential elector will fill the vacancy; and

(b) If a substitute presidential elector is appointed to fill a vacancy, the Governor will submit an amended certificate of ascertainment stating the names on the final list of this state's presidential electors.

(2) The presidential electors shall convene at 2 p.m. of such Monday at the Governor's office in the capitol. Each presidential elector shall execute the following pledge: As a presidential elector duly selected (or appointed) for this position, I agree to serve and to mark my ballots for President and Vice President for the presidential and vice-presidential candidates who received the highest number of votes in the state if I am an at-large presidential elector or the highest number of votes in my congressional district if I am a congressional district presidential elector.

Source: Laws 1994, LB 76, § 213; Laws 2014, LB946, § 14.

Annotations

Governor appoints presidential electors in accordance with return of state canvassing board. *State ex rel. Beeson v. Marsh*, 150 Neb. 233, 34 N.W.2d 279 (1948).

32-714. Presidential electors; vacancies; how filled; meeting; procedure; violation of pledge; effect.

(1) The Governor shall provide each presidential elector with a list of all the presidential electors. If any presidential elector is absent or if there is a deficiency in the proper number of presidential electors, those present shall elect from the citizens of the state so many persons as will supply the deficiency and immediately issue a certificate of election, signed by those present or a majority of them, to the person or persons so chosen. In case of failure to elect as required in this subsection by 3 p.m. of such day or in case of a vacancy created under subsection (4) of this section, the Governor shall fill the vacancies by appointment. Each appointee shall execute the pledge in section 32-713. After all vacancies are filled, the presidential electors shall proceed with the election of a President of the United States and a Vice President of the United States and certify their votes in conformity with the Constitution and laws of the United States.

(2) The Secretary of State shall provide each presidential elector with a presidential and vice-presidential ballot. Each at-large presidential elector shall mark his or her ballot for the presidential and vice-presidential candidates who received the highest number of votes in the state and consistent with his or her pledge. Each congressional district presidential elector shall mark his or her ballot for the presidential and vice-presidential candidates who received the highest number of votes in his or her congressional district and consistent with his or her pledge.

(3) Each presidential elector shall present the completed ballot to the Secretary of State. The Secretary of State shall examine each ballot and accept as cast each ballot marked by a presidential elector consistent with his or her pledge. The Secretary of State shall not accept and shall not count the ballot if the presidential elector has not marked the ballot or has marked the ballot in violation of his or her pledge.

(4) A presidential elector who refuses to present a ballot, who attempts to present an unmarked ballot, or who attempts to present a ballot marked in violation of his or her pledge vacates the office of presidential elector.

Source: Laws 1994, LB 76, § 214; Laws 2014, LB946, § 15.

Annotations

This section provides procedures for meeting of presidential electors. State ex rel. Beeson v. Marsh, 150 Neb. 233, 34 N.W.2d 279 (1948).

32-715. Presidential electors; compensation.

The Secretary of State shall incorporate in his or her budget the sum of five hundred dollars for the payment of requests for payment or reimbursement presented by the presidential electors of the electoral college. The electors shall receive compensation of five dollars for each day of attendance and shall be reimbursed for mileage as provided in section 81-1176.

Source: Laws 1994, LB 76, § 215; Laws 1997, LB 764, § 71.

32-716. New political party; formation; petition; requirements.

(1) Any person, group, or association desiring to form a new political party shall present to the Secretary of State petitions containing signatures totaling not less than one percent of the total votes cast for Governor at the most recent general election for such office. The signatures of registered voters on such petitions shall be so distributed as to include registered voters totaling at least one percent of the votes cast for Governor in the most recent gubernatorial election in each of the three congressional districts in this state. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The petitions shall be filed with the Secretary of State no later than January 15 before any statewide primary election for the new political party to be entitled to have ballot position in the primary election of that year. If the new political party desires to be established and have ballot position for the general election and not in the primary election of that year, the petitions shall be filed with the Secretary of State on or before July 15 of that year. Prior to the circulation of petitions to form a new political party, a sample copy of the petitions shall be filed with the Secretary of State by the person, group, or association seeking to establish the new party. The sample petition shall be accompanied by the name and address of the person or the names and addresses of the members of the group or association sponsoring the petition to form a new political party. The sponsor or sponsors of the petition shall file, as one instrument, all petition papers comprising a new political party petition for signature verification with the Secretary of State. All signed petitions in circulation but not filed with the Secretary of State shall become invalid after July 15 in the year of the statewide general election.

(2) The petition shall conform to the requirements of section 32-628. The Secretary of State shall prescribe the form of the petition for the formation of a new political party. The petition shall be addressed to and filed with the Secretary of State and shall state its purpose and the name of the party to be formed. Such name shall not be or include the name of any political party then in existence or any word forming any part of the name of any political party then in existence, and in order to avoid confusion regarding party affiliation of a candidate or registered voter, the name of the party to be formed shall not include the word "independent" or "nonpartisan". The petition shall contain a statement substantially as follows:

We, the undersigned registered voters of the State of Nebraska and the county of, being severally qualified to sign this petition, respectfully request that the above-named new political party be formed in the State of Nebraska, and each for himself or herself says: I have personally signed this petition on the date opposite my name; I am a registered voter of the State of Nebraska and county of and am qualified to sign this petition; and my date of birth and city, village, or post office address and my street and number or voting precinct are correctly written after my name.

Source: Laws 1994, LB 76, § 216; Laws 1997, LB 460, § 4; Laws 2006, LB 940, § 1; Laws 2021, LB285, § 12.

Annotations

A candidate for a newly formed political party need not comply with the provisions of section 32-515. *State ex rel. Chambers v. Beermann*, 229 Neb. 696, 428 N.W.2d 883 (1988).

This section authorizes and outlines the procedure for formation of new political parties. *State ex rel. Beeson v. Marsh*, 150 Neb. 233, 34 N.W.2d 279 (1948).

The method that the statute provides for the formation of a new political party is mandatory. *State ex rel. Nelson v. Marsh*, 123 Neb. 423, 243 N.W. 277 (1932).

Under the prior law, a state convention to form a new political party required five hundred electors to be present at a mass convention. *State ex rel. Stephens v. Marsh*, 117 Neb. 579, 221 N.W. 708 (1928).

This statute is unconstitutional as relates to requirements for independent candidates for President and Vice President of United States. *MacBride v. Exon*, 558 F.2d 443 (8th Cir. 1977).

Portion of subsection (1) of this section governing formation of new political parties which required signatures equal to one percent of persons voting in most recent gubernatorial race to be distributed among at least one-fifth of counties in state and which required signers of petitions for formation of new parties to pledge to support party, to support its candidates, and to change their registration to affiliate with petitioning party was unconstitutional and void. Portion of subsection (3) of this section requiring petition circulators to be registered voters and residents of state and county in which they were circulating petitions to get party on ballot was valid exercise of state's power to protect its compelling interest in maintaining integrity of election process. *Libertarian Party of Nebraska v. Beermann*, 598 F.Supp. 57 (D. Neb. 1984).

32-717. New political party; validity of petition signatures; certification of establishment; copy of constitution and bylaws; filed.

Within twenty business days after all the petitions to form a new political party which contain signatures are filed with the Secretary of State, he or she shall determine the validity and sufficiency of such petitions and signatures. Clerical and technical errors in a petition shall be disregarded if the forms prescribed by the Secretary of State are substantially followed. If the petitions are determined to be sufficient and valid, the Secretary of State shall issue a certification establishing the new political party. Copies of such certification shall be issued to the person, group, or association forming the new political party. Within twenty days after the certification of establishment of the new political party by the Secretary of State, the person, group, or association forming the new political party or its new officers shall file with the Secretary of State the constitution and bylaws of such party along with a certified list of the names and addresses of the officers of the new political party.

Source: Laws 1994, LB 76, § 217; Laws 2021, LB285, § 13.

32-718. Repealed. Laws 2012, LB 1035, § 5.

32-719. Political party conventions; individual vote; unit voting prohibited.

At all political party conventions held under sections 32-707 and 32-710, each delegate shall be entitled to register his or her individual vote, and it shall be unlawful to attempt to bind any delegate by any political party or convention rules requiring the delegates from any political subdivision to such convention to vote as one unit.

Source: Laws 1994, LB 76, § 219; Laws 2014, LB1048, § 10.

32-720. Division of political party ballot; preference; how determined; dissolution of political party; procedure; effect.

(1) In case of a division of any political party, the Secretary of State shall give the preference of party name to the convention held at the time and place designated in the call of the regularly constituted political party authorities, and if the other faction presents no other party name, the Secretary of State shall select a name or title and place the same on the ballot before the list of candidates of such faction. The action of the preceding national convention of such party, regularly called, shall determine the action of the Secretary of State or the court in its decision. The Secretary of State may be compelled by peremptory order of mandamus to perform such duty.

(2) A political party may dissolve by filing a notice of dissolution with the Secretary of State. The notice shall be filed by the executive committee or state central committee of the political party or, if no such committee exists, by an officer of the political party. If the notice is filed prior to December 1 of the calendar year before the statewide primary election, the Secretary of State shall not accept any filings for the political party or place the political party on the statewide primary election ballot for the statewide primary election.

Source: Laws 1994, LB 76, § 220; Laws 2014, LB1048, § 11.

32-721. Candidate at special election; nomination by convention or committee; certificates of nomination; time of filing.

Any candidate of any political party for an office to be filled at a special election shall be nominated by a convention or central committee of his or her political party. The nomination shall be in writing, shall contain the name of the office for which each person was nominated and the name and residence of each person so nominated, including, if in a city, the street and number of residence, and place of business, if any, and shall designate in not more than five words the political party which such convention or committee represents. The presiding officer and the secretary of such convention or committee shall sign the nomination and include their respective places of business and take an oath before an officer qualified to administer oaths that the affiants were such officers at such convention or committee and that the certificate and the statements therein contained are true to the best of their knowledge and belief. Such conventions or committee meetings shall be held not less than seventy days prior to the date fixed by law for the election of the persons so nominated. The nomination shall be filed with the filing officer prescribed in section 32-607 not less than seventy days before the election.

Source: Laws 1994, LB 76, § 221.

Annotations

Form of certificate, set out in opinion, was approved. State ex rel. Norton v. Van Camp, 36 Neb. 91, 54 N.W. 113 (1893).

32-801. Official ballot; certifications required.

At least fifty days before any statewide primary or general election, the Secretary of State shall transmit in ballot form to each election commissioner or county clerk a certification of the candidates, offices, and issues that appear on the state ballot. The certification prior to the primary election shall name the office to be filled, the length of the term, the number of candidates to be voted for, the name of each candidate for whom candidate filing forms or petitions have been filed in the office of the Secretary of State and who is entitled to be voted for at such primary election, and the party affiliation or nonpartisan status of each candidate. A separate statement of the city or village of residence of each candidate shall be included with the certification, but the city or village of residence shall not appear on the official ballot. The certification prior to the general election shall name the office to be filled, the length of the term, the number of candidates to be voted for, the name of each candidate who was nominated at the primary election or who filed by petition as shown by the records in the office of the Secretary of State and who is entitled to be voted for at the general election, and the party affiliation or nonpartisan status of each candidate for partisan offices.

Source: Laws 1994, LB 76, § 222; Laws 1997, LB 764, § 72.

Annotations

The Secretary of State cannot determine the substantive merits of the Legislature's proposed constitutional amendment. But in a legal sufficiency challenge, he has a duty to reject a proposed amendment as legally defective for failing to satisfy form and procedural requirements. There is no requirement that the proposed amendment be "patently unconstitutional on its face" before the Secretary must act. *State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).

The Secretary of State's statutory duties to provide the ballot form for the Legislature's proposed constitutional amendments and to certify its contents, coupled with his duties to supervise elections and decide disputed points of election laws, clearly require him to consider whether a proposed amendment complies with the separate vote provision. Power vested in a governmental body or officer carries with it the implied power to do what is necessary to accomplish an express statutory duty, absent any other law that restrains the implied power. *State ex rel. Loontjer v. Gale*, 288 Neb. 973, 853 N.W.2d 494 (2014).

The Nebraska Supreme Court has no authority to grant relief where the Legislature has established by statute strict deadlines which must be met in order to guarantee that the state's election process is safeguarded against uncertainty and disruption. *Nebraska Republican Party v. Gale*, 283 Neb. 596, 812 N.W.2d 273 (2012).

The Secretary of State is required to certify to the counties which issues will be on the ballot at least 50 days before the election. *State ex rel. Bellino v. Moore*, 254 Neb. 385, 576 N.W.2d 793 (1998).

Unless there is some designation of office on a ballot, the ballot is void, but technical accuracy in the designation is not essential. State ex rel. Valentine v. Griffey, 5 Neb. 161, 31 L.E.2d 890 (1876).

32-802. Notice of election; contents.

The notice of election for any election shall state the date on which the election is to be held and the hours the polls will be open and list all offices, candidates, and issues that will appear on the ballots. The notice of election shall be printed in English and in any other language required pursuant to the Voting Rights Act Language Assistance Amendments of 1992. In the case of a primary election, the notice of election shall list all offices and candidates that are being forwarded to the general election. The notice of election shall only state that amendments or referendums will be voted upon and that the Secretary of State will publish a true copy of the title and text of any amendments or referendums once each week for three consecutive weeks preceding the election. Such notice of election shall appear in at least one newspaper designated by the election commissioner, county clerk, city council, or village board no later than forty-two days prior to the election. The election commissioner or county clerk shall, not later than forty-two days prior to the election, (1) post in his or her office the same notice of election published in the newspaper and (2) provide a copy of the notice to the political subdivisions appearing on the ballot. The election commissioner or county clerk shall correct the ballot to reflect any corrections received within five days after mailing the notice as provided in section 32-819. The notice of election shall be posted in lieu of sample ballots until such time as sample ballots are printed. If joint elections are held in conjunction with the statewide primary or general election by a county, city, or village, only one notice of election need be published and signed by the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 223; Laws 2002, LB 935, § 6; Laws 2017, LB451, § 10.

32-803. Sample of official ballot; publication; requirements; rate; limitation.

(1) A sample of the official ballot shall be printed in one or more newspapers of general circulation in the county, city, or village as designated by the election commissioner, county clerk, city council, or village board. The sample shall be printed in English and in any other language required pursuant to the Voting Rights Language Assistance Act of 1992.

(2) Except for elections conducted in accordance with section 32-960, such publication shall be made not more than fifteen nor less than two days before the day of election, and the same shall appear in only one regular issue of each paper. For elections conducted in accordance with section 32-960, such publication shall be made not less than thirty days before the election.

(3) The form of the ballot so published shall conform in all respects to the form prescribed for official ballots as set forth in sections 32-806, 32-809, and 32-812, but larger or smaller type may be used. When paper ballots are not being used, a reduced-size facsimile of the official ballot shall be published as it appears on the voting system. Such publication shall include suitable instructions to the voters for casting their ballots using the voting system being used at the election.

(4) The rate charged by the newspapers and paid by the county board for the publication of such sample ballot shall not exceed the rate regularly charged for display advertising in such newspaper in which the publication is made.

Source: Laws 1994, LB 76, § 224; Laws 1997, LB 764, § 73; Laws 2003, LB 358, § 10; Laws 2019, LB411, § 41.

32-804. Sample ballots; distribution.

If in the judgment of the election commissioner, county clerk, or city or village clerk the sample ballot published in the newspaper will not be seen by the voters generally, sample ballots may be printed on light red, light green, or light pink paper. The sample ballots shall be distributed not less than three nor more than thirty-five days before the election in an amount not to exceed ten percent of the total number of votes cast in such county, city, or village at the immediately preceding general election. The separate sample ballots shall be of the exact size and form as the official ballot.

Source: Laws 1994, LB 76, § 225.

32-805. Ballots; preparation; contents; posting.

The election commissioner or county clerk shall prepare the necessary ballots for every election in which candidates for elective office are certified to or filed with the election commissioner or county clerk or whenever any question is to be submitted to a vote of the registered voters of any locality and not to the state generally. The ballots shall be printed in English and in any other language required pursuant to the Voting Rights Act Language Assistance Amendments of 1992. If a question is submitted to the registered voters of any city or village alone, the city or village clerk shall provide the necessary ballots. Sample ballots shall be prepared for each precinct and shall be the same as the official ballots for the precinct. The official ballot shall be headed with the words Official Ballot, and the sample ballot shall be headed with the words Sample Ballot. All official and sample ballots shall be in the possession of the election commissioner, county clerk, or city or village clerk at least ten days before the election and subject to inspection by the candidates or their agents. One set of sample ballots shall be posted in the office of the election commissioner or county clerk not later than ten days prior to the election. Two sample ballots shall be posted at each polling place in each precinct on the morning of election day by the judges and clerks of election at or near the polling place. Additional sample ballots may be printed. No person other than an election commissioner, county clerk, or city or village clerk shall print or cause to be printed or distributed any ballot marked Official Ballot.

Source: Laws 1994, LB 76, § 226.

Annotations

The arrangement of party names on the ballot is a matter within the discretion of the county clerk provided that each candidate is given the designation to which he is entitled. *Woods v. State ex rel. McNerney*, 44 Neb. 430, 63 N.W. 23 (1895).

32-806. Official ballots; color; type style and size.

All official ballots prepared pursuant to the Election Act shall be white in color, except that the election commissioner, county clerk, or city or village clerk may designate a distinctive color of ballot or ink for city, village, or school elections or, when authorized by the Secretary of State, for elections of any other political subdivision. If a distinctive color is designated, the color of the ballot shall not be the same as the sample ballots as provided in section 32-804. The style and size of type on official ballots shall be as close as possible to the style used on the ballots furnished by the Secretary of State.

Source: Laws 1994, LB 76, § 227.

32-807. Ballots; number; printing and delivery.

The election commissioner, county clerk, or city or village clerk shall print and deliver to each precinct or district in the county, city, or village an approximate number of ballots based upon what would appear sufficient at the time the ballots are to be printed. Such totals shall take into consideration increases in registration, early voting, annexations, changes in boundaries, spoiled ballots, and any other factor that may influence the total number of ballots needed. Additional ballots shall be printed to meet any contingency in order to provide a sufficient number of ballots for each precinct or district in the county, city, or village.

Source: Laws 1994, LB 76, § 228; Laws 2005, LB 98, § 7.

Annotations

Under this section, the number of ballots to be printed is not a fixed and certain quantity, but is the result of computation by the clerk and is subject in some degree to his discretion. *Wahlquist v. Adams County*, 94 Neb. 682, 144 N.W. 171 (1913).

32-808. Ballots for early voting; delivery; special ballot; publication of application form.

(1) Except as otherwise provided in section 32-939.02, ballots for early voting to be mailed pursuant to section 32-941 shall be ready for delivery to registered voters at least thirty-five days prior to each statewide primary or general election and at least fifteen days prior to all other elections.

(2) The election commissioner or county clerk shall not mail or issue any ballot for early voting if the election to which such ballot pertains has already been held.

(3) The election commissioner or county clerk shall publish in a newspaper of general circulation in the county an application form to be used by registered voters in making an application for a ballot for early voting after the ballots become available. The publication of the application shall not be required if the election is held by mail pursuant to sections 32-952 to 32-959.

Source: Laws 1994, LB 76, § 229; Laws 1996, LB 964, § 4; Laws 1997, LB 764, § 74; Laws 1999, LB 571, § 3; Laws 2005, LB 98, § 8; Laws 2007, LB646, § 5; Laws 2010, LB951, § 3; Laws 2013, LB271, § 1.

Cross References

Ballots for early voting for school bond elections, see section 10-703.01.

32-808.01. Ballot for early voting; application; distribution by mail; requirements; applicability.

(1) Except as provided in subsection (2) of this section, any person or organization distributing an application by mail for a ballot for early voting shall use the form prescribed by the Secretary of State. The form shall contain on the top of the first page in bold type (a) the identity of the person or organization distributing the form and (b) the following statements:

You may submit this form if you wish to request a ballot for early voting. You do not need to complete this form if you have already requested a ballot for early voting for this election.

(2) This section shall not apply to an application for a ballot for early voting distributed by the Secretary of State, an election commissioner, or a county clerk.

Source: Laws 2022, LB843, § 31.

Effective Date: July 21, 2022

32-809. Statewide primary election; official ballot; form; contents.

(1) The form of the official ballot at the statewide primary election shall be prescribed by the Secretary of State. At the top of the ballot and over all else shall be printed in boldface type the name of the political party, Official Ballot, Primary Election 20.. . Each division containing the names of the office and a list of candidates for such office shall be separated from other groups by a bold line. The ballot shall list at-large candidates and subdistrict candidates under appropriate headings.

(2) All proposals for constitutional amendments and candidates on the nonpartisan ballot shall be submitted on a ballot where bold lines separate one office or issue from another. Proposals for constitutional amendments proposed by the Legislature shall be placed on the ballot as provided in sections 49-201 to 49-211. All constitutional amendments shall be placed on a separate ballot when a paper ballot is used which requires the ballot after being voted to be folded before being deposited in a ballot box. When an optical-scan ballot is used which requires a ballot envelope or sleeve in which the ballot after being voted is placed before being deposited in a ballot box, constitutional amendments may be printed on either side of the ballot and shall be separated from other offices or issues by a bold line. Constitutional amendments so arranged shall constitute a separate ballot.

(3) Except as otherwise provided in section 32-811, the statewide primary election ballot shall contain the name of every candidate filing or recognized under subsection (1) of section 32-606 and sections 32-611, 32-613, and 32-614 and no other names. No name of a candidate for member of the Legislature or an elective office described in Article IV, section 1, of the Constitution of Nebraska shall appear on any ballot or any series of ballots at any primary election more than once. When two or more of the last names of candidates for the same office at the primary election are the same in spelling or sound, the official ballots may, on the request of any such candidate, have his or her address printed immediately below his or her name in capital and lowercase letters in lightface type of the same size as the type in which the name of the candidate is printed.

Source: Laws 1994, LB 76, § 230; Laws 2003, LB 358, § 11; Laws 2012, LB878, § 4; Laws 2022, LB843, § 27.

Effective Date: July 21, 2022

32-810. Primary election ballot; arrangement of names and proposals.

(1) The election commissioner or county clerk shall place the names of all partisan candidates certified to him or her by the Secretary of State and of those partisan candidates filing in his or her office on a primary election ballot headed with the political party designation. The names of each nonpartisan candidate certified by the Secretary of State and of each nonpartisan candidate filing in the office of the election commissioner or county clerk shall be placed on the primary election ballot headed by the words Nonpartisan Ticket.

(2) If any office is not subject to the upcoming election, the office shall be omitted from the ballot and the remaining offices shall move up so that the same relative order is preserved. The order of any offices may be altered to allow for the best utilization of ballot space in order to avoid printing a second ballot when one ballot would be sufficient if an optical-scan ballot is used. All proposals on the ballot submitted by a political subdivision shall follow all offices on the ballot for such political subdivision.

(3) The election commissioner or county clerk shall follow the order of precincts or wards as set out in the official abstract book on file in his or her office in preparing the official ballots. At the primary election, on the first set of ballots for the first precinct or ward shall be the names of candidates filing by date and hour as certified by the Secretary of State and for local candidates the names of candidates shall be listed in the order of filing by date and hour with the election commissioner or county clerk. When there are more candidates than vacancies for the same office, the names of all partisan and nonpartisan candidates at a primary election shall be rotated precinct by precinct in each office division in the order in which the precincts are set out in the official abstract book. In making the changes of position, the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the column so that the name that was second shall be first after the change.

Source: Laws 1994, LB 76, § 231; Laws 1997, LB 764, § 75; Laws 1999, LB 571, § 4; Laws 2003, LB 358, § 12.

32-811. Political subdivisions; certain county officers; political party convention delegates; names not on ballot; when.

(1)(a) If the names of candidates properly filed for nomination at the primary election for directors of natural resources districts, directors of public power districts, members of airport authority boards elected pursuant to sections 32-547 to 32-549, members of the boards of governors of community college areas, members of the boards of Class III or Class V school districts which nominate candidates at a primary election, and officers of cities of the first or second class and cities having a city manager plan of government do not exceed two candidates for each position to be filled, any such candidates shall be declared nominated and their names shall not appear on any primary election ballots.

(b) If the number of candidates properly filed for the nomination of a political party at the primary election for any county officer elected pursuant to sections 32-517 to 32-529 does not exceed the number of candidates to be nominated by that party for that office, any such properly filed candidates shall be declared nominated and their names shall not appear on any primary election ballots.

(c) The official abstract of votes kept by the county or state shall show the names of such candidates with the statement Nominated Without Opposition. The election commissioner or county clerk shall place the names of such automatically nominated candidates on the general election ballot as provided in section 32-814 or 32-815.

(2) Candidates shall not appear on the ballot in the primary election for the offices listed in subsection (2) of section 32-606.

(3) If the number of candidates for delegates to a county or national political party convention are the same in number or less than the number of candidates to be elected, the names shall not appear on the primary election ballot and those so filed shall receive a certificate of election.

Source: Laws 1994, LB 76, § 232; Laws 1995, LB 194, § 8; Laws 1997, LB 764, § 76; Laws 2003, LB 15, § 1; Laws 2011, LB449, § 7; Laws 2012, LB878, § 5; Laws 2012, LB1035, § 2; Laws 2014, LB56, § 2.

32-812. Statewide general election; official ballot; form.

The form of the official ballot at the statewide general election shall be prescribed by the Secretary of State. At the top of the ballot for general elections and over all else shall be printed in boldface type the words Official Ballot, General Election, November, 20.... . Each division containing the names of the office and a list of candidates nominated for such office shall be separated from other groups by a bold line. The ballot shall list at-large candidates and subdistrict candidates under appropriate headings.

Source: Laws 1994, LB 76, § 233; Laws 2004, LB 813, § 15.

32-813. Statewide general election; ballot; contents.

(1) The names of all candidates and all proposals to be voted upon at the general election shall be arranged upon the ballot in parts separated from each other by bold lines in the order the offices and proposals are set forth in this section. If any office is not subject to the upcoming election, the office shall be omitted from the ballot and the remaining offices shall move up so that the same relative order is preserved. The order of any offices may be altered to allow for the best utilization of ballot space in order to avoid printing a second ballot when one ballot would be sufficient if an optical-scan ballot is used. All proposals on the ballot submitted by a political subdivision shall follow all offices on the ballot submitted by a political subdivision.

(2)(a) If the election is in a year in which a President of the United States is to be elected, the names and spaces for voting for candidates for President and Vice President shall be entitled Presidential Ticket in boldface type.

(b) The names of candidates for President and Vice President for each political party shall be grouped together, and each group shall be enclosed with brackets with the political party name next to the brackets and one square or oval opposite the names in which the voter indicates his or her choice.

(c) The names of candidates for President and Vice President who have successfully petitioned on the ballot for the general election shall be grouped together with the candidates appearing on the same petition being grouped together, and each group shall be enclosed with brackets with the words "By Petition" next to the brackets and one square or oval opposite the names in which the voter indicates his or her choice.

(d) Beneath the names of the candidates for President and Vice President certified by the officers of the national political party conventions pursuant to section 32-712 and beneath the names of all candidates for President and Vice President placed on the general election ballot by petition, two write-in lines shall be provided in which the voter may fill in the names of the candidates of his or her choice. The lines shall be enclosed with brackets with one square or oval opposite the names in which the voter indicates his or her choice. The name appearing on the top line shall be considered to be the candidate for President, and the name appearing on the second line shall be considered to be the candidate for Vice President.

(3) The names and spaces for voting for candidates for United States Senator if any are to be elected shall be entitled United States Senatorial Ticket in boldface type.

(4) The names and spaces for voting for candidates for Representatives in Congress shall be entitled Congressional Ticket in boldface type. Above the candidates' names, the office shall be designated For Representative in Congress District.

(5) The names and spaces for voting for candidates for the various state officers shall be entitled State Ticket in boldface type. Each set of candidates shall be separated by lines across the column, and above each set of candidates shall be designated the office for which they are candidates, arranged in the order prescribed by the Secretary of State. The candidates for Governor of each political party receiving the highest number of votes in the primary election shall be grouped together with their respective candidates for Lieutenant Governor. Each group shall be enclosed with brackets with the political party name next to the brackets and one square or oval opposite the names in which the voter indicates his or her choice for Governor and Lieutenant Governor jointly. The candidates for Governor and Lieutenant Governor who have successfully petitioned on the general election ballot shall be grouped together with the candidates appearing on the same petition being grouped together. Each group shall be enclosed with brackets with the words "By Petition" next to the brackets and one square or oval opposite the names in which the voter indicates his or her choice for Governor and Lieutenant Governor jointly. Beneath the names of the candidates for Governor nominated at a primary election by political party and their respective candidates for Lieutenant Governor and beneath the names of all candidates for Governor and Lieutenant Governor placed on the general election ballot by petition, one write-in line shall be provided in which the registered voter may fill in the name of the candidate for Governor of his or her choice and one square or oval opposite the line in which the voter indicates his or her choice for Governor.

(6) The names and spaces for voting for nonpartisan candidates shall be entitled Nonpartisan Ticket in boldface type. The names of all nonpartisan candidates shall appear in the order listed in this subsection, except that when using an optical-scan ballot, the order of offices may be altered to allow for the best utilization of ballot space to avoid printing a second ballot when one ballot would be sufficient:

- (a) Legislature;
- (b) State Board of Education;
- (c) Board of Regents of the University of Nebraska;
- (d) Chief Justice of the Supreme Court;
- (e) Judge of the Supreme Court;
- (f) Judge of the Court of Appeals;

(g) Judge of the Nebraska Workers' Compensation Court;

(h) Judge of the District Court;

(i) Judge of the Separate Juvenile Court;

(j) Judge of the County Court; and

(k) County officers in the order prescribed by the election commissioner or county clerk.

(7) The names and spaces for voting for the various county offices and for measures submitted to the county vote only or in only a part of the county shall be entitled County Ticket in boldface type. If the election commissioner or county clerk deems it advisable, the measures may be submitted on a separate ballot if using a paper ballot or on either side of an optical-scan ballot if the ballot is placed in a ballot envelope or sleeve before being deposited in a ballot box.

(8) The candidates for office in the precinct only or in the city or village only shall be printed on the ballot, except that if the election commissioner or county clerk deems it advisable, candidates for these offices may be submitted on a separate ballot if using a paper ballot or on either side of an optical-scan ballot if the ballot is placed in a ballot envelope or sleeve before being deposited in a ballot box.

(9) All proposals submitted by initiative or referendum and proposals for constitutional amendments shall be placed on a separate ballot when a paper ballot is used which requires that the ballot after being voted be folded before being deposited in a ballot box. When an optical-scan ballot is used which requires a ballot envelope or sleeve in which the ballot after being voted is placed before being deposited in a ballot box, initiative or referendum proposals and proposals for constitutional amendments may be placed on either side of the ballot, shall be separated by a bold line, and shall follow all other offices placed on the same side of the ballot. Initiative or referendum proposals and constitutional amendments so arranged shall constitute a separate ballot. Proposals for constitutional amendments proposed by the Legislature shall be placed on the ballot as provided in sections 49-201 to 49-211.

Source: Laws 1994, LB 76, § 234; Laws 1999, LB 571, § 5; Laws 2001, LB 252, § 1; Laws 2001, LB 768, § 5; Laws 2003, LB 358, § 13; Laws 2015, LB575, § 19.

32-814. General election ballot; arrangement of names.

(1) The election commissioner or county clerk shall place the names of all nonpartisan candidates upon the same official general election ballot as the partisan candidates. The names placed on the official and sample general election ballots shall be the names of candidates nominated in the primary election, the names of petition candidates if any, the names of automatically nominated candidates as provided in section 32-811, and the names of candidates filing as provided in subsection (2) of section 32-606. The names of the candidates shall be placed under the proper titles.

(2) The election commissioner or county clerk shall place on the official general election ballot in each office division no more than twice as many names as there are places to be filled at the general election unless more than one candidate has successfully petitioned on the ballot to fill a vacancy after the primary election. The names of the nonpartisan candidates who received the highest number of votes for the office for which they were candidates in the primary election shall be placed on the official ballot. If more than one person was a candidate for the same position in the primary election, the election commissioner or county clerk shall place on the official ballot the names of the two persons who received the highest number of votes in the primary election for the position for which they were candidates.

(3) When the name of a person is written in and voted for as a candidate for an office for which he or she did not file in the primary election, such person shall not be entitled to a certificate of nomination at the primary election and shall not have his or her name placed on the general election ballot unless he or she (a) receives at least five percent of the total vote cast for Governor or for President of the United States at the immediately preceding general election in the political subdivision from which nominees for such position are to be chosen, (b) is one of the candidates receiving the number of votes qualifying him or her for nomination, and (c) meets the requirements for the office.

(4) If there are more candidates than vacancies for the same office, the election commissioner or county clerk shall rotate the names of the nonpartisan candidates on the official general election ballot. The election commissioner or county clerk shall follow the order of precincts or wards as set out in the official abstract book on file in his or her office in preparing the official ballots. The first set of ballots for the first precinct or ward shall be the names of candidates filing by date and hour or of those candidates filing petitions, and for local candidates the names of candidates shall be listed in the order of filing by date and hour with the election commissioner or county clerk or of those candidates filing petitions. Thereafter the names shall be rotated precinct by precinct in each office division in the order in which the precincts are set out in the official abstract book. In making the change

of position, the printer shall take the line of type at the head of each division and place it at the bottom of that division, shoving up the column so that the name that was second shall be first after the change.

Source: Laws 1994, LB 76, § 235; Laws 1997, LB 764, § 77.

Annotations

Provision for eliminating all but one candidate does not apply to petition candidates on nonpolitical county ticket. *State ex rel. King v. Hanson*, 138 Neb. 644, 294 N.W. 453 (1940).

A write-in candidate, who receives the requisite number of votes cast by a political party at a primary election, is the nominee of that party. *State ex rel. Driscoll v. Swanson*, 127 Neb. 715, 256 N.W. 872 (1934).

Before a person can be the nominee of any political party, such person must receive the requisite number of votes cast by that party at the primary election. *State ex rel. Dickinson v. Sheldon*, 80 Neb. 4, 113 N.W. 802 (1907).

32-815. General election ballot; partisan candidates; placement and rotation of names.

(1) The names of candidates for each partisan elective office shall be arranged on the ballot of the general election so that the political party polling the highest number of votes at the last general election for Governor will have the name of its nominee immediately beneath the name of the office for which the candidate was nominated, the political party polling the second highest number of votes will have the second place, the political party having the third highest number of votes will have the third place, and continuing with the political parties in descending order of number of votes, leaving those candidates whose names appear upon the ballot by petition to appear beneath all other candidates placed there by nomination. For each office for which there are more candidates than vacancies and there are two or more nominees of the same political party, the election commissioner or county clerk shall rotate the names of such candidates on the official ballot. In printing the ballots for the various election districts, the positions of the names shall be changed in each office division for each election district. In making the change of position, the printer shall take the line of type at the head of each division and place it at the bottom of that division, shoving up the column so that the name that was second shall be first after the change.

(2) The name of the person receiving the highest number of votes at a primary election as the candidate of a political party for an office shall be placed on the official ballot except as otherwise provided in the Election Act. Except as provided in section 32-811 for automatically nominated candidates, no person shall be certified as a candidate of any political party for such office by the Secretary of State, election commissioner, or county clerk unless the person receives a number of votes at least equal to five percent of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office serves and meets the requirements for the office.

Source: Laws 1994, LB 76, § 236; Laws 1997, LB 764, § 78; Laws 1999, LB 571, § 6; Laws 2014, LB56, § 3.

Annotations

A write-in candidate, who receives the requisite number of votes cast by a political party at a primary election, is the nominee of that party. *State ex rel. Driscoll v. Swanson*, 127 Neb. 715, 256 N.W. 872 (1934).

Before a person can be the nominee of any political party, such person must receive the requisite number of votes cast by that party at the primary election. *State ex rel. Dickinson v. Sheldon*, 80 Neb. 4, 113 N.W. 802 (1907).

32-816. Official ballots; write-in space provided; exceptions; requirements.

(1) A blank space shall be provided at the end of each office division on the ballot for registered voters to fill in the name of any person for whom they wish to vote and whose name is not printed upon the ballot. A square or oval shall be printed opposite each write-in space similar to the square or oval placed opposite other candidates and issues on the ballot. The square or oval shall be marked to vote for a write-in candidate whose name appears in the write-in space provided.

(2) The Secretary of State shall approve write-in space for optical-scan ballots and any other voting system authorized for use under the Election Act. Adequate provision shall be made for write-in votes sufficient to allow one write-in space for each office to be elected at any election except offices for which write-in votes are specifically prohibited. The write-in ballot shall clearly identify the office for which such write-in vote is cast. The write-in space shall be a part of the official ballot, may be on the envelope or a separate piece of paper from the printed portion of the ballot, and shall allow the voter adequate space to fill in the name of the candidate for whom he or she desires to cast his or her ballot.

Source: Laws 1994, LB 76, § 237; Laws 1997, LB 764, § 79; Laws 2001, LB 252, § 2; Laws 2003, LB 358, § 14; Laws 2010, LB852, § 1; Laws 2019, LB411, § 42; Laws 2021, LB285, § 14.

Annotations

Where a voter writes in a name on the ballot, he must make a cross or other clear intelligible mark in the square opposite the written name to have the ballot counted. *Yeoman v. Houston*, 168 Neb. 855, 97 N.W.2d 634 (1959).

Since the nonpartisan judiciary act is silent as to write-in candidates, this section applies and permits the placing of blank lines on the ballots for write-in purposes. *State ex rel. Zeilinger v. Thompson*, 134 Neb. 739, 279 N.W. 462 (1938).

The voters of the state have an unimpeded right to vote for any candidate for public office as a write-in candidate although such candidate may not be entitled to have his name placed on either the primary ballot or on the general election ballot as a candidate by petition. *State ex rel. Nelson v. Marsh*, 123 Neb. 423, 243 N.W. 277 (1932).

In the absence of fraud or an unlawful purpose, a ballot with the name of a candidate written in should be counted although the name of the same candidate is also printed on the ballot. *Shaw v. Stewart*, 115 Neb. 315, 212 N.W. 760 (1927).

This section is general in application and did not supersede the nonpartisan judiciary act. *State ex rel. Oleson v. Minor*, 105 Neb. 228, 180 N.W. 84 (1920).

A candidate for an office on the nonpolitical ballot may be nominated by having his name written in by a sufficient number of electors at the primary election. *State ex rel. Hughes v. Hogeboom*, 103 Neb. 603, 173 N.W. 589 (1919).

32-817. Official ballots; printing requirements.

The names of the candidates shall be set in boldface type using capital and lowercase letters. A square or oval shall be printed opposite the name of each candidate. At the general election, the name of the party represented by a candidate for partisan office shall be printed in capital and lowercase letters next to the name. Proposals submitted by initiative or referendum or for constitutional amendments shall be printed in capital and lowercase letters, but the title heading and number thereof shall be in boldface type, and the square or oval for voting thereon shall be printed opposite the text so that it is clear for which issue the voter is casting a vote. Ballots shall be printed with substantially the same appearance, including type and form, as the sample ballot furnished by the Secretary of State.

Source: Laws 1994, LB 76, § 238; Laws 2003, LB 358, § 15.

32-818. Death of candidate; removal of name from ballot.

The Secretary of State, election commissioner, county clerk, or city or village clerk may remove a name from the ballot upon personal knowledge or proof of death at any time prior to the actual printing of the ballot even if the notice of election has been published containing the name of such deceased candidate or nominee.

Source: Laws 1994, LB 76, § 239.

32-819. Ballots; errors; how corrected.

(1) Whenever it appears by affidavit that an error or omission has occurred in the name or description of a candidate nominated for office or in the printing of the sample or official ballots, the county or district judge sitting at chambers may by order, upon the application of any registered voter, require the election commissioner, county clerk, or city or village clerk to correct such error or to show cause why such error or omission should not be corrected.

(2) The election commissioner, county clerk, or city or village clerk shall correct without delay any patent error in the ballots which he or she may discover or which is brought to his or her attention and which can be corrected without interfering with the timely distribution of the ballots.

(3) The election commissioner, county clerk, or city or village clerk shall not be required to correct any error on the ballot after the thirty-fifth day prior to the election except as otherwise ordered by the court.

Source: Laws 1994, LB 76, § 240; Laws 2002, LB 935, § 7.

Annotations

This section requires the county clerk to correct any patent errors discovered in the ballots and provides a summary method of coercion if he fails to do so. *Wahlquist v. Adams County*, 94 Neb. 682, 144 N.W. 171 (1913).

An objection to the form of the ballot cannot be made after the election has been held. *Tutt v. Hawkins*, 53 Neb. 367, 73 N.W. 692 (1898).

This section provides the method for correcting the political or other description of the candidates on the ballots as printed. *State ex rel. Crawford v. Norris*, 37 Neb. 299, 55 N.W. 1086 (1893).

Objections to the form of the ballot cannot be made after the election. *State ex rel. Christy v. Stein*, 35 Neb. 848, 53 N.W. 999 (1892).

32-820. Ballots; political party circle or other predetermined selection; prohibited.

No official ballot for an elective office within this state shall contain any political party circle or any provision for voting for all candidates of one political party or for a predetermined selection of candidates of one political party by the making of a mark or other indication.

Source: Laws 1994, LB 76, § 241.

Annotations

This section is independent legislation abolishing the party circle, a repeal as distinguished from an amendment, and is constitutional. *State ex rel. Kaspar v. Lehmkuhl*, 127 Neb. 812, 257 N.W. 229 (1934).

32-821. Ballots; delivery to election officials; unofficial ballots; when authorized.

Before the opening of the polls the election commissioner, county clerk, or city or village clerk shall cause to be delivered to the judges of election at each polling place the proper number of ballots as provided for in section 32-807. The ballots for each precinct shall be enclosed in a sealed packet marked with the proper designation of the precinct, and at the opening of the polls, the package of ballots shall be publicly broken by one of the judges of election. If for any cause the official ballots prepared by the election commissioner, county clerk, or city or village clerk are not ready for distribution at any polling place or if the supply of ballots is exhausted before the polls are closed, printed, copied, or written ballots which are as nearly as possible in the form of official ballots may be used.

Source: Laws 1994, LB 76, § 242.

32-822. Ballots; numbering of classes.

When voters are presented with more than one ballot on election day, the election commissioner, county clerk, or city or village clerk may number each class of ballots to identify the style, precinct, or number of split ballots for convenience in distributing and counting the ballots. No number shall be placed or printed upon a ballot to be recorded so as to be able to determine the identity of the person who voted such ballot.

Source: Laws 1994, LB 76, § 243.

32-901. Ballots; voting procedure.

(1) To vote for a candidate or on a ballot question using a paper ballot that is to be manually counted, the registered voter shall make a cross or other clear, discernible mark in the square opposite the name of every candidate, including write-in candidates, for whom he or she desires to vote and, in the case of a ballot question, opposite the answer he or she wishes to give. Making a cross or other clear, discernible mark in the square constitutes a valid vote.

(2) To vote for a candidate or on a ballot question using a ballot that is to be counted by optical scanner, the registered voter shall fill in the oval or other space provided opposite the name of every candidate, including write-in candidates, for whom he or she desires to vote and, in the case of a ballot question, opposite the answer he or she wishes to give. A mark in the oval or provided space that is discernible by the scanner constitutes a valid vote.

(3) To vote for a candidate or on a ballot question using a voting system with an electronic aspect authorized for use under the Election Act, the registered voter shall follow the instructions for using the voting system to cause a mark to be recorded opposite the candidate or ballot question response for which the voter wishes to vote. Causing such mark to be recorded does not constitute a valid vote. A paper ballot printed to reflect the voter's choices constitutes a valid vote.

Source: Laws 1994, LB 76, § 244; Laws 2003, LB 358, § 16; Laws 2005, LB 566, § 31; Laws 2019, LB411, § 43.

Annotations

1. Legal ballots

2. Illegal ballots

3. Absence of cross

4. Miscellaneous

1. Legal ballots

The provisions of this section are directory and, in the absence of fraud or unlawful purpose, a ballot with the name of a candidate written in should be counted although the name of the same candidate is also printed on the ballot. *Shaw v. Stewart*, 115 Neb. 315, 212 N.W. 760 (1927).

In the absence of evidence showing that ballots were marked for identification, they are presumed valid. *White v. Slama*, 89 Neb. 65, 130 N.W. 978 (1911).

A ballot marked other than as provided by law is not valid unless marked for identification. *Gauvreau v. Van Patten*, 83 Neb. 64, 119 N.W. 11 (1908).

A ballot marked other than as provided by law is not void unless marked for identification. *Bingham v. Broadwell*, 73 Neb. 605, 103 N.W. 323 (1905).

2. Illegal ballots

Ballots signed by an elector are void and must be rejected. *Swan v. Bowker*, 135 Neb. 405, 281 N.W. 891 (1938).

Validity of irregularly marked ballots is discussed in detail. *Griffith v. Bonawitz*, 73 Neb. 622, 103 N.W. 327 (1905).

3. Absence of cross

The provisions of this section are merely directory, and under former law ballots with a candidate's name written in and no cross placed in any square should be counted for that candidate. *State ex rel. Lanham v. Sheets*, 119 Neb. 145, 227 N.W. 457 (1929).

All ballots marked in a peculiar manner, other than with a cross, should not be counted. *Mauck v. Brown*, 59 Neb. 382, 81 N.W. 313 (1899).

Ballots with a candidate's name written in but with no mark placed opposite any name must be rejected. *Martin v. Miles*, 46 Neb. 772, 65 N.W. 889 (1896). (Overruled by *State ex rel. Lanham v. Sheets*, 119 Neb. 145, 227 N.W. 457 (1929).)

4. Miscellaneous

Ballots are required to be folded so as to expose names of judges endorsed on back. *Mommsen v. School Dist. No. 25*, 181 Neb. 187, 147 N.W.2d 510 (1966).

32-902. Voting instructions; voting information; posting.

(1) The election commissioner or county clerk shall cause instructions for the guidance of registered voters in preparing their ballots to be printed in large, clear type on cards in English. He or she shall furnish at least five such cards to each polling place in each precinct at the same time and in the same manner as the printed ballots. The judges or clerks of election shall post such cards in each voting booth on the day of election. The card shall contain full instructions on preparing and casting ballots, including how to cast a write-in vote. The form and contents of the cards shall be approved by the Secretary of State.

(2) The election commissioner or county clerk shall cause voting information to be posted in each polling place on the day of election. The voting information shall include the following information as approved by the Secretary of State:

(a) Information regarding the date of the election and the hours during which polling places will be open;

(b) Instructions for voters who registered to vote pursuant to section 32-304 or by mail and first-time voters;

(c) General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and

(d) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

Source: Laws 1994, LB 76, § 245; Laws 2003, LB 358, § 17; Laws 2014, LB661, § 13.

Annotations

Statutory provisions regulating the conduct of an election are directory only when they are not essential to a fair election and they are not made mandatory by the statute itself. *Boyer v. Aden*, 241 Neb. 1, 486 N.W.2d 22 (1992).

32-903. Precincts; creation; requirements; election commissioner or county clerk; powers and duties.

(1) The election commissioner or county clerk shall create precincts composed of compact and contiguous territory within the boundary lines of legislative districts. The precincts shall contain not less than seventy-five nor more than one thousand seven hundred fifty registered voters based on the number of voters voting at the last statewide general election, except that a precinct may contain less than seventy-five registered voters if in the judgment of the election commissioner or county clerk it is necessary to avoid creating an undue hardship on the registered voters in the precinct. The election commissioner or county clerk shall create precincts based on the number of votes cast at the immediately preceding presidential election or the current list of registered voters for the precinct. The election commissioner or county clerk shall revise and rearrange the precincts and increase or decrease them at such times as may be necessary to make the precincts contain as nearly as practicable not less than seventy-five nor more than one thousand seven hundred fifty registered voters voting at the last statewide general election. The election commissioner or county clerk shall, when necessary and possible, readjust precinct boundaries to coincide with the boundaries of cities, villages, and school districts which are divided into districts or wards for election purposes. The election commissioner or county clerk shall not make any precinct changes in precinct boundaries or divide precincts into two or more parts between the statewide primary and general elections unless he or she has been authorized to do so by the Secretary of State. If changes are authorized, the election commissioner or county clerk shall notify each state and local candidate affected by the change.

(2) The election commissioner or county clerk may alter and divide the existing precincts, except that when any city of the first class by ordinance divides any ward of such city into two or more voting districts or polling places, the election commissioner or county clerk shall establish precincts or polling places in conformity with such ordinance. No such alteration or division shall take place between the statewide primary and general elections except as provided in subsection (1) of this section.

(3) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the election commissioner or county clerk shall create, revise, or rearrange precincts in compliance with subsections (1) and (2) of this section and deliver maps of the updated precinct boundaries to all applicable political subdivisions within the jurisdiction of the election commissioner or county clerk by November 1, 2021.

(4) The Secretary of State may grant additional days for election commissioners and county clerks to meet the requirements of subsection (3) of this section for an extraordinary circumstance.

Source: Laws 1994, LB 76, § 246; Laws 1997, LB 764, § 80; Laws 2003, LB 358, § 18; Laws 2005, LB 401, § 3; Laws 2011, LB449, § 8; Laws 2019, LB411, § 44; Laws 2021, LB285, § 15.

32-904. Polling places; designation; changes; notification required.

(1) The election commissioner or county clerk shall designate the polling places for each precinct at which the registered voters of the precinct will cast their votes. Polling places representing different precincts may be combined at a single location when potential sites cannot be found, contracts for utilizing polling sites cannot be obtained, or a potential site is not accessible to handicapped persons as provided in section 32-907.

(2) When combining polling places at a single site for an election other than a special election, the election commissioner or county clerk shall clearly separate the polling places from each other and maintain separate receiving boards. When combining polling places at a single site for a special election, the election commissioner or county clerk may combine the polling places and receiving boards.

(3) Polling places shall not be changed between the statewide primary and general elections unless the election commissioner or county clerk has been authorized to make such change by the Secretary of State. If changes are authorized, the election commissioner or county clerk shall notify each state and local candidate affected by the change.

(4) Notwithstanding any other provision of the Election Act, the Secretary of State may adopt and promulgate rules and regulations, with the consent of the appropriate election commissioner or county clerk, for the establishment of polling places which may be used for voting pursuant to section 32-1041 for the twenty days preceding the day of election. Such polling places shall be in addition to the office of the election commissioner or county clerk and the polling places otherwise established pursuant to this section.

Source: Laws 1994, LB 76, § 247; Laws 1997, LB 764, § 81; Laws 2005, LB 401, § 4; Laws 2007, LB646, § 6; Laws 2019, LB411, § 45.

32-905. Political subdivision; building; use as polling place or for election training purposes; when.

A political subdivision which receives federal or state funds and owns or leases a building which is suitable for a polling place in the county shall make the building available to the election commissioner or county clerk for use as a polling place or for election training purposes. The political subdivision shall not charge for the use of the building as a polling place or for election training purposes.

Source: Laws 1994, LB 76, § 248; Laws 2022, LB843, § 28.

Effective Date: July 21, 2022

32-906. Polling place; supplies and equipment; designation outside precinct; standards.

(1) The election commissioner or county clerk shall provide each polling place with ballot boxes, ballot box locks and keys, and a sufficient number of voting booths furnished with supplies and conveniences to enable each registered voter to prepare his or her ballot for voting and to secretly mark his or her ballot. One voting booth shall be provided for approximately every one hundred registered voters in the precinct. The election commissioner or county clerk may increase or decrease the number of voting booths to accommodate the expected voter turnout of any election other than a statewide election.

(2) When there is no structure within the precinct suitable for use as a polling place, the election commissioner or county clerk may designate a polling place outside the precinct and convenient thereto which shall be provided with voting booths furnished with supplies and conveniences as are other polling places.

(3) Standards for polling places shall include any applicable standards developed under sections 81-5,147 and 81-5,148.

Source: Laws 1994, LB 76, § 249; Laws 2003, LB 358, § 19; Laws 2007, LB646, § 7.

32-907. Polling places; accessibility requirements; Secretary of State; duties; training manual; training.

(1) All polling places shall be accessible to all registered voters and shall be in compliance with the federal Americans with Disabilities Act of 1990, as amended, and the federal Help America Vote Act of 2002, as amended. In addition, all polling places shall be modified or relocated to architecturally barrier-free buildings to provide unobstructed access to such polling places by people with physical limitations as required by this section. At least one voting booth shall be so constructed as to provide easy access for people with limitations, shall accommodate a wheelchair, and shall have a cover or barrier to provide privacy. The modifications required by this section may be of a temporary nature to provide such unobstructed access only on election day.

(2) All polling places shall meet the requirements of the federal Americans with Disabilities Act of 1990, as amended, and the federal Help America Vote Act of 2002, as amended, including, but not limited to, requirements for:

(a) Parking;

(b) An exterior route to an accessible entrance;

(c) Polling place entrances;

(d) The route from the entrance into the voting area;

(e) Voting areas, including, but not limited to, a sign (i) that indicates that assistance is available, (ii) that contains the contact telephone number approved by the Secretary of State, and (iii) posted with visible lettering that is two inches, plus one-eighth inch per foot of viewing distance more than one hundred eighty inches from viewing points;

(f) Ramps;

(g) Lifts; and

(h) Elevators.

(3) The Secretary of State shall develop, print, and make publicly available a training manual regarding accessibility requirements of the Election Act, the federal Americans with Disabilities Act of 1990, as amended, and the federal Help America Vote Act of 2002, as amended.

(4) The Secretary of State shall include in the biennial training for election commissioners and county clerks current standards for accessibility. All poll

workers shall receive training regarding accessibility between appointment and serving at an election.

Source: Laws 1994, LB 76, § 250; Laws 2019, LB411, § 46.

32-908. Polls; when opened and closed; receipt of ballots; deadline.

(1) At all elections in the area of this state lying within the Mountain Standard or Mountain Daylight time zone, the polls shall open at 7 a.m. and close at 7 p.m. of the same day, and in the area lying within the Central Standard or Central Daylight time zone, the polls shall open at 8 a.m. and close at 8 p.m. of the same day.

(2) Except for special elections conducted by mail as provided in sections 32-952 to 32-959, the deadline for the receipt of ballots is 7 p.m. on the day set for the election in the area lying within the Mountain Standard or Mountain Daylight time zone and 8 p.m. on the day set for the election in the area lying within the Central Standard or Central Daylight time zone.

(3) If the judges and clerks of election are not present at the polls at the required hour, the polls may be opened by those placed in charge of the polling place at any time before the time required for closing the polls on election day.

(4) If at the hour of closing there are any persons desiring to vote who are in the polling place or in a line at the polling place and who have not been able to vote since appearing at the polling place, the polls shall be kept open reasonably long enough after the hour for closing to allow those present at that hour to vote. No person arriving after the hour when the polls have officially closed shall be entitled to vote.

Source: Laws 1994, LB 76, § 251; Laws 2005, LB 566, § 32; Laws 2022, LB843, § 29.

Effective Date: July 21, 2022

32-909. Ballot box; inspection and use; election officials; duties.

Before any ballot is deposited in the ballot box, the ballot box shall be publicly opened and exhibited and the judges and clerks of election shall see that no ballot is in the box. The ballot box shall then be locked and the key delivered to one of the judges of election or, in counties having an election commissioner, to the precinct inspector. A ballot box which contains ballots that will be counted using a scanner may be opened prior to the hour established by law for the closing of the polls at the discretion of the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 252; Laws 2003, LB 358, § 20; Laws 2005, LB 566, § 33; Laws 2007, LB646, § 8.

32-910. Polling places; obstructions prohibited; restrictions on access.

Any judge or clerk of election, precinct or district inspector, sheriff, or other peace officer shall clear the passageways and prevent obstruction of the doors or entries and provide free ingress to and egress from the polling place or building and shall arrest any person obstructing such passageways. Other than a registered voter engaged in receiving, preparing, or marking a ballot or depositing a ballot in a ballot box or a precinct-based optical scanner at the polling place, an election commissioner, a county clerk, a precinct inspector, a district inspector, a judge of election, a clerk of election, a member of a counting board, or a poll watcher as provided in section 32-1525, no person shall be permitted to be within eight feet of the ballot boxes or within eight feet of any ballots being counted by a counting board.

Source: Laws 1994, LB 76, § 253; Laws 1997, LB 764, § 82; Laws 2019, LB411, § 47; Laws 2020, LB1055, § 13.

32-911. Judges of election; presence; required.

No two judges of election shall be absent at the same time from the room in which the election is held during the hours the polls are open or while the votes are being counted.

Source: Laws 1994, LB 76, § 254.

32-912. Voters; ballots to which entitled; political party rule; effect.

(1) Any registered voter desiring to vote in a primary election held under the Election Act shall be entitled to participate in such primary election upon presenting himself or herself at the polling place for his or her residence. A registered voter who is affiliated with a political party shall receive from the receiving board all nonpartisan ballots and the partisan ballot of the political party indicated on his or her voter registration. Except as provided in subsections (2) and (3) of this section, a registered voter who is not affiliated with any political party shall receive only nonpartisan ballots at a primary election.

(2) Any political party may allow registered voters who are not affiliated with a political party to vote in the primary election for any elective office for which the party has candidates except for the office of delegate to the party's county, state, or national convention. Any political party desiring to permit such registered voters to vote for candidates of that party in the primary election shall file a letter stating that the governing body of the political party has adopted a rule allowing registered voters who are not affiliated with a political party to vote in the primary election for candidates of that party. The letter and copy of the adopted rule shall be filed with the Secretary of State at least sixty days before the primary election. The Secretary of State shall notify the appropriate election commissioners and county clerks in writing that the political party filing the letter will allow registered voters who are not affiliated with a political party to vote in the primary election for candidates of that party. Once filed, the rule allowing such voters to vote in such primary election shall be irrevocable and shall apply only to the primary election immediately following the adoption of the rule.

(3) A registered voter who is not affiliated with a political party and who desires to vote in the primary election for the office of United States Senator or United States Representative may request a partisan ballot for either or both of such offices from any political party. The election commissioner or county clerk shall post a notice in a conspicuous location, easily visible and readable by voters prior to approaching the receiving board, that a registered voter who is not affiliated with a political party may request such ballots. No such registered voter shall receive more than one such partisan ballot.

(4) The registered voters residing in a political subdivision may cast their ballots for candidates for the offices in that subdivision and for issues proposed for that subdivision, except that when officers are to be nominated or elected from a subdistrict of the political subdivision, the registered voters residing in the subdistrict may only vote for candidates from the subdistrict and for candidates for officers to be elected at large from the whole political subdivision.

32-913. Precinct list of registered voters; sign-in register; preparation and use.

(1) The clerks of election shall have a list of registered voters of the precinct and a sign-in register at the polling place on election day. The list of registered voters shall be used for guidance on election day and may be in the form of a computerized, typed, or handwritten list or precinct registration cards. Registered voters of the precinct shall place and record their signature in the sign-in register before receiving any ballot. The list of registered voters and the sign-in register may be combined into one document at the discretion of the election commissioner or county clerk including, beginning July 1, 2019, by the use of an electronic poll book. If a combined document is used, a clerk of election may list the names of the registered voters in a separate book in the order in which they voted.

(2) Within twenty-four hours after the polls close in the precinct, the precinct inspector or one of the judges of election shall deliver the precinct list of registered voters and the precinct sign-in register to the election commissioner or county clerk. The election commissioner or county clerk shall file and preserve the list and register. No member of a receiving board who has custody or charge of the precinct list of registered voters and the precinct sign-in register shall permit the list or register to leave his or her possession from the time of receipt until he or she delivers them to another member of the receiving board or to the precinct inspector or judge of election for delivery to the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 256; Laws 1997, LB 764, § 83; Laws 2003, LB 358, § 21; Laws 2007, LB44, § 1; Laws 2018, LB1065, § 6.

32-914. Ballots; distribution procedure.

(1) Official ballots shall be used at all elections. No person shall receive a ballot or be entitled to vote unless and until he or she is registered as a voter except as provided in section 32-914.01, 32-914.02, 32-915, 32-915.01, or 32-936.

(2) Except as otherwise specifically provided, no ballot shall be handed to any voter at any election until:

(a) He or she announces his or her name and address to the clerk of election;

(b) The clerk has found that he or she is a registered voter at the address as shown by the precinct list of registered voters unless otherwise entitled to vote in the precinct under section 32-328, 32-914.01, 32-914.02, 32-915, or 32-915.01;

(c) The voter has presented a photographic identification which is current and valid at the time of the election, or a copy of a utility bill, bank statement, paycheck, government check, or other government document which is current at the time of the election and which shows the same name and residence address of the voter that is on the precinct list of registered voters, if the voter registered by mail after January 1, 2003, and has not previously voted in an election for a federal office within the county and a notation appears on the precinct list of registered voters that the voter has not previously presented identification to the election commissioner or county clerk;

(d) As instructed by the clerk of election, the registered voter has personally written his or her name (i) in the precinct sign-in register on the appropriate line which follows the last signature of any previous voter or (ii) in the combined document containing the precinct list of registered voters and the sign-in register; and

(e) The clerk has listed on the precinct list of registered voters the corresponding line number and name of the registered voter or has listed the name of the voter in a separate book as provided in section 32-913.

Source: Laws 1994, LB 76, § 257; Laws 1997, LB 764, § 84; Laws 2002, LB 1054, § 19; Laws 2003, LB 358, § 22; Laws 2003, LB 359, § 4; Laws 2005, LB 566, § 34; Laws 2007, LB44, § 2.

32-914.01. Registered voter; change of name; entitled to vote; when.

If a person who is registered to vote changes his or her name but the 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 registration application to update his or her voter registration record at the polling place. The election commissioner or county clerk shall update the voter registration register to reflect the change of name.

Source: Laws 1997, LB 764, § 85; Laws 1999, LB 234, § 10; Laws 2005, LB 566, § 35.

32-914.02. Registered voter; change of residence; entitled to vote; when.

If a person who is registered to vote moves to a new residence within the same county and precinct and has continuously resided in such county and precinct since registering to vote but the 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. The election commissioner or county clerk shall designate whether such a person is entitled to a regular ballot upon completing a registration application to update his or her voter registration record at the polling place or a provisional ballot as provided in section 32-915. The election commissioner or county clerk shall implement the policy regarding designation of ballots uniformly throughout the county. The election commissioner or county clerk shall update the voter registration register to reflect the change of address.

Source: Laws 1997, LB 764, § 86; Laws 1999, LB 234, § 11; Laws 2003, LB 358, § 23; Laws 2005, LB 566, § 36; Laws 2010, LB325, § 4.

32-914.03. Repealed. Laws 2003, LB 358, § 46.

32-915. Provisional ballot; conditions; certification.

(1) A person whose name does not appear on the precinct list of registered voters at the polling place for the precinct in which he or she resides, whose name appears on the precinct list of registered voters at the polling place for the precinct in which he or she resides at a different residence address as described in section 32-914.02, or whose name appears with a notation that he or she received a ballot for early voting may vote a provisional ballot if he or she:

(a) Claims that he or she is a registered voter who has continuously resided in the county in which the precinct is located since registering to vote;

(b) Is not entitled to vote under section 32-914.01 or 32-914.02;

(c) Has not registered to vote or voted in any other county since registering to vote in the county in which the precinct is located;

(d) Has appeared to vote at the polling place for the precinct to which the person would be assigned based on his or her residence address; and

(e) Completes and signs a registration application before voting.

(2) A voter whose name appears on the precinct list of registered voters for the polling place with a notation that the voter is required to present identification pursuant to section 32-318.01 but fails to present identification may vote a provisional ballot if he or she completes and signs a registration application before voting.

(3) Each person voting by provisional ballot shall enclose his or her ballot in an envelope marked Provisional Ballot and shall, by signing the certification on the front of the envelope or a separate form attached to the envelope, certify to the following facts:

(a) I am a registered voter in County;

(b) My name or address did not correctly appear on the precinct list of registered voters;

(c) I registered to vote on or about this date

(d) I registered to vote

.... in person at the election office or a voter registration site,

.... by mail,

.... by using the Secretary of State's website,
.... through the Department of Motor Vehicles,
.... on a form through another state agency,
.... in some other way;

(e) I have not resided outside of this county or voted outside of this county since registering to vote in this county;

(f) My current address is shown on the registration application completed as a requirement for voting by provisional ballot; and

(g) I am eligible to vote in this election and I have not voted and will not vote in this election except by this ballot.

(4) The voter shall sign the certification 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 two years imprisonment and twelve months post-release supervision, a fine of up to ten thousand dollars, or both.

(5) If the person's name does not appear on the precinct list of registered voters for the polling place and the judge or clerk of election determines that the person's residence address is located in another precinct within the same county, the judge or clerk of election shall direct the person to his or her correct polling place to vote.

Source: Laws 1994, LB 76, § 258; Laws 1997, LB 764, § 87; Laws 1999, LB 234, § 12; Laws 2003, LB 358, § 24; Laws 2005, LB 401, § 5; Laws 2005, LB 566, § 37; Laws 2010, LB325, § 5; Laws 2010, LB951, § 4; Laws 2014, LB661, § 14; Laws 2017, LB451, § 11.

32-915.01. Provisional ballot; required; when.

Any person who votes in an election for federal office as a result of a federal or state court order or any other order extending the time established for closing the polls pursuant to a state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot as described in section 32-915.

Source: Laws 2003, LB 358, § 25.

32-915.02. Repealed. Laws 2005, LB 566, § 59.

Source:

32-916. Ballots; initials required; approval; deposit in ballot box; procedure.

(1) Two judges of election or a precinct inspector and a judge of election shall affix their initials to the official ballots. The judge of election shall deliver a ballot to each registered voter after complying with section 32-914.

(2) After voting the ballot, the registered voter shall, as directed by the judge of election, fold his or her ballot or place the ballot in the ballot envelope or sleeve so as to conceal the voting marks and to expose the initials affixed on the ballot. The registered voter shall, without delay and without exposing the voting marks upon the ballot, deliver the ballot to the judge of election before leaving the enclosure in which the voting booths are placed.

(3) The judge of election shall, without exposing the voting marks on the ballot, approve the exposed initials upon the ballot and deposit the ballot in the ballot box or the precinct-based optical scanner in the presence of the registered voter. No judge of election shall deposit any ballot in a ballot box unless the ballot has been identified as having the appropriate initials. Any ballot not properly identified shall be rejected in the presence of the voter, the judge of election shall make a notation on the ballot Rejected, not properly identified, and another ballot shall be issued to the voter and the voter shall then be permitted to cast his or her ballot. If the ballot is in order, the judge shall deposit the ballot in the ballot box or the precinct-based optical scanner in the presence of the voter and the voter shall promptly leave the polling place. If a precinct uses a precinct-based optical scanner and a ballot is identified by the scanner as containing an overvote or an undervote, the voter shall be notified of the consequence of an overvote and the right to vote in the case of an undervote, whichever is applicable. The judges of election shall maintain the secrecy of the rejected ballots and shall cause the rejected ballots to be made up in a sealed packet. The judges of election shall endorse the packet with the words Rejected Ballots and the designation of the precinct. The judges of election shall sign the endorsement label and shall return the packet to the election commissioner or county clerk with a statement by the judges of election showing the number of ballots rejected.

(4) Upon receiving a provisional ballot as provided in section 32-915, the judge of election shall give the voter written information that states that the voter may determine if his or her vote was counted and, if not, the reason that the vote was not counted by accessing the system created pursuant to section 32-202 and the judge of election shall ensure that the appropriate information is on the outside of the envelope in which the ballot is enclosed or attached to the envelope, attach the statement required by section 32-915 if not contained on the envelope, and place the entire envelope into the ballot box. Upon receiving a provisional ballot as provided in section 32-915.01, the judge of election shall comply with the requirements for a provisional ballot under this subsection, except that a

provisional ballot cast pursuant to section 32-915.01 shall be kept separate from the other ballots cast at the election.

Source: Laws 1994, LB 76, § 259; Laws 1997, LB 764, § 88; Laws 1999, LB 802, § 15; Laws 2002, LB 1054, § 21; Laws 2003, LB 358, § 26; Laws 2003, LB 359, § 6; Laws 2005, LB 566, § 38; Laws 2019, LB411, § 48.

Annotations

Voters who appear at regular polling place are given a ballot with names of two judges endorsed thereon in ink. *Mommsen v. School Dist. No. 25*, 181 Neb. 187, 147 N.W.2d 510 (1966).

The requirement that every ballot be endorsed by two judges of election is mandatory, and all ballots not so endorsed are void. *Swan v. Bowker*, 135 Neb. 405, 281 N.W. 891 (1938).

Ballot is not vitiated by fact that judges signed same with initials or last name only, or by fact that one signature was that of an inspector assuming to act as judge, where voter accepted ballot believing that names signed were those of judges. *Rasp v. McHugh*, 121 Neb. 380, 237 N.W. 394 (1931).

Where the voter has complied with the statute and the ballot has been endorsed by one de jure judge and one de jure clerk, the ballot is valid. *Bingham v. Broadwell*, 73 Neb. 605, 103 N.W. 323 (1905).

A ballot that has not been endorsed by two judges of election, as required by the statute, is void. *Mauck v. Brown*, 59 Neb. 382, 81 N.W. 313 (1899).

This section is constitutional and a ballot, not endorsed by two judges of election, is void. *Orr v. Bailey*, 59 Neb. 128, 80 N.W. 495 (1899).

32-917. Spoiled ballots; how treated.

Any registered voter who spoils his or her ballot may receive another ballot after returning the spoiled ballot. No registered voter shall receive more than four ballots in all. The registered voter shall write invalid or void on the spoiled ballot and return it to the judges of election. The judges of election shall maintain the secrecy of the spoiled ballots and shall cause the spoiled ballots to be made up in a sealed packet. The judges of election shall endorse the packet with the words Spoiled Ballots and the designation of the precinct. The judges of election shall sign such endorsement label and shall return the packet to the election commissioner or county clerk with a statement by the judges of election showing the number of ballots spoiled.

Source: Laws 1994, LB 76, § 260.

Annotations

Ballot counted and returned by election board in envelope marked rejected ballots should be counted in election contest. *White v. Slama*, 89 Neb. 65, 130 N.W. 978 (1911).

Stringing spoiled ballots, tied into a bundle, upon the same thread that the ballots cast had been strung upon was at most an irregularity which did not invalidate the election. *Hendee v. Hayden*, 42 Neb. 760, 60 N.W. 1034 (1894).

32-918. Assistance to registered voters; when; procedure.

(1) If a registered voter declares to the judge of election that the voter cannot read or that the voter is blind or visually impaired or has a disability such that the registered voter requires assistance in the marking of the voter's ballot, (a) the registered voter may be assisted in marking the voter's ballot by a relative or friend of the voter's selection or (b) one judge of election and one clerk of election of different political parties may take the ballot or ballots from the polling place to a convenient place within the building or to the registered voter's automobile if the automobile is within one block of the polling place and the registered voter may cast the voter's ballot in the general presence of the judge and clerk. If a registered voter declares to the judge of election that the voter needs assistance in the operation of a voting device, a judge or clerk of election may assist the voter in operating the device.

(2) The judge and clerk shall give no information regarding the casting of the ballot. Any registered voter receiving assistance in voting the ballot from a judge and clerk shall declare to the judge and clerk the name of the candidates and the measures for which the voter desires to vote, and the judge and clerk shall cast the voter's ballot only as the voter so requests. No person other than the registered voter who is receiving assistance shall divulge to anyone within the polling place the name of any candidate for whom the voter intends to vote or ask or receive assistance within the polling place in the preparation of the voter's ballot.

(3) The judges of election shall enter Assistance Rendered upon the precinct sign-in register near the name of any registered voter who receives such assistance in casting a ballot and shall include the name of such person rendering assistance to the registered voter. The person rendering assistance shall sign an oath before a judge of election substantially as follows:, hereby swears that he or she is a friend or relative of, a registered voter with a disability who requested assistance in casting the ballot, that he or she did enter the voting booth or aid such voter outside of the voting booth and marked the ballot according to the intentions and desires of the registered voter, that he or she has kept the ballot at all times in his or her possession, and that the ballot was duly delivered to the judge of election on this day of 20.... .

Source: Laws 1994, LB 76, § 261; Laws 2003, LB 358, § 27; Laws 2022, LB843, § 30.

Effective Date: July 21, 2022

32-919. Registered voter; ballots; prohibited acts; forfeit vote.

Every registered voter receiving a ballot shall, before leaving the polling room, vote or, if he or she does not wish to vote, return all ballots so received to be deposited into the ballot box by a member of the receiving board. No person receiving a ballot shall take the same from the polling room except as authorized in the Election Act. No person shall remove any ballot from the polling room before the closing of the polls except as otherwise authorized under the Election Act. Any person taking a ballot from the polling room in violation of this section shall forfeit and lose his or her right to vote at the election. If an inspector or a judge or clerk of election observes a person about to violate this section, the inspector, judge, or clerk shall inform the person of the penalties provided in this section and section 32-1535.

Source: Laws 1994, LB 76, § 262.

32-920. Registered voter; memorandum; use permitted.

A registered voter may take with him or her into the polling place any printed or written memorandum or paper to assist him or her in preparing or marking the ballot.

Source: Laws 1994, LB 76, § 263.

32-921. Registered voter; occupancy and time restrictions.

Except as provided in subsection (1) of section 32-918, no registered voter shall be allowed to occupy a voting booth occupied by another. A registered voter shall not remain within the enclosure in which the voting booths are situated more than twenty minutes unless he or she is in line waiting to vote or voting. A registered voter shall not occupy a voting booth for more than ten minutes.

Source: Laws 1994, LB 76, § 264; Laws 2003, LB 358, § 28; Laws 2005, LB 566, § 39.

32-922. Employees; time allowed for voting, when.

Any registered voter who does not have two consecutive hours in the period between the time of the opening and closing of the polls during which he or she is not required to be present at work for an employer shall be entitled on election day to be absent from employment for such a period of time as will in addition to his or her nonworking time total two consecutive hours between the time of the opening and closing of the polls. If the registered voter applies for such leave of absence prior to or on election day, the registered voter shall not be liable for any penalty and no deduction shall be made from his or her salary or wages on account of such absence. The employer may specify the hours during which the employee may be absent.

Source: Laws 1994, LB 76, § 265.

32-923. Registered voters; privileges on election day.

Registered voters shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the attendance at elections and while going to and returning from the same. No registered voter shall be obliged to do military duty on election day except in time of war and public danger.

Source: Laws 1994, LB 76, § 266.

32-924. Police officers and sheriffs; appointment to serve; when.

The election commissioner, county clerk, or city or village clerk may appoint or summon such police officers and sheriffs as may be necessary to maintain order at the election and enforce the Election Act. Except in counties having an election commissioner, if no police officer or sheriff is available, the judges of election may appoint one or more persons in writing to act as and have the powers of a police officer.

Source: Laws 1994, LB 76, § 267.

32-925. Polls; disturbing elections prohibited; arrest.

If any person conducts himself or herself in a noisy, riotous, or tumultuous manner at or about the polls so as to disturb the election or insults or abuses the precinct or district inspectors or judges or clerks of election and persists in such conduct after being warned to desist, any election commissioner, county clerk, inspector, judge of election, police officer, or sheriff shall arrest him or her without warrant and bring him or her before the county court. Such person shall be permitted to vote if he or she is a registered voter.

Source: Laws 1994, LB 76, § 268.

32-926. Person offering to vote; challenge authorized; procedure.

Any person offering to vote, even though such person is registered, may be challenged as unqualified by any inspector, judge or clerk of election, or registered voter. The judge or clerk of election shall challenge any person offering to vote whom he or she knows or suspects not to be duly qualified. The challenge shall be administered pursuant to sections 32-927 to 32-932 as applicable. The election commissioner or county clerk shall provide written oaths and forms to the inspectors and judges of election for purposes of such sections.

Source: Laws 1994, LB 76, § 269.

32-927. Person offering to vote; challenge; oath required; compliance with sections required.

If any person offering to vote is challenged by an inspector, judge or clerk of election, or registered voter, the person shall, in the presence of an inspector or a judge of election, affix his or her signature and print his or her name and address on the following oath: I do solemnly swear that I will fully and truly answer all such questions put to me related to my place of residence and qualifications as a registered voter at this election. The inspector or judge of election shall require the registered voter to comply with sections 32-928 to 32-930 as applicable and shall ask any other questions to the person challenged as necessary to test his or her qualifications as a registered voter at that election.

Source: Laws 1994, LB 76, § 270.

32-928. Person; challenge as alien; information required.

If a person is challenged on the ground that he or she has not become a citizen of the United States and the person so challenged does not produce his or her naturalization papers, the person shall print on the form provided by the election commissioner or county clerk the following information:

Place of birth—show the state, country, kingdom, empire, or dominion where the applicant was born.

Naturalized—the word Yes or No or Native, and if applicant is not native-born or has lost citizenship, show whether naturalized by his or her own papers, parent's papers, or spouse's papers and the court, county, state, and date of naturalization as the same appears in the naturalization papers.

Source: Laws 1994, LB 76, § 271.

32-929. Person; challenge as to residence; examination; provisional ballot.

If a person is challenged on the ground that he or she is not a resident of this state, the county, or the precinct, the person shall answer the following questions on the form provided by the election commissioner or county clerk:

Do you have a residence in this state: Yes or No?

Do you have a residence in this county: Yes or No?

Do you have a residence in this precinct: Yes or No?

If a person has moved from one residence to another within the precinct in which he or she is registered to vote, such voter shall be entitled to vote as provided in section 32-914.02. If a person has moved from one residence to another within the county in which he or she is registered to vote, such voter shall be entitled to vote a provisional ballot as provided in section 32-915.

Source: Laws 1994, LB 76, § 272; Laws 1997, LB 764, § 89; Laws 2003, LB 358, § 29.

32-930. Person; challenge as to age; examination.

If a person is challenged on the ground that he or she is not eighteen years of age or, during the years in which a statewide general election is held, that he or she will not be eighteen years of age by the first Tuesday after the first Monday in November of such year, the person shall answer the following question on the form provided by the election commissioner or county clerk: Will you be at least eighteen years of age on or before the first Tuesday following the first Monday in November of this year?

Source: Laws 1994, LB 76, § 273; Laws 2010, LB325, § 6.

32-931. Person challenged as to right to vote; oath; clerks of election; duties.

If a person's right to vote is challenged, the person shall, in the presence of an inspector or a judge of election, affix his or her signature to the following oath: I do solemnly swear that I am a citizen of the United States, that I have residence in the State of Nebraska, the county of, and this precinct, that I reside at (Address), and that I have attained the constitutionally prescribed age to be a voter. The clerks of election shall write Sworn on the precinct list of registered voters and the precinct sign-in register at the end of such person's name.

Source: Laws 1994, LB 76, § 274.

Annotations

Legislature has provided residence requirements for voting purposes. *League of Nebraska Municipalities v. Marsh*, 253 F.Supp. 27 (D. Neb. 1966).

32-932. Person challenged as to right to vote; allowed to vote; when.

Any person challenged who complies with sections 32-927 to 32-931 shall be allowed to vote. Any person challenged who refuses to comply with sections 32-927 to 32-930 or to take the oath provided in section 32-931 for any election shall not be issued a ballot or permitted to vote.

Source: Laws 1994, LB 76, § 275.

Annotations

If a party challenged refuses to take oath, his vote should be rejected. *Plouzek v. Saline County Reorganization Committee*, 181 Neb. 440, 148 N.W.2d 919 (1967).

32-933. New or former resident; vote for President and Vice President; when eligible; procedure.

(1) Any person listed in this subsection shall be eligible as a new resident to vote for President and Vice President of the United States at the statewide general election but for no other offices:

(a) Any citizen of the United States who is at least the constitutionally prescribed age of a voter and who comes into Nebraska after the voter registration period is closed pursuant to section 32-302 for the purpose of making Nebraska his or her place of residence; and

(b) Any registered voter who moves from one county to another county within Nebraska after the close of the voter registration period.

(2) Any registered voter who moves from Nebraska to another state or to the District of Columbia for the purpose of making such new location his or her place of residence after the close of the voter registration period for such location shall be eligible as a former resident to vote for President and Vice President of the United States at the statewide general election but for no other offices.

(3) Any person described in subsection (1) of this section shall cast his or her ballot in the office of the election commissioner or county clerk at any time between the close of the voter registration period and the close of the polls on election day. Such ballots shall be available after the close of the voter registration period. Ballots for former residents under subsection (2) of this section shall be available thirty days prior to the election. The ballots may be voted in the office of the election commissioner or county clerk at any time between thirty days prior to the election and the close of the polls on election day, or the ballots may be mailed to the office and counted if they arrive before the close of the polls on election day.

Source: Laws 1994, LB 76, § 276; Laws 1997, LB 764, § 90; Laws 2002, LB 935, § 8; Laws 2013, LB271, § 2.

32-934. New or former resident; affidavit required; contents.

Any person who desires to vote pursuant to section 32-933 shall execute an affidavit in duplicate substantially as follows:

I,, do solemnly swear that:

1. I am a citizen of the United States.

2. Before moving, I resided at the following address (describing it by street and number if in a city or village and by section, township, and range if outside of a city or village, and the precinct, city, county, and state in which such residence is located):

.....

.....

3. On the day of the next presidential election, I will be at least the constitutionally prescribed age of a voter and I reside at the following address:

.....

.....

4. I am unable to vote for all offices because the voter registration deadline has passed and, under the Election Act, I believe I am entitled to vote for the candidates for President and Vice President of the United States at the election to be held November, 20.... .

5. I hereby make application for a presidential and vice-presidential ballot. I have not voted and will not vote otherwise than by this ballot for President and Vice President.

Source: Laws 1994, LB 76, § 277; Laws 1997, LB 764, § 91; Laws 2004, LB 813, § 16.

32-935. New or former resident; application to vote; election commissioner or county clerk; duties.

The election commissioner or county clerk shall immediately mail the duplicate of the affidavit described in section 32-934 to the appropriate official of the state or county in Nebraska in which the applicant last resided. Upon receipt, the election commissioner or county clerk shall file each duplicate application or other official information from another state or county in Nebraska or the District of Columbia indicating that a former resident of this state or county in Nebraska has made application to vote at a presidential election in another state or county in Nebraska or the District of Columbia and shall maintain an alphabetical index of such information for a period of twenty-two months after the election.

Source: Laws 1994, LB 76, § 278; Laws 1997, LB 764, § 92.

32-936. New or former resident; application to vote; voting procedure.

If satisfied that the application is proper and that the applicant is qualified to vote under section 32-933, the election commissioner or county clerk shall deliver to the applicant a ballot for President and Vice President of the United States. After voting the ballot, the voter shall securely seal the ballot in an envelope furnished by the election commissioner or county clerk. On the back of the envelope shall be imprinted a statement substantially as follows:

Certification of New (or Former) Resident Voter

I have qualified as a new (or former) resident voter in this state or county. I have not applied nor do I intend to apply for a ballot for early voting from the state, county in Nebraska, or District of Columbia from which I have moved. I have not voted and I will not vote otherwise than by this ballot.

The voter shall sign and date the certification upon the envelope. The election commissioner or county clerk shall keep the envelope in his or her office until delivered by him or her to the counting board under section 32-1027.

Source: Laws 1994, LB 76, § 279; Laws 2005, LB 98, § 9.

32-937. New or former resident; list of voters; public record.

The election commissioner or county clerk shall keep open to public inspection a list of all persons voting in the county as new or former residents which shows their names, addresses, and application dates. The election commissioner or county clerk shall record the name of any person voting pursuant to section 32-933 in the list of voters book with a notation designating him or her as a new or former resident voting for President and Vice President of the United States only.

Source: Laws 1994, LB 76, § 280.

32-938. Registered voter; early voting; when allowed.

(1) A registered voter shall be permitted to vote early by requesting a ballot for early voting pursuant to section 32-941 or 32-943.

(2) Any person excluded from voting under section 32-313 or 32-314 shall not be allowed to receive a ballot for early voting.

(3) Any person who fails to register to vote by the voter registration deadline shall not be allowed to vote except as provided in section 32-940 or 32-941.

Source: Laws 1994, LB 76, § 281; Laws 1995, LB 514, § 4; Laws 1999, LB 571, § 7; Laws 2005, LB 98, § 10; Laws 2005, LB 566, § 40.

32-939. Nebraska resident residing outside the state or country; members of Nebraska National Guard in active service; registration to vote; application for ballot; when; elector and citizen outside the country; register to vote or voting; form.

(1) As provided in section 32-939.02, the persons listed in this subsection who are residents of Nebraska and who reside outside of Nebraska or the United States or are members of the Nebraska National Guard ordered into the active service of the state or of the United States shall be allowed to simultaneously register to vote and make application for ballots for all elections in a calendar year through the use of the Federal Post Card Application or a personal letter which includes the same information as appears on the Federal Post Card Application:

(a) Members of the armed forces of the United States or the United States Merchant Marine, and their spouses and dependents residing with them who are absent from the state;

(b) Members of the Nebraska National Guard ordered into the active service of the state or of the United States;

(c) Citizens temporarily residing outside of the United States and the District of Columbia; and

(d) Overseas citizens.

(2)(a) As provided in section 32-939.02, a person who is the age of an elector and a citizen of the United States residing outside the United States, who has never resided in the United States, who has not registered to vote in any other state of the United States, and who has a parent registered to vote within this state shall be eligible to register to vote and vote in one county in which either one of his or her parents is a registered voter.

(b) A person registering to vote or voting pursuant to this subsection shall sign and enclose with the registration application and with the ballot being voted a form provided by the election commissioner or county clerk substantially as follows: I am the age of an elector and a citizen of the United States residing outside the United States, I have never resided in the United States, I have not registered to vote in any other state of the United States, and I have a parent registered to vote in County, Nebraska. I hereby declare, under penalty of election falsification, a Class IV felony, that the statements above are true to the best of my knowledge.

THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

(Signature of Voter)

Source: Laws 1994, LB 76, § 282; Laws 2004, LB 727, § 1; Laws 2005, LB 98, § 11; Laws 2005, LB 401, § 7; Laws 2005, LB 566, § 41; Laws 2010, LB951, § 5; Laws 2011, LB499, § 4; Laws 2017, LB451, § 12; Laws 2022, LB843, § 32.

Effective Date: July 21, 2022

32-939.01. Repealed. Laws 2010, LB 951, § 9.

32-939.02. Person residing outside the country; ballot for early voting; request; use of Federal Post Card Application or personal letter; special ballot; use of Federal Write-In Absentee Ballot; Secretary of State; duties; oath.

(1) Upon request for a ballot, a ballot for early voting shall be forwarded to each voter meeting the criteria of section 32-939 at least forty-five days prior to any election.

(2) An omission of required information, except the political party affiliation of the applicant, may prevent the processing of an application for and mailing of ballots. The request for any ballots and a registration application shall be sent to the election commissioner or county clerk of the county of the applicant's residence. The request may be sent at any time in the same calendar year as the election, except that the request shall be received by the election commissioner or county clerk not later than the third Friday preceding an election to vote in that election. If an applicant fails to indicate his or her political party affiliation on the application, the applicant shall be registered as nonpartisan.

(3) A person described in section 32-939 may register to vote through the use of the Federal Post Card Application or a personal letter which includes the same information as appears on the Federal Post Card Application and may simultaneously make application for ballots for all elections in a calendar year. The person may indicate a preference for ballots and other election materials to be delivered via facsimile transmission or electronic mail by indicating such preference on the Federal Post Card Application. If the person indicates such a preference, the election commissioner or county clerk shall accommodate the voter's preference.

(4) If the ballot for early voting has not been printed in sufficient time to meet the request and special requirements of a voter meeting the criteria of section 32-939, the election commissioner or county clerk may issue a special ballot at least sixty days prior to an election to such a voter upon a written request by such voter requesting the special ballot. For purposes of this subsection, a special ballot means a ballot prescribed by the Secretary of State which contains the titles of all offices being contested at such election and permits the voter to vote by writing in the names of the specific candidates or the decision on any issue. The election commissioner or county clerk shall include with the special ballot a complete list of the nominated candidates and issues to be voted upon by the voter which are known at the time of the voter's request.

(5) Any person meeting the criteria in section 32-939 may cast a ballot by the use of the Federal Write-In Absentee Ballot. The Federal Write-In Absentee Ballot may be used for all elections. If a person casting a ballot using the Federal Write-In

Absentee Ballot is not a registered voter, the information submitted in the Federal Write-In Absentee Ballot transmission envelope shall be treated as a voter registration application.

(6)(a) Any person requesting a ballot under this section may receive and return the ballot and the oath prescribed in subdivision (b) of this subsection using any method of transmission authorized by the Secretary of State.

(b) An oath shall be delivered with the ballot and shall be in a form substantially as follows:

VOTER'S OATH

I, the undersigned voter, declare that the ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked.

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(a) I,, am a registered voter in County;

(b) I have voted the ballot and am returning it in compliance with Nebraska law; and

(c) I have not voted and will not vote in this election except by this ballot.

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

I also understand that failure to sign below will invalidate my ballot.

Signature

(7) The Secretary of State shall develop a process for a person casting a ballot under this section to check the status of his or her ballot via the Internet or a toll-free telephone call.

Source: Laws 2010, LB951, § 6; Laws 2017, LB451, § 13.

32-939.03. Emergency response provider; outside of county of residence; application for ballot; when; form; voter's oath.

(1) A registered voter serving as an emergency response provider outside of the voter's county of residence for a period beginning on or after the forty-five days prior to any election may request an early voting ballot via facsimile transmission or electronic mail using a form prescribed by the Secretary of State. The election commissioner or county clerk shall send the requested ballot if the request is received not later than noon on election day and contains the required information.

(2)(a) Any person requesting a ballot under this section may receive and return the ballot and the oath prescribed in subdivision (b) of this subsection using any method of transmission authorized by the Secretary of State.

(b) An oath shall be delivered with the ballot and shall be in a form substantially as provided in this subdivision.

VOTER'S OATH

I, the undersigned voter, declare that the ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked.

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(1) I,, am a registered voter in County;

(2) I have voted the ballot and am returning it in compliance with Nebraska law; and

(3) I have not voted and will not vote in this election except by this ballot.

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

I also understand that failure to sign below will invalidate my ballot.

Signature

Source: Laws 2022, LB843, § 33.

Effective Date: July 21, 2022

32-940. Former federal employee; late registration to vote; voting; when allowed.

Any person employed in federal service whose status has been terminated by discharge from the armed forces or by separation from employment outside the territorial limits of the United States who was unable to register to vote may register to vote after the voter registration deadline by completing the necessary voter registration application in the office of the election commissioner or county clerk of the county of his or her residence no later than noon of the day before the election. After completing the voter registration application, such person shall then be allowed to vote in the election office.

Source: Laws 1994, LB 76, § 283; Laws 2005, LB 98, § 12; Laws 2005, LB 566, § 42.

32-941. Early voting; written request for ballot; procedure.

Any registered voter permitted to vote early pursuant to section 32-938 may, not more than one hundred twenty days before any election and not later than the close of business on the second Friday preceding the election, request a ballot for the election to be mailed to a specific address. A registered voter shall request a ballot in writing to the election commissioner or county clerk in the county where the registered voter has established his or her home and shall indicate his or her residence address, the address to which the ballot is to be mailed if different, and his or her telephone number if available. The registered voter may use the form published by the election commissioner or county clerk pursuant to section 32-808. The registered voter shall sign the request. A registered voter may use a facsimile machine or electronic mail for the submission of a request for a ballot. The election commissioner or county clerk shall include a registration application with the ballots if the person is not registered. Registration applications shall not be mailed after the third Friday preceding the election. If the person is not registered to vote, the registration application shall be returned not later than the closing of the polls on the day of the election. No ballot issued under this section shall be counted unless such registration application is properly completed and processed.

Source: Laws 1994, LB 76, § 284; Laws 1997, LB 764, § 93; Laws 2002, LB 935, § 9; Laws 2005, LB 98, § 13; Laws 2005, LB 566, § 43; Laws 2011, LB499, § 5; Laws 2015, LB575, § 20; Laws 2016, LB874, § 3.

32-942. Registered voter anticipating absence on election day; right to vote; method; voter present in county; voting place; person registering to vote and requesting a ballot at same time; treatment of ballot.

(1) Except as otherwise provided in subsection (2) of this section, a registered voter of this state who anticipates being absent from the county of his or her residence on the day of any election may appear in person before the election commissioner or county clerk not more than thirty days prior to the day of election and obtain his or her ballot. The registered voter shall vote the ballot in the office of the election commissioner or county clerk or shall return the ballot to the office not later than the closing of the polls on the day of the election. A registered voter who is present in the county on the day of the election and who chooses to vote on the day of the election shall vote at the polling place assigned to the precinct in which he or she resides unless he or she is returning a ballot for early voting or voting pursuant to section 32-943.

(2) If a person registers to vote and requests a ballot at the same time under this section, he or she shall (a)(i) present one of the address confirmation documents as prescribed in subdivision (1)(a) of section 32-318.01, (ii) present proof that he or she is a member of the armed forces of the United States who by reason of active duty has been absent from his or her place of residence where the member is otherwise eligible to vote, is a member of the United States Merchant Marine who by reason of service has been away from his or her place of residence where the member is otherwise eligible to vote, is a spouse or dependent of a member of the armed forces of the United States or United States Merchant Marine who has been absent from his or her place of residence due to the service of that member, or resides outside the United States and but for such residence would be qualified to vote in the state if the state was the last place in which the person was domiciled before leaving the United States, or (iii) state that he or she is elderly or handicapped and has requested to vote by alternative means other than by casting a ballot at his or her polling place on election day or (b) vote a ballot which is placed in an envelope with the voter's name and address and other necessary identifying information and kept securely for counting as provided in this subsection. This subsection does not extend the deadline for voter registration specified in section 32-302. A ballot cast pursuant to subdivision (b) of this subsection shall be rejected and shall not be counted if the acknowledgment of registration sent to the registrant pursuant to section 32-322 is returned as undeliverable for a reason other than clerical error within ten days after it is mailed, otherwise after such ten-day period, the ballot shall be counted.

(3) This section applies only to a person who appears in person to obtain a ballot as provided in subsection (1) of this section and does not apply to a ballot mailed to a voter pursuant to section 32-945.

Source: Laws 1994, LB 76, § 285; Laws 2002, LB 935, § 10; Laws 2005, LB 98, § 14; Laws 2005, LB 566, § 44; Laws 2011, LB499, § 6; Laws 2013, LB271, § 3; Laws 2014, LB565, § 1; Laws 2015, LB575, § 21.

32-943. Ballot to be picked up by agent; written request; procedure; restrictions on agent.

(1) Any registered voter who is permitted to vote early pursuant to section 32-938 may appoint an agent to submit a request for a ballot for early voting on his or her behalf. The registered voter or his or her agent may request that the ballot be sent to the registered voter by mail or indicate on the request that the agent will personally pick up the ballot for such registered voter from the office of the election commissioner or county clerk. A registered voter or an agent acting on behalf of a registered voter shall request a ballot in writing to the election commissioner or county clerk in the county where the registered voter has established his or her residence and shall indicate the voter's residence address, the address to which the ballot is to be mailed if different, and the voter's telephone number if available and precinct if known. The registered voter or the voter's agent may use the form published by the election commissioner or county clerk pursuant to section 32-808. The registered voter or his or her agent shall sign the request.

(2) A candidate for office at such election and any person serving on a campaign committee for such a candidate shall not act as an agent for any registered voter requesting a ballot pursuant to this section unless such person is a member of the registered voter's family. No person shall act as agent for more than two registered voters in any election.

(3) The agent shall pick up the ballot before one hour prior to the closing of the polls on election day and deliver the ballot to the registered voter. The ballot shall be returned not later than the closing of the polls on the day of the election.

(4) The election commissioner or county clerk shall adopt procedures for the distribution of ballots under this section.

Source: Laws 1994, LB 76, § 286; Laws 1997, LB 764, § 94; Laws 2002, LB 935, § 11; Laws 2005, LB 98, § 15; Laws 2005, LB 566, § 45.

32-944. Administering ballots to residents of nursing homes or hospitals; requirements.

The election commissioner or county clerk may train registered voters to act on behalf of the election commissioner or county clerk in administering a ballot to residents of nursing homes or hospitals who have requested ballots. Ballots shall be administered by two registered voters who are not affiliated with the same political party. The election commissioner or county clerk shall adopt procedures to carry out this section.

Source: Laws 1994, LB 76, § 287; Laws 2005, LB 98, § 16.

32-945. Request for ballot; provide registration form; when; change registration; acknowledgment.

When a request for a ballot from a person who is not registered to vote in the county reaches the election commissioner or county clerk by mail, by facsimile transmission, or by means other than by application in person on or prior to the third Friday preceding the election, the election commissioner or county clerk shall mail to the applicant the registration application with the ballot. No ballot shall be sent by mail to any person after the third Friday preceding the election if such person is not a registered voter. When an application for a ballot from a person who is registered in the county reaches the county clerk or election commissioner by mail, facsimile transmission, or other means than by application in person and the application indicates that the applicant has changed his or her residence within the county, the county clerk or election commissioner shall change the address on the applicant's voter registration and mail to such applicant an acknowledgment of change of registration and the ballot as provided by section 32-947.

Source: Laws 1994, LB 76, § 288; Laws 1997, LB 764, § 95; Laws 2005, LB 98, § 17; Laws 2005, LB 566, § 46.

32-946. Registered voter without residence address; mailing ballot and registration applications; oath; voting procedure.

When a registered voter applying for a ballot has no residence address within the county, the election commissioner or county clerk shall mail to the registered voter at the address designated by the voter the requested ballot materials, including a registration application, no later than the third Friday preceding the election pursuant to section 32-941 and shall enclose with the material the following oath which the voter must swear to before his or her ballot will be counted:

I,, do hereby swear that prior to my current absence from County, Nebraska, I resided within the State of Nebraska, that during such residency it was my intention to make my permanent residence in such county, that during my current absence from such county I have not registered to vote or voted in an election in any other jurisdiction as a resident of such other jurisdiction, that I do not intend to make my present residence my permanent residence, that my current absence from such county is temporary and for a definite period of time, and that at the termination of that period I intend to return to County, Nebraska, and make it my permanent residence. I acknowledge that the residence address assigned to me for voting purposes until I return to the county shall be deemed to be that of the office of the election commissioner or county clerk of the county in which my prior residence was located.

Source: Laws 1994, LB 76, § 289; Laws 1997, LB 764, § 96; Laws 2002, LB 935, § 12; Laws 2005, LB 98, § 18; Laws 2005, LB 566, § 47.

32-947. Ballot to vote early; delivery; procedure; identification envelope; instructions.

(1) Upon receipt of an application or other request for a ballot to vote early, the election commissioner or county clerk shall determine whether the applicant is a registered voter and is entitled to vote as requested. If the election commissioner or county clerk determines that the applicant is a registered voter entitled to vote early and the application was received not later than the close of business on the second Friday preceding the election, the election commissioner or county clerk shall deliver a ballot to the applicant in person or by mail, postage paid. The election commissioner or county clerk or any employee of the election commissioner or county clerk shall write or cause to be affixed his or her customary signature or initials on the ballot.

(2) An unsealed identification envelope shall be delivered with the ballot, and upon the back of the envelope shall be printed a form substantially as follows:

VOTER'S OATH

I, the undersigned voter, declare that the enclosed ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in such envelope.

To the best of my knowledge and belief, I declare under penalty of election falsification that:

(a) I,, am a registered voter in County;

(b) I reside in the State of Nebraska at

(c) I have voted the enclosed ballot and am returning it in compliance with Nebraska law; and

(d) I have not voted and will not vote in this election except by this ballot.

ANY PERSON WHO SIGNS THIS FORM KNOWING THAT ANY OF THE INFORMATION IN THE FORM IS FALSE SHALL BE GUILTY OF ELECTION FALSIFICATION, A CLASS IV FELONY UNDER SECTION 32-1502 OF THE STATUTES OF NEBRASKA. THE PENALTY FOR ELECTION FALSIFICATION IS IMPRISONMENT FOR UP TO TWO YEARS AND TWELVE MONTHS POST-RELEASE SUPERVISION OR A FINE NOT TO EXCEED TEN THOUSAND DOLLARS, OR BOTH.

I also understand that failure to sign below will invalidate my ballot.

Signature

(3) If the ballot and identification envelope will be returned by mail or by someone other than the voter, the election commissioner or county clerk shall include with the ballot an identification envelope upon the face of which shall be printed the official title and post office address of the election commissioner or county clerk.

(4) The election commissioner or county clerk shall also enclose with the ballot materials:

(a) A registration application, if the election commissioner or county clerk has determined that the applicant is not a registered voter pursuant to section 32-945, with instructions that failure to return the completed and signed application indicating the residence address as it appears on the voter's request for a ballot to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted;

(b) A registration application and the oath pursuant to section 32-946, if the voter is without a residence address, with instructions that the residence address of the voter shall be deemed that of the office of the election commissioner or county clerk of the county of the voter's prior residence and that failure to return the completed and signed application and oath to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted; or

(c) Written instructions directing the voter to submit a copy of an identification document pursuant to section 32-318.01 if the voter is required to present identification under such section and advising the voter that failure to submit identification to the election commissioner or county clerk by the close of the polls on election day will result in the ballot not being counted.

(5) The election commissioner or county clerk may enclose with the ballot materials a separate return envelope for the voter's use in returning his or her identification envelope containing the voted ballot, registration application, and other materials that may be required.

Source: Laws 1994, LB 76, § 290; Laws 1995, LB 514, § 5; Laws 1999, LB 571, § 8; Laws 1999, LB 802, § 16; Laws 2002, LB 1054, § 22; Laws 2003, LB 359, § 7; Laws 2005, LB 98, § 19; Laws 2005, LB 566, § 48; Laws 2008, LB838, § 2; Laws 2011, LB449, § 9; Laws 2015, LB575, § 22; Laws 2016, LB874, § 4; Laws 2017, LB451, § 14.

Cross References

Forgery or false placement of initials or signatures on ballot pursuant to section, penalty, see section 32-1516.

32-948. Ballots to vote early; election commissioner or county clerk; duties; public inspection; when.

(1) Upon receipt of an application or request for a ballot to vote early, the election commissioner or county clerk shall enter in the record of early voters the applicant's name, residence address, precinct, and subdivision of the precinct, if any, the mailing address to which the ballots are to be sent if different from the residence address, and the date on which the application was received. The election commissioner or county clerk shall also record other information in the record of early voters as may be necessary to aid in the processing or verification of ballots, including such information as the date ballots and related materials were sent to the voter or picked up in person, the date on which the ballots were voted in person or returned or received by mail, or information as to the reason why a ballot could not be issued or sent.

(2) The record of early voters and applications for such ballots shall be open to public inspection prior to the election. The election commissioner or county clerk shall make an entry in the voter's registration record indicating that the voter has voted early in the election.

Source: Laws 1994, LB 76, § 291; Laws 2005, LB 98, § 20; Laws 2005, LB 566, § 49; Laws 2011, LB449, § 10.

32-949. Ballot for early voting; registered voter; duties.

(1) After a ballot for early voting is received by a voter and before placing any marks thereon, the voter shall note whether there are any voting marks on the ballot and whether there is a signature or initials on the ballot in the space provided for the election official's signature or initials. If there are any voting marks or no signature or initials, the ballot shall be returned immediately to the election commissioner or county clerk. If there are no such marks, the voter shall cause the ballot to be marked. If the ballot is voted in the office of the election commissioner or county clerk, the registered voter shall return the ballot and identification envelope to the election commissioner or county clerk or an employee of the election commissioner or county clerk who shall deposit the ballot into a ballot box and place the identification envelope in a secure container.

(2) If the voter is mailing or otherwise delivering the ballot to the election commissioner or county clerk, the voter shall:

(a) Place the marked ballot in the identification envelope received for that purpose in such a manner that the signature of the issuing officer on the ballot is visible;

(b) Complete and sign the voter's oath on the outside of the identification envelope under the penalty of election falsification;

(c) Enclose, in the identification envelope or separately in the return envelope if one has been provided, his or her completed registration application if one was provided pursuant to section 32-945 or 32-946, a copy of his or her identification document if such identification has been requested, and the oath completed and signed by a voter without a residence address if required pursuant to section 32-946;

(d) Ensure that the identification envelope or return envelope is sealed; and

(e) Mail, deliver, or cause to be delivered the envelope containing the ballots and any required materials to the election commissioner or county clerk from whom it was received.

(3) All postage costs related to returning such ballots and required materials, if any, to the election commissioner or county clerk shall be paid by the applicant.

Source: Laws 1994, LB 76, § 292; Laws 2005, LB 98, § 21; Laws 2005, LB 566, § 50.

32-949.01. Ballot for early voting; destroyed, spoiled, lost, or not received; cast provisional ballot or obtain replacement ballot; deadline; procedure.

(1) If a ballot for early voting is destroyed, spoiled, lost, or not received by the registered voter, the voter may cast a provisional ballot pursuant to section 32-915 at the voter's polling place on election day or may obtain a replacement ballot from the election commissioner or county clerk by signing a statement on a form prescribed by the Secretary of State that the original ballot for early voting was destroyed, spoiled, lost, or not received and delivering the statement to the election commissioner or county clerk.

(2) If the voter mails the statement or uses electronic mail or a facsimile machine for the submission of the statement, the election commissioner or county clerk shall not mail a replacement ballot to the voter unless the statement is received by 6 p.m. on the second Friday preceding the election. To receive a replacement ballot in person, the voter shall return the statement to the office of the election commissioner or county clerk by the deadline for the receipt of ballots specified in subsection (2) of section 32-908.

(3) The election commissioner or county clerk shall verify the signature on the statement with the signature appearing on the voter registration records.

(4) If the election commissioner or county clerk receives a statement meeting the requirements of this section, the election commissioner or county clerk shall deliver a replacement ballot to the voter if the voter is present in the office or shall mail a replacement ballot to the voter at the address shown on the statement. The election commissioner or county clerk shall keep a record of all replacement ballots issued under this section.

Source: Laws 2005, LB 401, § 8; Laws 2014, LB946, § 16; Laws 2016, LB874, § 5; Laws 2022, LB843, § 34.

Effective Date: July 21, 2022

32-950. Ballots to vote early; accepted, when; rejected ballots; how treated; storage.

Ballots issued under section 32-948 which are returned not later than the hour established for the closing of the polls shall be accepted for review by the counting board for early voting. Such ballots received by the election commissioner or county clerk after the close of the polls on election day shall remain sealed in the envelope on which the election commissioner or county clerk shall write Rejected, received on, and the date on which the ballot was received. If such a ballot was received on election day but after the close of the polls, the election commissioner or county clerk shall also write on the envelope the time at which the ballot was received. Such rejected ballots shall be segregated and stored in a sealed container designated for Rejected Early Ballots.

Source: Laws 1994, LB 76, § 293; Laws 1997, LB 764, § 97; Laws 2002, LB 935, § 13; Laws 2005, LB 98, § 22; Laws 2005, LB 566, § 51.

32-950.01. Secure ballot drop-box; requirements; election commissioner or county clerk; duties.

(1) If an election commissioner or county clerk maintains a secure ballot drop-box for voters to deposit completed ballots, the election commissioner or county clerk shall ensure that the secure ballot drop-box:

(a) Is securely fastened to the ground or a concrete slab connected to the ground;

(b) Is secured by a lock that can only be opened by the election commissioner or county clerk or by an election official designated by the election commissioner or county clerk; and

(c) Complies with the federal Americans with Disabilities Act of 1990 and is accessible as determined by the election commissioner or county clerk.

(2) The election commissioner or county clerk shall inform the Secretary of State of each secure ballot drop-box's location no later than forty-two days prior to any statewide primary or general election.

(3) The election commissioner or county clerk or an election official designated by the election commissioner or county clerk shall open each secure ballot drop-box no later than the sixth Friday prior to any statewide primary or general election and no later than the fourth Friday prior to any special election. For any statewide primary or general election, each secure ballot drop-box shall remain accessible to voters until the deadline for the receipt of ballots as provided in section 32-908. For any special election, at least one secure ballot drop-box shall remain accessible to voters until the deadline for the receipt of ballots as provided in section 32-954.

(4) After a secure ballot drop-box is made available for depositing ballots, the election commission or county clerk shall ensure that ballots deposited in such secure ballot drop-box are collected and returned to the office of the election commissioner or county clerk at least once during each business day.

Source: Laws 2022, LB843, § 40.

Effective Date: July 21, 2022

32-951. Ballots for early voting; prohibited acts.

No person shall:

(1) Impersonate or make a false representation in order to obtain a ballot for early voting for his or her own use or for use by another;

(2) Knowingly connive to help a person to vote such a ballot illegally;

(3) Destroy, steal, mark, or mutilate any such ballot after the same has been voted or aid or abet another to do so;

(4) Delay in delivering such a ballot to the election commissioner or county clerk to prevent the ballot from arriving in time to be counted;

(5) In any manner aid or attempt to aid any person to vote such a ballot unlawfully;

(6) Hinder or attempt to hinder a registered voter from voting any such ballot;
or

(7) Hinder or attempt to hinder any official from delivering or counting any such ballot.

Source: Laws 1994, LB 76, § 294; Laws 2005, LB 98, § 23; Laws 2005, LB 566, § 52.

32-952. Special election by mail; when.

If a political subdivision decides to place a candidate or an issue on the ballot at a special election, the election commissioner or county clerk may conduct the special election by mail as provided in section 32-953 or conduct the special election as otherwise authorized in the Election Act. In making a determination as to whether to conduct the election by mail, the election commissioner or county clerk shall consider whether all of the following conditions are met:

(1) All registered voters of the political subdivision or a district or ward of the political subdivision are eligible to vote on all candidates and issues submitted to the voters;

(2) Only registered voters of the political subdivision or the district or ward of the political subdivision are eligible to vote on all candidates and issues submitted to the voters;

(3) A review has been conducted of the costs and the expected voter turnout which may result from holding the election by mail;

(4) The election commissioner or county clerk has determined a date for the election which is not the same date as another election in which the registered voters of the political subdivision are eligible to vote;

(5) The election commissioner or county clerk has submitted a written plan to the Secretary of State within five business days after receiving the resolution from the political subdivision to hold the election; and

(6) The Secretary of State has approved a written plan for the conduct of the election, including a written timetable for the conduct of the election, submitted by the election commissioner or county clerk. The written plan shall include provisions for the notice of election to be published and for the application for ballots for early voting notwithstanding other statutory provisions regarding the content and publication of a notice of election or the application for ballots for early voting.

Source: Laws 1996, LB 964, § 5; Laws 2005, LB 98, § 24; Laws 2015, LB575, § 23; Laws 2019, LB411, § 49.

32-953. Special election by mail; mailing of ballots; procedure.

(1) Except as otherwise provided in subsection (2) of this section, the election commissioner or county clerk shall mail the official ballot to all registered voters of the political subdivision or the district or ward of the political subdivision at the addresses appearing on the voter registration register on the same day. The ballots shall be mailed by nonforwardable first-class mail not sooner than the twenty-second day before the date set for the election and not later than the tenth day before the date set for the election. The election commissioner or county clerk shall include with the ballot an unsealed identification envelope meeting the requirements of subsection (2) of section 32-947 and instructions sufficient to describe the voting process.

(2) The election commissioner or county clerk may choose not to mail a ballot to all registered voters who have been sent a notice pursuant to section 32-329 and failed to respond to the notice. If the election commissioner or county clerk chooses not to mail a ballot to such voters, he or she shall mail a notice to all such registered voters explaining how to obtain a ballot and stating the applicable deadlines.

Source: Laws 1996, LB 964, § 6; Laws 2008, LB838, § 3; Laws 2014, LB946, § 17; Laws 2015, LB575, § 24; Laws 2016, LB874, § 6.

32-954. Special election by mail; voting and return of ballot; procedure.

Upon receipt of the official ballot, the registered voter shall mark it, seal the ballot in the identification envelope supplied with the ballot, sign the identification envelope, and comply with the instructions provided with the ballot. The voter may return the ballot to the election commissioner or county clerk by mailing it or by personally delivering it to the office of the election commissioner or county clerk. The deadline for receipt of the ballot is 5 p.m. on the date set for the election. The official ballot must be returned in the identification envelope. The registered voter shall, by signing the envelope, certify to the facts contained on the envelope. The election commissioner or county clerk shall keep the identification envelopes received from registered voters unopened in a fireproof safe or other suitable location which is locked until delivered to the counting board.

Source: Laws 1996, LB 964, § 7; Laws 2002, LB 935, § 14; Laws 2008, LB838, § 4.

32-955. Repealed. Laws 2008, LB 838, § 8.

32-956. Special election by mail; replacement ballot; how obtained; procedure.

(1) If a ballot is destroyed, spoiled, lost, or not received by the registered voter, the voter may obtain a replacement ballot from the election commissioner or county clerk by signing a statement on a form prescribed by the Secretary of State that the ballot was destroyed, spoiled, lost, or not received and delivering the statement to the election commissioner or county clerk by 5 p.m. on the date set for the election.

(2) If the voter mails the statement or uses electronic mail or a facsimile machine for the submission of the statement, the election commissioner or county clerk shall not deliver a replacement ballot to the voter unless the statement is received prior to the close of business on the second Friday preceding the election.

(3) The election commissioner or county clerk shall verify the signature on the statement with the signature appearing on the voter registration records.

(4) If the election commissioner or county clerk receives a statement meeting the requirements of this section, he or she shall deliver a replacement ballot to the voter if the voter is present in the office or shall mail a replacement ballot to the voter at the address shown on the statement. The election commissioner or county clerk shall keep a record of all replacement ballots issued under this section.

Source: Laws 1996, LB 964, § 9; Laws 2002, LB 935, § 15; Laws 2014, LB946, § 18; Laws 2019, LB411, § 50; Laws 2022, LB843, § 35.

Effective Date: July 21, 2022

32-957. Special election by mail; verification of signatures.

An official ballot under section 32-953 shall be counted only if it is returned in the identification envelope, the envelope is signed by the voter to whom it was issued, and the signature is verified by the election commissioner or county clerk. The election commissioner or county clerk shall verify the signature on each identification envelope received in his or her office with the signature appearing on the voter registration records. If the election commissioner or county clerk is unable to verify a signature, the election commissioner or county clerk shall contact the voter within two days after determining that he or she is unable to verify the signature to ascertain whether the voter cast a ballot. The election commissioner or county clerk may request that the registered voter sign and submit a current signature card pursuant to section 32-318. The election commissioner or county clerk may begin verifying the signatures as the envelopes are received in his or her office. If the election commissioner or county clerk determines that a voter has voted more than once, no ballot cast by that voter in that election shall be counted. The election commissioner or county clerk shall make public any record or list of registered voters who have returned their ballots.

Source: Laws 1996, LB 964, § 10; Laws 2008, LB838, § 5; Laws 2014, LB946, § 19.

32-958. Special election by mail; supervision; election report; counting board.

The election commissioner or county clerk shall supervise the procedures for handling and canvassing the ballots to ensure the safety and confidentiality of all ballots properly cast. The election commissioner or county clerk shall file with the Secretary of State and the county board an election report. The Secretary of State shall develop a uniform election report form which requires information, including, but not limited to, an evaluation of the verification process including the number of ballots rejected and the reasons for the rejection, the process for handling and canvassing ballots, and the cost of the election conducted by mail. The election commissioner or county clerk shall appoint a counting board for the election in the same manner as the counting board for early voting and ballots shall be counted and canvassed in the same manner as much as possible.

Source: Laws 1996, LB 964, § 11; Laws 2005, LB 98, § 25.

32-959. Special election by mail; undeliverable ballots; removal of names.

The names of voters whose ballots are returned as undeliverable shall be subject to removal from the voter registration records as provided in sections 32-326 to 32-329.

Source: Laws 1996, LB 964, § 12.

32-960. County with less than ten thousand inhabitants; elections conducted by mail; application for approval; contents; requirements for voting and returning ballots.

(1) In any county with less than ten thousand inhabitants, the county clerk may apply to the Secretary of State to mail ballots for all elections held after approval of the application to registered voters of any or all of the precincts in the county. The application shall include a written plan for the conduct of the election which complies with this section, including a timetable for the conduct of the election and provisions for the notice of election to be published and for the application for ballots for early voting notwithstanding other statutory provisions regarding the content and publication of a notice of election or the application for ballots for early voting. If the Secretary of State approves such application for one or more precincts in the county, the county clerk shall follow the applicable procedures in sections 32-953 to 32-959 for conducting elections by mail, except that the deadline for receipt of the ballots shall be the deadline specified in subsection (2) of section 32-908.

(2) The county clerk of a county that has an approved application pursuant to subsection (1) of this section:

(a) Shall allow a voter to return the ballot by hand-delivering it to the office of the county clerk;

(b) Shall maintain at least one secure ballot drop-box available for voters to deposit completed ballots twenty-four hours per day, starting at least ten days before the election through the deadline provided in subsection (1) of this section for the receipt of ballots;

(c) Shall maintain at least one in-person voting location at the office of the county clerk at which a voter in a precinct subject to a plan under this section approved by the Secretary of State may receive and cast a ballot which shall be open on the day of the election from the time for opening the polls pursuant to section 32-908 through the deadline provided in subsection (1) of this section for the receipt of ballots;

(d) Shall maintain in-person early voting opportunities as described in section 32-942; and

(e) May provide additional secure ballot drop-boxes and in-person voting locations that need not be open according to the requirements of subdivisions (b) and (c) of this subsection.

Effective Date: July 21, 2022

32-961. Poll watchers; eligibility; appointment; notice required.

(1)(a) To be eligible to be a poll watcher, an individual shall be either:

(i) A registered voter of this state; or

(ii) An individual representing a state-based, national, or international election monitoring organization.

(b) A candidate or a spouse of a candidate on the ballot at the election shall not be eligible for appointment as a poll watcher at such election.

(2) For poll watchers eligible under subdivision (1)(a)(i) of this section, any political party in Nebraska, a candidate for election in Nebraska not affiliated with a political party, an organization of persons interested in a question on the ballot, or a nonpartisan organization interested in Nebraska's elections and the elective process may appoint one or more poll watchers. Any such person or organization intending to appoint one or more poll watchers shall provide written notification to the election commissioner or county clerk of the county in which the poll watchers will be active on election day no later than the close of business on the Wednesday prior to election day. The notification shall include a list of appointed poll watchers and a list of the precincts that the poll watchers plan to observe and shall be provided prior to each election at which one or more poll watchers will be active. A poll watcher shall not be denied entry to a polling place because the poll watcher is not on the list or because the precinct is not on the list.

(3) For poll watchers eligible under subdivision (1)(a)(ii) of this section, any national or international election monitoring organization intending to appoint one or more poll watchers shall provide written notification to the Secretary of State no later than the close of business on the Wednesday prior to election day. The notification shall include a list of appointed poll watchers and a list of the counties and precincts to be observed and shall be provided prior to each election at which one or more poll watchers will be active.

Source: Laws 2020, LB1055, § 10.

32-962. Poll watchers; credential; requirements; notice.

(1) For poll watchers eligible under subdivision (1)(a)(i) of section 32-961, the election commissioner or county clerk shall provide a credential as an election observer for each poll watcher for whom the election commissioner or county clerk receives notice of appointment under section 32-961. The election commissioner or county clerk may approve, as a credential, a name badge provided by the person who appointed the poll watcher if the name badge includes the name of the poll watcher and the name of the person or organization who appointed the poll watcher and if the name badge does not contain any campaign materials advocating a vote for or against any candidate, political party, or position on a ballot question.

(2) For poll watchers eligible under subdivision (1)(a)(ii) of section 32-961, the Secretary of State shall provide the national or international election monitoring organization with the proper credentials for each poll watcher for whom the Secretary of State receives notice. The Secretary of State shall also notify the election commissioner or county clerk in each of the counties in which the poll watchers would be observing, and the notice shall include the name of the organization, a list of the poll watchers, a description of the credential that will be worn by the poll watchers, and the plans of the organization for election day, including which counties and precincts the organization plans to observe.

Source: Laws 2020, LB1055, § 11; Laws 2022, LB843, § 37.

Effective Date: July 21, 2022

32-963. Poll watchers; display credential; sign register; authorized activities; protest conduct of election; ruling.

(1) Upon arrival at a polling place, a poll watcher shall display such poll watcher's credentials to the precinct inspector or precinct receiving board and sign the register of poll watchers. The election commissioner or county clerk shall provide a register at each precinct for poll watchers to sign. A poll watcher shall wear the approved credential with the poll watcher's name and the name of the person or organization who appointed the poll watcher while engaged in observing at a polling place.

(2) Subject to section 32-1525, a poll watcher may be present during all proceedings at the polling place governed by the Election Act and may watch and observe the performance in and around the polling place of all duties under the act.

(3) If a poll watcher or the person or organization who appointed the poll watcher wishes to protest any aspect of the conduct of the election, such poll watcher, person, or organization shall present such protest to the Secretary of State or to the election commissioner or county clerk of the applicable county. The Secretary of State, election commissioner, or county clerk shall rule on the issue within a reasonable amount of time relative to the issue presented.

Source: Laws 2020, LB1055, § 12.

32-1001. Closing of polls; receiving board; duties.

After the polls have closed, the precinct list of registered voters and the precinct sign-in register shall be signed by all members of the receiving board, the names of the registered voters shall be counted, and the number shall be recorded where designated on the list and the register. If a line is missed or a name is voided, the receiving board shall subtract such omissions or voids from the total before recording the total on the list and the register. The receiving board shall certify to all matters pertaining to casting of ballots and shall turn over the ballots, ballot boxes, list of registered voters, and sign-in register to the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 295; Laws 2007, LB646, § 9.

Annotations

A failure by the election officers of a precinct to sign the returns, as required by this section, does not invalidate the election. *Wheelock v. Haney*, 138 Neb. 547, 293 N.W. 418 (1940).

32-1002. Provisional ballots; when counted.

(1) As the ballots are removed from the ballot box pursuant to sections 32-1012 to 32-1018, the receiving board shall separate the envelopes containing the provisional ballots from the rest of the ballots and deliver them to the election commissioner or county clerk.

(2) Upon receipt of a provisional ballot, the election commissioner or county clerk shall verify that the certificate on the front of the envelope or the form attached to the envelope is in proper form and that the certification has been signed by the voter.

(3) The election commissioner or county clerk shall also (a) verify that such person has not voted anywhere else in the county or been issued a ballot for early voting, (b) investigate whether any credible evidence exists that the person was properly registered to vote in the county before the deadline for registration for the election, (c) investigate whether any information has been received pursuant to section 32-308, 32-309, 32-310, or 32-324 that the person has resided, registered, or voted in any other county or state since registering to vote in the county, and (d) upon determining that credible evidence exists that the person was properly registered to vote in the county, make the appropriate changes to the voter registration register by entering the information contained in the registration application completed by the voter at the time of voting a provisional ballot.

(4) A provisional ballot cast by a voter pursuant to section 32-915 shall be counted if:

(a) Credible evidence exists that the voter was properly registered in the county before the deadline for registration for the election;

(b) The voter has resided in the county continuously since registering to vote in the county;

(c) The voter has not voted anywhere else in the county or has not otherwise voted early using a ballot for early voting;

(d) The voter has completed a registration application prior to voting as prescribed in subsection (6) of this section and:

(i) The residence address provided on the registration application completed pursuant to subdivision (1)(e) of section 32-915 is located within the precinct in which the person voted; and

(ii) If the voter is voting in a primary election, the party affiliation provided on the registration application completed prior to voting the provisional ballot is the

same party affiliation that appears on the voter's voter registration record based on his or her previous registration application; and

(e) The certification on the front of the envelope or form attached to the envelope is in the proper form and signed by the voter.

(5) A provisional ballot cast by a voter pursuant to section 32-915 shall not be counted if:

(a) The voter was not properly registered in the county before the deadline for registration for the election;

(b) Information has been received pursuant to section 32-308, 32-309, 32-310, or 32-324 that the voter has resided, registered, or voted in any other county or state since registering to vote in the county in which he or she cast the provisional ballot;

(c) Credible evidence exists that the voter has voted elsewhere or has otherwise voted early;

(d) The voter failed to complete and sign a registration application pursuant to subsection (6) of this section and subdivision (1)(e) of section 32-915;

(e) The residence address provided on the registration application completed pursuant to subdivision (1)(e) of section 32-915 is in a different county or in a different precinct than the county or precinct in which the voter voted;

(f) If the voter is voting in a primary election, the party affiliation on the registration application completed prior to voting the provisional ballot is different than the party affiliation that appears on the voter's voter registration record based on his or her previous registration application; or

(g) The voter failed to complete and sign the certification on the envelope or form attached to the envelope pursuant to subsection (3) of section 32-915.

(6) An error or omission of information on the registration application or the certification required under section 32-915 shall not result in the provisional ballot not being counted if:

(a)(i) The errant or omitted information is contained elsewhere on the registration application or certification; or

(ii) The information is not necessary to determine the eligibility of the voter to cast a ballot; and

(b) Both the registration application and the certification are signed by the voter.

(7) Upon determining that the voter's provisional ballot is eligible to be counted, 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.

(8) The election commissioner or county clerk shall notify the system administrator of the system created pursuant to section 32-202 as to whether the ballot was counted and, if not, the reason the ballot was not counted.

(9) The verification and investigation shall be completed within seven business days after the election.

Source: Laws 1994, LB 76, § 296; Laws 1999, LB 234, § 13; Laws 2002, LB 1054, § 23; Laws 2003, LB 358, § 30; Laws 2005, LB 566, § 53; Laws 2007, LB646, § 10; Laws 2010, LB325, § 7; Laws 2014, LB661, § 15; Laws 2019, LB411, § 51.

32-1003. Votes counted; when.

All valid votes shall be counted. No ballot shall be rejected because the voter did not vote for every possible office or position.

Source: Laws 1994, LB 76, § 297.

Annotations

A ballot marked other than as provided by law is not void unless marked for identification. *Gauvreau v. Van Patten*, 83 Neb. 64, 119 N.W. 11 (1908).

A ballot is not necessarily invalid because the manner in which it is marked might serve to identify it. *Mauck v. Brown*, 59 Neb. 382, 81 N.W. 313 (1899).

A ballot upon which the word Eagleham had been endorsed was within the clause of this section prohibiting the marking of ballots for identification and should have been rejected. *Spurgin v. Thompson*, 37 Neb. 39, 55 N.W. 297 (1893).

All ballots intentionally marked for identification are void, but ballots otherwise valid are not invalid because they happen to have been marked in such a manner that they may be later distinguished from other ballots cast at the election. *State ex rel. Waggoner v. Russell*, 34 Neb. 116, 51 N.W. 465, 33 A.S.R. 625 (1892), 15 L.R.A. 740 (1892).

32-1004. Overvote; rejection; when.

If a ballot has been overvoted for any office, the ballot shall be rejected for that office only. No overvoted ballot shall be judged for voter intent by any member of the counting board or any official involved in the counting process.

Source: Laws 1994, LB 76, § 298; Laws 2007, LB646, § 11.

32-1005. Write-in vote; when valid.

If the last name or a reasonably close spelling of the last name of a person engaged in or pursuing a write-in campaign pursuant to section 32-615 or 32-633 is written or printed on a line provided for that purpose and the square or oval opposite such line has been marked with a cross or other clear, intelligible mark, the vote shall be valid and the ballot shall be counted. A write-in vote for a person who is not engaged in or pursuing a write-in campaign pursuant to section 32-615 or 32-633 shall not be counted.

Source: Laws 1994, LB 76, § 299; Laws 1999, LB 571, § 9; Laws 2003, LB 358, § 31; Laws 2013, LB349, § 4; Laws 2021, LB285, § 16.

32-1006. Repealed. Laws 2021, LB285, § 21.

32-1007. Ballots; write-in votes; improper name; rejected.

If only the last name of a person is in the write-in space on the ballot and there is more than one person in the county having the same last name, the counting board shall reject the ballot for that office unless the last name is reasonably close to the proper spelling of the last name of a candidate engaged in or pursuing a write-in campaign pursuant to section 32-615. The counting board shall make the following notation on the rejected ballot: Rejected for the office of, no first or generally recognized name.

Source: Laws 1994, LB 76, § 301; Laws 1999, LB 571, § 10; Laws 2001, LB 252, § 3; Laws 2003, LB 358, § 33; Laws 2013, LB349, § 5; Laws 2018, LB377, § 4; Laws 2019, LB411, § 52.

32-1008. Write-in votes; totals; how reported.

If the write-in vote in the county for a person pursuing a write-in campaign pursuant to section 32-615 or 32-633 totals less than five percent of the vote for such office in the county and the election commissioner or county clerk believes that such vote will not impact the outcome of the election, the number of write-in votes for that office may be counted and listed together as one total.

Source: Laws 1994, LB 76, § 302; Laws 1999, LB 571, § 11; Laws 2013, LB349, § 6; Laws 2019, LB411, § 53.

32-1009. Returns; when available.

No returns or partial returns shall be released prior to the closing of the polls. Any or all available returns may be released after the polls close.

Source: Laws 1994, LB 76, § 303.

32-1010. Ballots; where counted.

Ballots shall be counted at a centralized location or at polling places as provided in sections 32-1012 to 32-1018. If counting takes place at a centralized location, the receiving board shall deliver the ballot box and other election materials to the centralized location as directed by the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 304; Laws 2007, LB646, § 12; Laws 2019, LB411, § 54.

32-1011. Repealed. Laws 2007, LB 646, § 17.

32-1012. Centralized location; partial returns; when; designation of location; counting procedure.

(1) In counties using optical scanners to count the ballots at a centralized location, the election commissioner or county clerk may arrange to have partial returns delivered, properly locked or sealed, to the centralized location or locations at any time desired after the opening of the polls if at least twenty-five ballots have been cast since any prior delivery of ballots. The election commissioner or county clerk shall designate the location or locations for counting the ballots and may designate a location or locations in any county. Upon completion of the count, the ballots shall be conveyed under supervision of the election commissioner or county clerk to the office of such official. If for any reason it becomes impracticable to count all or a part of the ballots with optical scanners, the election commissioner or county clerk may direct that the ballots be counted manually following as closely as possible the provisions governing the manual counting of ballots.

(2) In counties using optical scanners to count the ballots at polling places, the election commissioner or county clerk may arrange to have partial returns delivered, properly locked, sealed, or digitally secured, to the election office at any time desired after the opening of the polls if at least twenty-five ballots have been cast since any prior delivery of partial returns. The election commissioner or county clerk shall designate polling places as locations for counting the ballots. Upon completion of the count, the ballots shall be conveyed under supervision of the election commissioner or county clerk to the office of such official. If for any reason it becomes impracticable to count all or a part of the ballots with optical scanners, the election commissioner or county clerk may direct that the ballots be counted manually following as closely as possible the provisions governing the manual counting of ballots.

Source: Laws 1994, LB 76, § 306; Laws 2003, LB 358, § 34; Laws 2019, LB411, § 55.

32-1013. Counting location; watchers; counting board members; oath; authorized observers.

(1) In each counting location, watchers may be appointed to be present and observe the counting of ballots. Each political party shall be entitled to one watcher at each location appointed and supplied with credentials by the county central committee of such political party. The district court having jurisdiction over any such county may appoint additional watchers for any location.

(2) The watchers and the members of the counting board shall take the following oath administered by the election commissioner or county clerk or an election official designated by the election commissioner or county clerk: I do solemnly swear that I will not in any manner make known to anyone other than duly authorized election officials the results of the votes as they are being counted until the polls have officially closed and the summary of votes cast is delivered to the election commissioner or county clerk.

(3) Except for polling places using precinct-based optical scanners, all other persons shall be excluded from the place where the counting is being conducted except for observers authorized by the election commissioner or county clerk. No such observer shall be connected with any candidate, political party, or measure on the ballot.

Source: Laws 1994, LB 76, § 307; Laws 2019, LB411, § 56.

32-1014. Repealed. Laws 1997, LB 764, § 113.

32-1015. Centralized location; resolution board; designation; duties.

The election commissioner or county clerk shall designate at least two members of the counting board to act as a resolution board to resolve questions as to the legality of votes to be counted. The members of the resolution board shall be of equal number from different political parties. Any issue as to the legality of a vote shall be resolved unanimously by the resolution board. If a unanimous decision cannot be obtained, the ballot shall be rejected as to the vote in question.

Source: Laws 1994, LB 76, § 309.

32-1016. Centralized location; damaged or defective ballots; how treated.

If any ballot is damaged or defective so that it cannot properly be counted by the vote counting device, the resolution board shall make a true duplicate copy and substitute the copy for the damaged or defective ballot. All duplicate ballots shall be clearly labeled duplicate, and all damaged or defective ballots shall be clearly labeled damaged or defective. Each pair of duplicate and damaged or defective ballots shall bear a similar serial number or some form of identification so that both the damaged or defective and duplicate ballots can be matched to facilitate recounts or any inspection of the ballots. The resolution board shall maintain the secrecy of the damaged or defective ballots as much as possible and shall cause the damaged or defective ballots to be made up in a sealed packet. The resolution board shall endorse the packet with the words Damaged or Defective Ballots and the designation of the precinct. The resolution board shall sign the endorsement label and place the sealed packet in the ballots-cast container with the voted ballots as provided in section 32-1017.

Source: Laws 1994, LB 76, § 310; Laws 1997, LB 764, § 98.

32-1017. Centralized location; ballots-cast container; Rejected Ballots envelope; summary of votes cast.

(1) Upon completion of the counting of votes, the counting board shall place all voted ballots in the ballots-cast container. Rejected ballots shall be placed in the envelope designated Rejected Ballots, and the envelope shall be sealed and placed in the ballots-cast container with the voted ballots. The ballots-cast container shall then be sealed.

(2) The counting board shall prepare a summary of the votes cast and deliver the summary to the election commissioner or county clerk. When write-in votes are totaled in accordance with section 32-1008, the write-in votes shall be totaled as an aggregate for any such office. The election commissioner or county clerk shall release unofficial returns from the summary.

Source: Laws 1994, LB 76, § 311.

32-1018. Centralized location; vote counting devices; sealing and storage; reuse.

All tapes, programming boards, and other materials used with vote counting devices for the election shall be sealed and stored with the ballots and election materials for that election for the amount of time required by law. Programming boards may be reused after six months have elapsed following an election in which they were used.

Source: Laws 1994, LB 76, § 312.

32-1019. Repealed. Laws 2007, LB 646, § 17.

32-1020. Repealed. Laws 2007, LB 646, § 17.

32-1021. Repealed. Laws 2007, LB 646, § 17.

32-1022. Repealed. Laws 2007, LB 646, § 17.

32-1023. Repealed. Laws 2007, LB 646, § 17.

32-1024. Repealed. Laws 2007, LB 646, § 17.

32-1025. Repealed. Laws 2007, LB 646, § 17.

32-1026. Repealed. Laws 2007, LB 646, § 17.

32-1027. Counting board for early voting; appointment; duties.

(1) The election commissioner or county clerk shall appoint two or more registered voters to the counting board for early voting. One registered voter shall be appointed from the political party casting the highest number of votes for Governor or for President of the United States in the county in the immediately preceding general election, and one registered voter shall be appointed from the political party casting the next highest vote for such office. The election commissioner or county clerk may appoint additional registered voters to serve on the counting board and may appoint registered voters to serve in case of a vacancy among any of the members of the counting board. Such appointees shall be balanced between the political parties and may include registered voters unaffiliated with any political party. The counting board may begin carrying out its duties not earlier than the second Friday before the election and shall meet as directed by the election commissioner or county clerk.

(2) The counting board shall place all identification envelopes in order and shall review each returned identification envelope pursuant to verification procedures prescribed in subsections (3) and (4) of this section.

(3) In its review, the counting board shall determine if:

(a) The voter has provided his or her name, residence address, and signature on the voter identification envelope;

(b) The ballot has been received from the voter who requested it and the residence address is the same address provided on the voter's request for a ballot for early voting, by comparing the information provided on the identification envelope with information recorded in the record of early voters or the voter's request;

(c) A completed and signed registration application has been received from the voter by the deadline in section 32-302, 32-321, or 32-325 or by the close of the polls pursuant to section 32-945;

(d) An identification document has been received from the voter not later than the close of the polls on election day if required pursuant to section 32-318.01; and

(e) A completed and signed registration application and oath has been received from the voter by the close of the polls on election day if required pursuant to section 32-946.

(4) On the basis of its review, the counting board shall determine whether the ballot shall be counted or rejected as follows:

(a) A ballot received from a voter who was properly registered on or prior to the deadline for registration pursuant to section 32-302 or 32-321 shall be accepted for counting without further review if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot for early voting has been issued or sent;

(ii) The residence address provided on the identification envelope is the same residence address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any; and

(iii) The identification envelope has been signed by the voter;

(b) In the case of a ballot received from a voter who was not properly registered prior to the deadline for registration pursuant to section 32-302 or 32-321, the ballot shall be accepted for counting if:

(i) A valid registration application completed and signed by the voter has been received by the election commissioner or county clerk prior to the close of the polls on election day;

(ii) The name on the identification envelope appears to be that of the person who requested the ballot;

(iii) The residence address provided on the identification envelope and on the registration application is the same as the residence address as provided on the voter's request for a ballot for early voting; and

(iv) The identification envelope has been signed by the voter;

(c) In the case of a ballot received from a voter without a residence address who requested a ballot pursuant to section 32-946, the ballot shall be accepted for counting if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot has been sent;

(ii) A valid registration application completed and signed by the voter, for whom the residence address is deemed to be the address of the office of the election commissioner or county clerk pursuant to section 32-946, has been received by the election commissioner or county clerk prior to the close of the polls on election day;

(iii) The oath required pursuant to section 32-946 has been completed and signed by the voter and received by the election commissioner or county clerk by the close of the polls on election day; and

(iv) The identification envelope has been signed by the voter; and

(d) In the case of a ballot received from a registered voter required to present identification before voting pursuant to section 32-318.01, the ballot shall be accepted for counting if:

(i) The name on the identification envelope appears to be that of a registered voter to whom a ballot has been issued or sent;

(ii) The residence address provided on the identification envelope is the same address at which the voter is registered or is in the same precinct and subdivision of a precinct, if any;

(iii) A copy of an identification document authorized in section 32-318.01 has been received by the election commissioner or county clerk prior to the close of the polls on election day; and

(iv) The identification envelope has been signed by the voter.

(5) In opening the identification envelope or the return envelope to determine if registration applications, oaths, or identification documents have been enclosed by the voters from whom they are required, the counting board shall make a good faith effort to ensure that the ballot remains folded and that the secrecy of the vote is preserved.

(6) The counting board may, on the second Friday before the election, open all identification envelopes which are approved, and if the signature of the election commissioner or county clerk or his or her employee is on the ballot, the ballot shall be unfolded, flattened for purposes of using the optical scanner, and placed in a sealed container for counting as directed by the election commissioner or county clerk. At the discretion of the election commissioner or county clerk, the counting board may begin counting early ballots no earlier than twenty-four hours prior to the opening of the polls on the day of the election.

(7) If an identification envelope is rejected, the counting board shall not open the identification envelope. The counting board shall write Rejected on the identification envelope and the reason for the rejection. If the ballot is rejected after opening the identification envelope because of the absence of the official signature on the ballot, the ballot shall be reinserted in the identification envelope which shall be resealed and marked Rejected, no official signature. The counting board shall place the rejected identification envelopes and ballots in a container labeled Rejected Ballots and seal it.

(8) As soon as all ballots have been placed in the sealed container and rejected identification envelopes or ballots have been sealed in the Rejected Ballots

container, the counting board shall count the ballots the same as all other ballots and an unofficial count shall be reported to the election commissioner or county clerk. No results shall be released prior to the closing of the polls on election day.

Source: Laws 1994, LB 76, § 321; Laws 1999, LB 802, § 18; Laws 2002, LB 935, § 16; Laws 2005, LB 98, § 26; Laws 2005, LB 566, § 54; Laws 2007, LB646, § 13; Laws 2020, LB1055, § 15.

32-1028. County canvassing board; appointment.

The election commissioner or county clerk shall appoint two or more registered voters to constitute a county canvassing board. The election commissioner or county clerk shall be a member of the county canvassing board. One registered voter shall be appointed from the political party casting the highest number of votes for Governor or for President of the United States in the county in the immediately preceding general election, and one registered voter shall be appointed from the political party casting the next highest number of votes for such office. The election commissioner or county clerk may appoint additional registered voters to serve on the county canvassing board and may appoint registered voters to serve in case of a vacancy among any of the members of the county canvassing board. Such appointees shall be balanced between the political parties and may include registered voters unaffiliated with any political party.

Source: Laws 1994, LB 76, § 322.

32-1029. Repealed. Laws 2002, LB 935, § 19.

32-1030. Early voting materials; treatment.

All identification envelopes, voted ballots, and rejected ballots and the Rejected Ballots container shall be placed in the container for early voting materials, and the container shall be sealed.

Source: Laws 1994, LB 76, § 324; Laws 2005, LB 98, § 27.

32-1031. County canvassing board; canvass of votes; procedure.

(1) The election commissioner or county clerk shall, prior to 1 p.m. on election day, post in a conspicuous place in the office of such election commissioner or county clerk a notice stating the day and hour when the county canvassing board will convene.

(2) After counting the ballots under section 32-1027 but no earlier than twenty-four hours after the notice is posted as required under subsection (1) of this section, the county canvassing board shall proceed with the official canvass of votes cast on election day. If in the process of canvassing the votes for any candidate or measure in any precinct the election commissioner or county clerk or the canvassing board determines that there is an obvious error in the certification of the votes, the error shall be corrected. The county canvassing board may open the ballots-cast container and recount the ballots for any candidate or any measure which appears to be in error. If the county canvassing board finds and corrects any such error, it shall make the correction entry in the precinct sign-in register, the precinct list of registered voters, and the official summary or summaries of votes cast and shall attach a letter of explanation to each book where the correction was made. The letter shall be signed by all members of the county canvassing board.

(3) When it has been determined that the returns in all precincts are correct, the county canvassing board shall provide a record of the results to the election commissioner or county clerk either in a ledger or by using a computer printout. The election commissioner or county clerk shall preserve the record of the results for the period of time specified by the State Records Administrator pursuant to the Records Management Act, and then it may be transferred to the State Archives of the Nebraska State Historical Society for permanent preservation.

(4) Any recesses or adjournments of the county canvassing board shall be to a fixed time and publicly announced. When a recess is called, all ballots that have not been counted and all other supplies shall be placed in a fireproof safe or other suitable location which is locked until such board reconvenes.

Source: Laws 1994, LB 76, § 325; Laws 2005, LB 98, § 28; Laws 2012, LB1035, § 3; Laws 2022, LB843, § 38.

Effective Date: July 21, 2022

Cross References

Records Management Act, see section 84-1220.

32-1032. County canvassing board; election materials; preservation; duration.

Upon the completion of the canvass by the county canvassing board, all books shall again be sealed, and the election commissioner or county clerk shall keep all election materials, including the ballots-cast containers from each precinct, the sealed envelopes containing the precinct list of registered voters, the precinct sign-in register, the official summary or summaries of votes cast, and the container for early voting materials, for not less than twenty-two months when statewide primary, general, or special elections involve federal offices, candidates, and issues and not less than fifty days for local elections not held in conjunction with a statewide primary, general, or special election. The election commissioner or county clerk shall keep on file one copy of each ballot face used in each precinct of the official partisan, nonpartisan, constitutional amendment, and initiative and referendum ballots, as used for voting, and all election notices used at each primary and general election for twenty-two months. The precinct sign-in register, the record of early voters, and the official summary of votes cast shall be subject to the inspection of any person who may wish to examine the same after the primary, general, or special election. The election commissioner or county clerk shall not allow any other election materials to be inspected, including ballots and provisional ballot envelopes, except when an election is contested or the materials become necessary to be used in evidence in the courts. The election commissioner or county clerk shall direct the destruction of such materials after such time, except that the election commissioner or county clerk may retain materials for the purposes of establishing voter histories.

Source: Laws 1994, LB 76, § 326; Laws 1997, LB 764, § 100; Laws 2005, LB 98, § 29; Laws 2015, LB575, § 25.

Annotations

A county clerk has no right to permit ballots that have been committed to his care and keeping to be taken therefrom, regardless of their value as evidence. *Stewart v. Bole*, 61 Neb. 193, 85 N.W. 33 (1901).

32-1033. Certificate of nomination; certificate of election; issuance by election commissioner or county clerk; when; form.

The election commissioner or county clerk shall, on or before the sixth Monday after the election, prepare, sign, and deliver a certificate of nomination or a certificate of election to each person whom the county canvassing board has declared to have received the highest vote for county, city, or village offices. No person shall be issued a certificate of nomination as a candidate of a political party unless such person has received a number of votes at least equal to five percent of the total ballots cast at the primary election by registered voters affiliated with that political party in the district which the office for which he or she is a candidate serves. The certificate shall be substantially as follows:

State of Nebraska. At an election held on the day of 20.., was elected to the office of for the term of years from the day of 20.. (or when filling a vacancy, for the residue of the term ending on the day of 20..). Given at this day of 20.. .

Source: Laws 1994, LB 76, § 327; Laws 1997, LB 764, § 101; Laws 1999, LB 571, § 12; Laws 2022, LB843, § 39.

Effective Date: July 21, 2022

Annotations

There is a presumption that a certificate of nomination issued pursuant to this section does not create a binding contract between a candidate and the State. *Pick v. Nelson*, 247 Neb. 487, 528 N.W.2d 309 (1995).

By accepting a nomination for the office of presidential elector, a candidate pledges himself to discharge his duty, if elected, by voting for the candidates to be nominated subsequently by the national convention of the party. *State ex rel. Nebraska Rep. State C. Com. v. Wait*, 92 Neb. 313, 138 N.W. 159 (1912), 43 L.R.A.N.S. 282 (1912).

32-1034. Abstract of votes; election officials; duties.

Immediately upon the completion of the canvass by the county canvassing board, the election commissioner or county clerk shall prepare an abstract of votes for all officers and issues certified to the election commissioner or county clerk by the Secretary of State. The election commissioner or county clerk shall sign and affix his or her official seal to the abstract as the Abstract of Votes of County and deliver it to the Secretary of State. The Secretary of State shall prepare a tabular sheet of the votes cast for such officers and measures and preserve the same with the abstract of votes from the various counties for the use of the Legislature and the board of state canvassers in making the official canvass. The Secretary of State shall deliver to the state chairperson of each political party, upon request, a separate abstract of votes of the various contests for national and state offices indicating the total votes received by each candidate and measure.

Source: Laws 1994, LB 76, § 328.

Annotations

County clerk is required to furnish abstract of votes for use of the Legislature in making official canvass. *State ex rel. Caldwell v. Peterson*, 153 Neb. 402, 45 N.W.2d 122 (1950).

Abstract of votes cast for President and Vice President are transmitted to Secretary of State by county canvassing board. *State ex rel. Beeson v. Marsh*, 150 Neb. 233, 34 N.W.2d 279 (1948).

32-1035. Abstract of votes; failure to receive; Secretary of State; send messenger.

If the Secretary of State has not received the abstract of votes from any county by the third Monday after the day of election, the Secretary of State may send a messenger to the election commissioner or county clerk of such county at the expense of such county. The election commissioner or county clerk shall furnish the messenger with the abstract of votes or, if the abstract has been sent, with a copy of the abstract, and the messenger shall return the abstract to the Secretary of State without delay. If the abstract of votes was delayed by reason of the fault or neglect of the election commissioner or county clerk, he or she shall be responsible to the county for the cost of the messenger.

Source: Laws 1994, LB 76, § 329.

32-1036. Election results; reporting requirements; fee authorized.

The election commissioner or county clerk shall report to the Secretary of State all election results of statewide primary and general elections by precinct within eight weeks after the county canvass of such elections for President, Vice President, United States Senate, United States House of Representatives, members of the Legislature, members of the Public Service Commission, and the offices of Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, and Attorney General. The Secretary of State shall retain the election results for at least five years and shall collate, arrange, computerize, or publish reports arranging the election results. The Secretary of State may charge a fee as provided in section 33-101 for copies of such election results.

Source: Laws 1994, LB 76, § 330.

32-1037. Board of state canvassers; members; duties.

There shall be a board of state canvassers consisting of the Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, and Attorney General. The board of state canvassers shall meet at the office of the Secretary of State or such other location within the State Capitol as designated by the Secretary of State on the fourth Monday after each statewide primary and general election for the sole purpose of canvassing the votes cast for all officers and issues certified to the election commissioner or county clerk by the Secretary of State. The board of state canvassers may adjourn from day to day until all returns are received and all votes are tabulated. The Governor on the advice of the Secretary of State or the Attorney General may call an extraordinary session of the board of state canvassers. The duty of the board of state canvassers to canvass the votes is ministerial in nature.

Source: Laws 1994, LB 76, § 331; Laws 1999, LB 60, § 1; Laws 2015, LB575, § 26.

Annotations

Board of state canvassers meets on the third Monday after election. *State ex rel. Caldwell v. Peterson*, 153 Neb. 402, 45 N.W.2d 122 (1950).

This statute is unconstitutional as relates to requirements for independent candidates for President and Vice President of United States. *MacBride v. Exon*, 558 F.2d 443 (8th Cir. 1977).

Although Nebraska's statutes unconstitutionally deny an independent candidate access to appear on the ballot in presidential elections, the court directed the independent be included upon a determination he was a serious candidate, truly independent, with a satisfactory level of community support. *McCarthy v. Exon*, 424 F.Supp. 1143 (D. Neb. 1976).

32-1038. Board of state canvassers; canvass of votes; procedure.

(1) The board of state canvassers shall authorize the Secretary of State to open the abstracts of votes from the various counties and prepare an abstract stating the number of ballots cast for each office, the names of all the persons voted for, for what office they respectively received the votes, and the number of votes each received. The abstract shall be signed by the members of the board and shall have the seal of the state affixed by the Secretary of State. The canvass of the votes for candidates for President and Vice President of the United States and the return thereof shall be a canvass and return of the votes cast for the presidential electors of the same party or group of petitioners respectively, and the certificate of such election made by the Governor shall be in accord with such return. Receipt by the presidential electors of a party or a group of petitioners of the highest number of votes statewide shall constitute election of the two at-large presidential electors of that party or group of petitioners. Receipt by the presidential electors of a party or a group of petitioners of the highest number of votes in a congressional district shall constitute election of the congressional district presidential elector of that party or group of petitioners.

(2) The board of state canvassers shall determine from the completed abstract the names of those candidates who have been nominated or elected. If any two or more persons are returned with an equal and the highest number of votes, the board of state canvassers shall decide by lot which of such persons is elected except for officers elected to the executive branch. The board of state canvassers shall also declare those measures carried which have received the required percentage of votes as provided by law.

Source: Laws 1994, LB 76, § 332.

Annotations

Board of state canvassers does not have jurisdiction to canvass returns of election for officers of executive department. *State ex rel. Caldwell v. Peterson*, 153 Neb. 402, 45 N.W.2d 122 (1950).

Board of state canvassers is granted power to canvass the votes of presidential electors. *State ex rel. Caldwell v. Peterson*, 153 Neb. 402, 45 N.W.2d 122 (1950).

Group of petitioners represents new political party. *State ex rel. Beeson v. Marsh*, 150 Neb. 233, 34 N.W.2d 279 (1948).

It is the duty of the state canvassing board to canvass the returns of the vote on proposed amendments to the Constitution. *State ex rel. Oldham v. Dean*, 84 Neb. 344, 121 N.W. 719 (1909).

Mandamus will lie to compel the members of the state canvassing board, including the Governor, to perform their duties. *State ex rel. Bates v. Thayer*, 31 Neb. 82, 47 N.W. 704 (1891).

Although Nebraska's statutes unconstitutionally deny an independent candidate access to appear on the ballot in presidential elections, the court directed the independent be included upon a determination he was a serious candidate, truly independent, with a satisfactory level of community support. *McCarthy v. Exon*, 424 F.Supp. 1143 (D. Neb. 1976).

32-1039. Canvass of votes by Legislature; when.

The votes cast for the officers of the executive departments of this state and members of the Public Service Commission shall be canvassed by the Legislature at its next regular session.

Source: Laws 1994, LB 76, § 333.

Annotations

Legislature is required to canvass votes cast for officers of the executive department. *State ex rel. Caldwell v. Peterson*, 153 Neb. 402, 45 N.W.2d 122 (1950).

32-1040. Certificate of nomination; certificate of election; issuance by Secretary of State; when; form.

The Secretary of State shall within forty days after the election prepare and deliver a certificate of nomination or certificate of election to each person who meets the constitutional and statutory requirements of office and whom the board of state canvassers or Legislature has declared to have received the highest vote for such office or position in the statewide primary or general election. The certificate shall be substantially as follows:

State of Nebraska. At an election held on the day of, was elected to (or nominated for) the office of for the term of years from the (or when filling a vacancy, for the residue of the term ending on the day of 20....). Given at this day of 20.... .

The certificate shall be signed by the Governor, under the seal of the state, and countersigned by the Secretary of State if the candidate filed with the Secretary of State and was elected to a state office, as a member of Congress, or from a district whose boundaries extend beyond the limits of a single county.

Source: Laws 1994, LB 76, § 334; Laws 2004, LB 813, § 17.

32-1041. Voting and counting methods and locations authorized; approval required; when; electronic voting system prohibited.

(1) The election commissioner or county clerk may use optical-scan ballots or voting systems approved by the Secretary of State to allow registered voters to cast their votes at any election. The election commissioner or county clerk may use vote counting devices and voting systems approved by the Secretary of State for tabulating the votes cast at any election. Vote counting devices shall include electronic counting devices such as optical scanners.

(2) No electronic voting system shall be used under the Election Act.

(3) Any new voting or counting system shall be approved by the Secretary of State prior to use by an election commissioner or county clerk. The Secretary of State may adopt and promulgate rules and regulations to establish different procedures and locations for voting and counting votes pursuant to the use of any new voting or counting system. The procedures shall be designed to preserve the safety and confidentiality of each vote cast and the secrecy and security of the counting process, to establish security provisions for the prevention of fraud, and to ensure that the election is conducted in a fair manner.

Source: Laws 1994, LB 76, § 335; Laws 1997, LB 526, § 1; Laws 2003, LB 358, § 37; Laws 2005, LB 401, § 10; Laws 2007, LB646, § 14; Laws 2019, LB411, § 57.

32-1042. Voting systems; acquisition authorized; debt; tax levy; payment.

The governing body of any county may purchase, lease, lease-purchase, rent, or contract for voting systems approved by the Secretary of State to be used in all elections. The governing body of any county may issue bonds, certificates of indebtedness, or other obligations or levy for the purpose of acquiring voting systems. Any excess amounts levied and collected shall revert to the county general fund. Any bonds, certificates, or other obligations may be issued with or without interest and may be payable at such time or times as the governing body may determine but shall not be issued or sold at less than par. The governing body of the county may provide for installment payments which extend over a period of more than one year notwithstanding sections 23-132 and 23-916.

Source: Laws 1994, LB 76, § 336; Laws 1996, LB 1114, § 53; Laws 2003, LB 358, § 38.

32-1043. Voting systems; rental contracts; authorized.

The governing body of any county which has procured voting systems may enter into a contract for the rental of such systems with a city, village, or school district. Such rentals may be paid out of the general fund or by levying taxes to provide funds for payment of such rentals. Such rental contracts may be made to extend over any period of time.

Source: Laws 1994, LB 76, § 337; Laws 2003, LB 358, § 39.

32-1044. Repealed. Laws 2012, LB 878, § 7.

32-1045. Repealed. Laws 2012, LB 878, § 7.

32-1046. Repealed. Laws 2003, LB 358, § 46.

32-1047. Repealed. Laws 2003, LB 358, § 46.

32-1048. Repealed. Laws 2003, LB 358, § 46.

32-1049. Vote counting device; requirements.

Any election commissioner or county clerk using a vote counting device to count ballots in a centralized location shall:

(1) Provide for the proper sealing of the containers and the security of the ballots when transported from each polling place to the centralized location and when removed from their containers and delivered to the personnel who operate the vote counting devices;

(2) Provide a process of counting which allows for the ballots of each precinct to be placed in a sealed container and placed in a secure location after the counting process has been completed;

(3) Provide for a method of overseeing the ballots that have been overvoted or damaged which does not involve judging voter intent to assure that these ballots have not been or will not be intentionally mismarked;

(4) Provide for a procedure for counting write-in votes when such votes and names of write-in candidates are to be counted and recorded;

(5) Provide for at least three independent tests to be conducted before counting begins to verify the accuracy of the counting process, which includes the computerized program installed for counting various ballots by vote counting devices, by (a) the election commissioner or county clerk, (b) the chief deputy election commissioner or a registered voter with a different party affiliation than that of the election commissioner or county clerk, and (c) the person who installed the program in the vote counting device or the person in charge of operating the device;

(6) Provide for storing and safeguarding the magnetic tapes or computer chips of the vote counting devices for the required period of time;

(7) Provide the appropriate security personnel or measures necessary to safeguard the secrecy and security of the counting process;

(8) Develop a procedure for picking up and counting ballots during election day at the discretion of the election commissioner or county clerk. No report or tabulation of vote totals for such ballots shall be produced or generated prior to one hour before the closing of the polls;

(9) Develop a procedure for picking up and transporting ballots from a secure ballot drop-box to the office of the election commissioner or county clerk; and

(10) Submit a written plan to the Secretary of State specifically outlining the procedures that will be followed on election day to implement this section. The plan shall be submitted no later than twenty-five days before the election and shall be modified, as necessary, for each primary, general, or special election.

Source: Laws 1994, LB 76, § 343; Laws 2007, LB646, § 15; Laws 2022, LB843, § 41.

Effective Date: July 21, 2022

32-1101. Contest of election other than member of Legislature; applicability of sections; grounds.

(1) Sections 32-1101 to 32-1117 shall apply to contests of any election other than the election of a member of the Legislature. The contest of the election of a member of the Legislature is subject to the Legislative Qualifications and Election Contests Act.

(2) The election of any person to an elective office other than the Legislature, the location or relocation of a county seat, or any proposition submitted to a vote of the people may be contested:

(a) For misconduct, fraud, or corruption on the part of an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election commissioner or county clerk sufficient to change the result;

(b) If the incumbent was not eligible to the office at the time of the election;

(c) If the incumbent has been convicted of a felony unless at the time of the election his or her civil rights have been restored;

(d) If the incumbent has given or offered to any voter or an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election commissioner or county clerk any bribe or reward in money, property, or thing of value for the purpose of procuring his or her election;

(e) If illegal votes have been received or legal votes rejected at the polls sufficient to change the results;

(f) For any error of any board of canvassers in counting the votes or in declaring the result of the election if the error would change the result;

(g) If the incumbent is in default as a collector and custodian of public money or property; or

(h) For any other cause which shows that another person was legally elected.

(3) When the misconduct is on the part of an election commissioner, a county clerk, an inspector, a judge or clerk of election, a member of a counting or canvassing board, or an employee of the election commissioner or county clerk, it shall be insufficient to set aside the election unless the vote of the county, precinct, or township would change the result as to that office.

Cross References

Legislative Qualifications and Election Contests Act, see section 50-1501.

Annotations

1. Nature of proceeding

2. Who may contest

3. Procedure

4. Other remedies

5. County seat elections

6. Miscellaneous

1. Nature of proceeding

This section is the exclusive method by which a school reorganization election may be attacked after the election is held, and a declaratory action is improper. *Eriksen v. Ray*, 212 Neb. 8, 321 N.W.2d 59 (1982).

It is ground for an election contest that illegal votes have been received or legal votes rejected sufficient to change the result. *Plouzek v. Saline County Reorganization Committee*, 181 Neb. 440, 148 N.W.2d 919 (1967).

This section does not apply to a school district election held for the purpose of contracting for the instruction of pupils. *Farrell v. School Dist. No. 54*, 164 Neb. 853, 84 N.W.2d 126 (1957).

The statutory proceeding to contest an election is a summary proceeding of a political nature and is not, strictly speaking, an action at law or in equity. *Swan v. Bowker*, 135 Neb. 405, 281 N.W. 891 (1938).

The right, conferred by statute on a candidate for public office to contest the election of his apparently successful rival, is a special statutory proceeding, and all the conditions prescribed for its exercise must be strictly followed. *Landgren v. Hamilton*, 133 Neb. 668, 276 N.W. 659 (1937); *Wilson v. Matson*, 110 Neb. 630, 194 N.W. 735 (1923).

An election contest is a summary proceeding of a political character tried before judges who serve in the capacity of election inspectors. *Griffith v. Bonawitz*, 73 Neb. 622, 103 N.W. 327 (1905).

The statute providing a method for contesting an election is complete within itself, including the manner of review in an appellate court. *Mauck v. Brown*, 59 Neb. 382, 81 N.W. 313 (1897).

A contest of election is an adversary proceeding by which the matters in controversy may be settled upon issues joined, and parties having an adverse

interest to the contestant must be joined. *Burke v. Perry*, 26 Neb. 414, 42 N.W. 401 (1889).

A proceeding to contest an election is essentially a legal remedy, the object of which is to vacate the declared result of an election. *Scott v. McGuire*, 15 Neb. 303, 18 N.W. 93 (1883).

2. Who may contest

Proceedings under this section are available to contest election held under Reorganization of School Districts Act. *Longe v. County of Wayne*, 175 Neb. 245, 121 N.W.2d 196 (1963).

In an election contest, the contestant has the burden of proving that illegal ballots affected the result of the election. *State ex rel. Brogan v. Boehner*, 174 Neb. 689, 119 N.W.2d 147 (1963).

Election held for reorganization of school districts is subject to contest under this section. *Arends v. Whitten*, 172 Neb. 297, 109 N.W.2d 363 (1961).

There is no authority for a taxpayer and elector residing in a municipality to bring a proceeding to contest an election on the proposition of empowering the mayor and city council to compel a railroad company to provide viaducts over its tracks. *Barnes v. City of Lincoln*, 85 Neb. 494, 124 N.W. 99 (1909).

Under former law, residents and citizens of a proposed location of a county seat are not authorized to contest county seat election. *Sebering v. Bastedo*, 48 Neb. 358, 67 N.W. 148 (1896).

The first clause of this section gives to the taxpayers of a city the right to contest a city election on the question of giving financial aid to a railroad company. *Foxworthy v. L. & F. R. R. Co.*, 13 Neb. 398, 14 N.W. 394 (1882).

3. Procedure

Irregularities in canvass of vote will not invalidate election. *Haggard v. Misko*, 164 Neb. 778, 83 N.W.2d 483 (1957).

Election contest was properly brought under subdivisions (5) and (6) of this section. *Swan v. Bowker*, 135 Neb. 405, 281 N.W. 819 (1938).

A contestant who alleges that illegal votes, sufficient to change the result of the election, were cast must prove for whom the illegal votes were cast before any votes can be eliminated. *Mehrens v. Election Canvassing Board*, 134 Neb. 151, 278 N.W. 252 (1938).

Election is not invalidated unless illegal votes are received and counted sufficient to change result. *Mosiman v. Weber*, 107 Neb. 737, 187 N.W. 109 (1922).

In proceeding to contest election, contestant may introduce in evidence properly preserved ballots without first making proof of charges in complaint. *Frum v. Leamer*, 101 Neb. 675, 164 N.W. 715 (1917).

A contestant is required to prove the material allegations of his complaint irrespective of whether the incumbent has formally answered. *McWhorter v. Schramm*, 97 Neb. 103, 149 N.W. 306 (1914).

The Legislature may constitute the Supreme Court a tribunal to decide contests of election involving officers elected by the entire state or by districts composed of a number of counties. *Bell v. Templin*, 26 Neb. 249, 41 N.W. 1093 (1889).

4. Other remedies

Once an election takes place, a challenge under the Open Meetings Act to preliminary stages leading up to the election is effectively subsumed by the election contest provisions of sections 32-1101 through 32-1117. An election contest is the exclusive remedy under such circumstances, and a separate challenge under the Open Meetings Act does not exist once the issue is voted upon by the public. *Pierce v. Drobny*, 279 Neb. 251, 777 N.W.2d 322 (2010).

A suit to obtain an injunction is not the proper remedy in which to try the title to a public office. *Hotchkiss v. Keck*, 84 Neb. 545, 121 N.W. 579 (1909), reversed on rehearing 86 Neb. 322, 125 N.W. 509 (1910). Followed in *Moor v. Keck*, 84 Neb. 550, 121 N.W. 581 (1909), reversed on rehearing 86 Neb. 694, 126 N.W. 388 (1910).

The statutory remedy by contest is not an exclusive remedy, and the right to hold the office of county treasurer may be determined in an action of quo warranto. *State ex rel. Barton v. Frantz*, 55 Neb. 167, 75 N.W. 546 (1898).

The proceeding to contest an election, provided for by this article, is a cumulative remedy and is not a bar to a proceeding in quo warranto. *State ex rel. Fair v. Frazier*, 28 Neb. 438, 44 N.W. 471 (1890).

The statute provides an adequate remedy, either by contest or quo warranto, for the settlement of the rights of parties in disputed elections, and equity has no jurisdiction to enjoin an officer holding an election certificate from taking office. *State ex rel. Hunt v. Mayor and City Council of Kearney*, 28 Neb. 103, 44 N.W. 90 (1889).

The grounds of contest enumerated in this section are sufficient grounds of removal in an action of quo warranto. *State ex rel. Richards v. McMillen*, 23 Neb. 385, 36 N.W. 587 (1888).

Mandamus will lie to compel a canvassing board to canvass all the votes returned, in the event of a refusal to canvass the votes from certain precincts, and the fact that a statutory right of action to contest the election exists is not a bar. *State ex rel. Whittemore v. Peacock*, 15 Neb. 442, 19 N.W. 685 (1884).

Mandamus will lie to compel a board of canvassers to reassemble and canvass the entire vote cast at an election where they have refused to canvass part of the votes, and the fact that a statutory right of action to contest the election is provided by this section is not a bar. *State ex rel. Willard v. Stearns*, 11 Neb. 104, 7 N.W. 743 (1881).

Question of statutory right of action to contest an election being a bar to a writ of mandamus to compel a canvassing board to canvass all votes cast raised but not

decided. State ex rel. Townsend v. Hill, 10 Neb. 58, 4 N.W. 514 (1880).

5. County seat elections

An election for the location or relocation of a county seat may be contested in a proceeding brought under this article, but not in a mandamus proceeding. State ex rel. Hocknell v. Roper, 46 Neb. 730, 65 N.W. 802 (1896).

The proceeding provided for by this article is not an exclusive remedy by which elections for relocating county seats must be contested, and a taxpayer may enjoin the calling of an unauthorized election. Solomon v. Fleming, 34 Neb. 40, 51 N.W. 304 (1892).

The question of the jurisdiction of the county commissioners to call an election for the purpose of locating the county seat may properly be presented in a proceeding to contest the election. Laws v. Vincent, 16 Neb. 208, 20 N.W. 213 (1884).

6. Miscellaneous

The right to contest an election otherwise than by legal proceedings in the proper court is a right created by the Constitution and statutes. In re Contest Proceedings, 31 Neb. 262, 47 N.W. 923 (1891), 10 L.R.A. 803 (1891).

32-1102. Contested primary and general elections; state officers; venue; petition; service; answer.

(1) All contested primary and general elections for Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, member of the Public Service Commission, member of the State Board of Education, and Regent of the University of Nebraska shall be heard and determined by the district court for Lancaster County.

(2) Any person contesting the election of any officer named in subsection (1) of this section shall present a petition to the district court of Lancaster County within forty days after the election. The petition shall set forth the points on which he or she will contest the election and the facts which he or she will prove in support of such points and shall ask for leave to produce his or her proof. The person whose election is being contested shall be served with a copy of such petition and a notice of the time and place of the presentation of the petition at least ten days before the petition will be presented and may, upon the presentation of such petition, file his or her answer thereto specifying reasons why his or her election should not be contested.

Source: Laws 1994, LB 76, § 345.

32-1103. Election contest; appointment of court official; powers and duties; compensation.

Upon the presentation of a petition contesting an election and the answer to such petition, if any, the court shall appoint an official of the court to take the testimony of the petitioner and the person whose election is contested at such times and places as the court directs. The court order shall specify the points and facts in regard to which the testimony is to be taken and the time when the official shall make his or her report to the court. The court shall fix the compensation of the official to be taxed as part of the costs. The official shall have the power to administer oaths and take depositions, to compel the attendance of witnesses by summons and attachment, to require such witnesses to testify, and to certify such testimony.

Source: Laws 1994, LB 76, § 346.

Annotations

Delegation of authority under this section could not operate to expand the original jurisdiction of the Supreme Court. *Sorensen v. Swanson*, 181 Neb. 205, 147 N.W.2d 620 (1967).

32-1104. Election contest; rights of parties; procedure; report and recommendations.

The petitioner and the person whose election is contested shall have the right to attend the examination of the witnesses appearing before the official of the court and to cross-examine the witnesses. Testimony shall be taken only on the points and facts specified in the court order. The official shall cause to be made a full and accurate bill of exceptions of all evidence and testimony adduced at the hearing and shall preside at such hearing as a judge in a court of equity. The official shall rule upon the admissibility of testimony and shall preserve and maintain on the part of all participants at the hearing judicial decorum and demeanor and shall have the powers of a judge to cite or punish for contempt. The official at the conclusion of the hearing shall make a written report and recommendations to the court which shall be considered by the court as a finding of a trial judge in equity.

Source: Laws 1994, LB 76, § 347.

32-1105. Election contest; bond.

The petitioner shall file in the proper court within ten days after filing of the petition a bond with security to be approved by the clerk of the court conditioned to pay all costs in case the election is confirmed.

Source: Laws 1994, LB 76, § 348; Laws 2018, LB744, § 2.

Annotations

Cost bond must be filed within ten days after filing of complaint contesting election. Sutton v. Anderson, 176 Neb. 543, 126 N.W.2d 836 (1964).

32-1106. Repealed. Laws 2018, LB744, § 30.

32-1107. Repealed. Laws 2018, LB744, § 30.

32-1108. Ballot question; contest of election result; petition; service; answer; representation.

The result of any election upon a proposed constitutional amendment or statute submitted or referred to the voters either by the Legislature or by initiative or referendum petition may be contested upon the petition of one or more registered voters directed against the Secretary of State. The petitioning voter or voters shall present a petition to the district court of Lancaster County within forty days after such election. The petition shall set forth the points on which the election will be contested and the facts which will be proved in support of such points and shall ask for leave to produce the proof. The Secretary of State shall be served with a copy of the petition and a notice of the time and place of the presentation of the petition ten days before the petition will be presented. The Secretary of State may, upon the presentation of such petition, file an answer thereto specifying reasons why the election should not be contested. The proponents and opponents of any proposed constitutional amendment or statute shall have the right to engage counsel to represent and act for such parties in all matters involved in and pertaining to the contest.

Source: Laws 1994, LB 76, § 351.

32-1109. Political subdivision officers; election contest; venue; notices required; procedure.

(1) The several district courts shall have jurisdiction in cases of contested elections for officers of all political subdivisions of the State of Nebraska. Notice of such contest shall be given to the person whose election is contested within twenty days after the votes have been officially canvassed. The notice shall specify the grounds upon which the petitioner intends to rely and the names of the voters whose votes are contested if any and the grounds upon which such votes are illegal. The notice shall be served as provided in section 25-505.01.

(2) If the person whose election is being contested desires to contest any votes given to the petitioner, the person shall give the petitioner written notice within twenty days after the notice of contest has been served. The notice shall specify the names of such voters and the grounds upon which such votes are illegal.

(3) The parties to the contest shall be allowed process for witnesses, and either party may take depositions to be read as evidence at the trial as is authorized in civil cases. All such depositions shall be filed before the trial is commenced and may be read into evidence regardless of the availability of the witnesses.

Source: Laws 1994, LB 76, § 352.

Annotations

Notice of contest of election must be given after the votes have been officially canvassed. *Sutton v. Anderson*, 176 Neb. 543, 126 N.W.2d 836 (1964).

32-1110. Election contest; court; powers and duties.

Every court authorized to determine contested elections shall hear and determine such contested elections in a summary manner without any formal pleading. The contest shall be heard within fifteen days after the matter is at issue unless the contest is continued by mutual consent of the parties or for good cause shown.

Source: Laws 1994, LB 76, § 353.

32-1111. Election contest; person holding certificate of election; powers and duties.

When a contested election is pending, the person holding the certificate of election may give bond, qualify and take the office at the time specified by law, and exercise the duties of the office until the contest is decided. If the contest is decided against him or her, the court shall order him or her to give up the office to the successful party in the contest and deliver to the successful party all books, records, papers, property, and effects pertaining to the office, and the court may enforce such order by attachment or other proper legal process.

Source: Laws 1994, LB 76, § 354; Laws 2018, LB744, § 3.

Annotations

Contestant was declared elected and cause was remanded for further order of trial court hereunder. *Dilsaver v. Pollard*, 191 Neb. 241, 214 N.W.2d 478 (1974).

32-1112. Election contest; recount of votes; issuance of writ; certification of results.

Any court before which any contested election may be pending or the clerk of such court in vacation may issue a writ to the election commissioner or county clerk of the county in which the contested election was held commanding him or her to open, count, compare with the list of voters, and examine the ballots in his or her office which were cast at the election in contest and to certify the result of such count, comparison, and examination to the court from which the writ was issued.

Source: Laws 1994, LB 76, § 355; Laws 2018, LB744, § 4.

32-1113. Election contest; service of writ; notice to parties required.

Any writ issued pursuant to section 32-1112 shall be served without delay on the election commissioner or county clerk by the sheriff of his or her county. The election commissioner or county clerk shall at once fix a day, not more than thirty days after the date of the receipt of such writ, on which he or she will proceed to open such ballots and shall cause notice in writing of the day so fixed to be served on the petitioner and the person whose election is being contested or their attorneys at least five days before such day. Such notice may be served in the manner provided in section 25-505.01.

Source: Laws 1994, LB 76, § 356.

32-1114. Election contest; recount of ballots; procedure.

On the day fixed for opening the ballots pursuant to section 32-1113, the election commissioner or county clerk and the county canvassing board which officiated in making the official county canvass of the election returns shall proceed to open such ballots in the presence of the petitioner and the person whose election is contested or their attorneys. While the ballots are open and being examined, the election commissioner or county clerk shall exclude all other persons from the counting room. All persons witnessing the counting of ballots shall be placed under oath requiring them not to disclose any fact discovered from such ballots except as stated in the certificate of the election commissioner or county clerk.

Source: Laws 1994, LB 76, § 357; Laws 2018, LB744, § 5.

32-1115. Election contest; rights of parties; recount of ballots; completion; certification.

The election commissioner or county clerk shall permit the petitioner, the person whose election is being contested, and their attorneys to fully examine the ballots. The election commissioner or county clerk shall make return to the writ, under his or her hand and official seal, of all the facts which either of the parties may desire and which appear from the ballots to affect or relate to the contested election. After the examination of the ballots is completed, the election commissioner or county clerk shall again securely seal the ballots as they were and preserve and destroy them as provided by law in the same manner as if they had not been opened. The certificate of the election commissioner or county clerk certifying the total number of votes received by a candidate shall be prima facie evidence of the facts stated in the certificate, but the persons present at the examination of the ballots may be heard as witnesses to contradict the certificate.

Source: Laws 1994, LB 76, § 358; Laws 2018, LB744, § 6.

32-1116. Election contests and recounts; costs.

Except for election contests involving a member of the Legislature under the Legislative Qualifications and Election Contests Act, the cost of election contests under sections 32-1101 to 32-1117 and recounts under section 32-1118 shall be adjudged against the petitioner if he or she loses the contest, and if the petitioner wins the contest, the cost shall be adjudged against the state, county, or other political subdivision of which such contested office was a part. The payment of such costs shall be enforced as in civil cases.

Source: Laws 1994, LB 76, § 359; Laws 2018, LB744, § 7.

Cross References

Legislative Qualifications and Election Contests Act, see section 50-1501.

32-1117. Election contests; appeal; when allowed; bond.

Except for election contests involving a member of the Legislature, an appeal from a final determination in an election contest may be taken in the same time or manner and to the same courts as is provided by law with respect to appeals in civil cases. In case of appeal, a bond with sufficient sureties shall be given conditioned for the payment of the costs accrued and to accrue in the cause. A new bond shall be given when required by any court in which the cause may be pending.

Source: Laws 1994, LB 76, § 360.

32-1118. Legislature; recount; petition; bond; Secretary of State; powers and duties.

(1) The apparent loser at a general election for a seat in the Legislature may secure a recount of the ballots cast at such election by filing a petition for a recount in duplicate with the Secretary of State no later than the fourth Monday after the election. The petition shall be accompanied by a corporate surety bond in the penal sum of two thousand five hundred dollars conditioned for the payment of costs pursuant to section 32-1116 if the recount fails to change the results of the election. If at any stage of the recount the amount of the bond becomes inadequate, the Secretary of State may order an increase in the amount of such bond.

(2) The Secretary of State shall, by certified or registered mail, give notice of the filing of a petition under this section not later than the day following the filing of the petition and deliver a copy of the petition to the declared winner. The Secretary of State shall also, by the most practicable means of communication, direct the election commissioner or county clerk of each county involved to deliver the ballot boxes to the office of the election commissioner or county clerk designated by the Secretary of State no later than the following Monday.

(3) After the ballot boxes have been received at the designated office, they shall be opened and the ballots for member of the Legislature shall be recounted under the supervision of the Secretary of State. The Secretary of State may employ such persons as may be necessary to conduct the recount and fix their compensation.

(4) The Secretary of State shall, on or before December 20, certify the results of the recount to each of the parties to the recount and to the Clerk of the Legislature.

Source: Laws 1994, LB 76, § 361.

32-1119. Automatic recount; when; waiver; procedure.

(1) If it appears as evidenced by the abstract of votes that any candidate failed to be nominated or elected by a margin of (a) one percent or less of the votes received by the candidate who received the highest number of votes for the office at an election in which more than five hundred total votes were cast or (b) two percent or less of the votes received by the candidate who received the highest number of votes for the office at an election in which five hundred or less total votes were cast, then such candidate shall be entitled to a recount. Any losing candidate may waive his or her right to a recount by filing a written statement with the Secretary of State, election commissioner, or county clerk with whom he or she made his or her filing. All expenses of a recount under this section shall be paid by those political subdivisions involved in the recount.

(2) Recounts shall be made by the county canvassing board which officiated in making the official county canvass of the election returns. If any member of the county canvassing board cannot participate in the recount, another person shall be appointed by the election commissioner or county clerk to take the member's place.

(3) Recounts for candidates who filed with the Secretary of State shall be made on the fifth Wednesday after the election and shall commence at 9 a.m. The Secretary of State shall inform each election commissioner or county clerk of the names of the candidates for which the board of state canvassers deems a recount to be necessary.

(4) The election commissioner or county clerk shall be responsible for recounting the ballots for those candidates for whom the county canvassing board deems a recount to be necessary. The recount shall be made as soon as possible after the adjournment of the county canvassing board, except that if a recount is required under subsection (3) of this section, the recounts may be conducted concurrently.

(5) The Secretary of State, election commissioner, or county clerk shall notify all candidates whose ballots will be recounted of the time, date, and place of the recount. Candidates whose ballots will be recounted may be present or be represented by an agent appointed by the candidate.

(6) The procedures for the recounting of ballots shall be the same as those used for the counting of ballots on election day. The recount shall be conducted at the county courthouse, except that if vote counting devices are used for the counting or recounting, such counting or recounting may be accomplished at the site of the devices. Counties counting ballots by using a vote counting device shall first recount the ballots by use of the device. If substantial changes are found, the ballots shall then be counted using such device in any precinct which might reflect a substantial change.

Source: Laws 1994, LB 76, § 362; Laws 2002, LB 1054, § 24.

32-1120. Automatic recount; certificate of nomination; certificate of election; issuance by election commissioner or county clerk; when.

After the recount under section 32-1119 has been certified, the election commissioner or county clerk shall make a certificate of election or a certificate of nomination in the case of a primary election for the person having the highest number of votes for the office covered by the recount and cause the certificate to be delivered to the person entitled to the certificate.

Source: Laws 1994, LB 76, § 363.

32-1121. Recount requested by losing candidate; procedure; costs.

If any candidate failed to be nominated or elected by more than the margin provided in section 32-1119, the losing candidate may submit a certified written request for a recount at such candidate's expense. The request shall be filed with the filing officer with whom the candidate filed for election not later than the fifth day after the county canvassing board or the board of state canvassers concludes. The recount shall be conducted as provided in section 32-1119. Prior to conducting the recount, the cost of the recount shall be determined by the election commissioner or county clerk and the requesting candidate shall be so notified. The candidate requesting the recount shall pay the estimated cost of the recount before the recount is scheduled to be conducted. If the recount involves more than one county, the election commissioner or county clerk shall certify the cost to the Secretary of State. The Secretary of State shall then notify the candidate of the determined cost, and the cost shall be paid before any recount is scheduled to be conducted. The candidate shall pay the cost on demand to the county treasurer of each county involved, and such sums shall be placed in the county general fund to help defray the cost of the recount. If the actual expense is less than the determined cost, the candidate may file a claim with the county board for overpayment of the recount. If the recount determines the candidate to be the winner, all costs which he or she paid shall be refunded. Refunds shall be made from the county general fund.

Source: Laws 1994, LB 76, § 364; Laws 2019, LB411, § 58; Laws 2022, LB843, § 42.

Effective Date: July 21, 2022

32-1122. Recount; tie vote; determination of winner.

(1) If a recount after a primary election results in any two or more persons having an equal and the highest number of votes for the same nomination for the same county, city, village, or school district office, the county canvassing board shall, in the presence of the candidates or their representatives, determine by lot which of the candidates shall be nominated. The election commissioner or county clerk shall notify such candidates by certified mail to appear at his or her office on a given day and hour to determine the same before the county canvassing board. The election commissioner or county clerk shall make a certificate of nomination for the person so nominated and shall cause such certificate to be delivered to the person entitled thereto.

(2) If a recount after a general or special election results in any two or more persons having an equal and the highest number of votes for the same county, city, village, or school district office, the county canvassing board shall, in the presence of the candidates or their representatives, determine by lot which of the candidates shall be elected. The election commissioner or county clerk shall notify such candidates by certified mail to appear at his or her office on a given day and hour to determine the same before the county canvassing board. The election commissioner or county clerk shall make a certificate of election for the person so elected and shall cause such certificate to be delivered to the person entitled thereto.

(3) If a recount after a primary election results in any two or more persons having an equal and the highest number of votes for nomination to an office canvassed by the board of state canvassers, the board shall decide by lot which of such persons is nominated.

(4) If a recount after a general or special election results in any two or more persons having an equal and the highest number of votes for the office of the Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, or other officer elected to an executive department, the Legislature shall choose one of such persons for the office. If the office involved in the recount is the office of the Governor, the Lieutenant Governor shall be the candidate for Lieutenant Governor chosen by the person selected by the Legislature as Governor.

(5) If a recount after a general or special election results in any two or more persons having an equal and the highest number of votes for an office canvassed by the board of state canvassers, the board shall decide by lot which of such persons is elected, except officers elected to the executive department.

Source: Laws 1994, LB 76, § 365; Laws 2001, LB 253, § 1; Laws 2001, LB 768, § 6.

Annotations

Upon determination there existed tie votes between two candidates for same office, cause remanded with directions that county canvassing board resolve disputed election under provisions of this section. *Dugan v. Vlach*, 195 Neb. 81, 237 N.W.2d 104 (1975).

32-1201. Costs of election; payment; county expense.

The county board shall draw warrants in payment of all bills submitted by the election commissioner or county clerk related to the cost of any election conducted by the office of the election commissioner or county clerk. Except as otherwise provided in subsection (4) of section 32-1203, the initial payment for bills submitted to the election commissioner or county clerk for the cost of preparing for and conducting elections shall be a county expense. The compensation of the election commissioner or county clerk, the deputy election commissioner or deputy county clerk for elections, and all permanent employees of the election commissioner or county clerk, the expenditures for the rental, furnishing, and equipping of the office of the election commissioner or county clerk, the expenditures for necessary office supplies, books, documents, and appurtenances relating to or used in performing the duties of the election commissioner or county clerk in relation to elections, and the cost of elections for county, state, and federal governments shall be an apportioned county expense and shall not be chargeable to other political subdivisions.

Source: Laws 1994, LB 76, § 366; Laws 1997, LB 764, § 103.

32-1201.01. Gift, grant, or donation; permitted, when.

(1) The Secretary of State, election commissioners, and county clerks shall not accept or use any gift, grant, or donation from any private entity for the purpose of preparing for, administering, or conducting an election unless the money received as a result of such gift, grant, or donation is appropriated to the Secretary of State for such use by the Legislature.

(2) This section does not prohibit (a) the acceptance of an in-kind contribution of food or beverages for election workers during the administration of an election or (b) the actual use of a public or private building, without charge or for a reduced fee, for the purposes of conducting an election, including use as a polling place or for election training purposes.

Source: Laws 2022, LB843, § 44.

Effective Date: July 21, 2022

32-1202. Expenses chargeable to political subdivisions.

The cost of publication and posting of notices and ballots, the cost of precinct registration lists, the compensation of temporary employees, inspectors, judges and clerks of election, and members of counting boards, the overtime costs of all permanent employees of the election commissioner or county clerk relating to elections, the cost of renting, heating, lighting, and equipping polling places including placing and removing ballot boxes and other fixtures and equipment, the cost of printing and delivering ballots and sample ballots, the cost of postage, cards of instructions for voters, maps, voter books for the polling place, other election supplies, and electronic media, the expense of programming and operation of voting systems, and all other expenses of conducting statewide primary and general elections not listed in section 32-1201 shall be chargeable to the political subdivisions in and for which such elections are held.

Source: Laws 1994, LB 76, § 367; Laws 2003, LB 358, § 42; Laws 2014, LB946, § 20.

Annotations

A county is liable for the expense of reprinting correct ballots where a mistake is discovered in ballots which have already been printed and paid for by the county. *Wahlquist v. Adams County*, 94 Neb. 682, 144 N.W. 171 (1913).

32-1203. Political subdivisions; election expenses; duties; determination of charge.

(1) Each city, village, township, school district, public power district, sanitary and improvement district, metropolitan utilities district, fire district, natural resources district, regional metropolitan transit authority, community college area, learning community coordinating council, educational service unit, hospital district, reclamation district, library board, and airport authority shall pay for the costs of nominating and electing its officers as provided in subsection (2), (3), or (4) of this section. If a special issue is placed on the ballot at the time of the statewide primary or general election by any political subdivision, the political subdivision shall pay for the costs of the election as provided in subsection (2), (3), or (4) of this section. The districts listed in this subsection shall furnish to the Secretary of State and election commissioner or county clerk any maps and additional information which the election commissioner or county clerk may require in the proper performance of their duties in the conduct of elections and certification of results.

(2) The charge for each primary and general election shall be determined by (a) ascertaining the total cost of all chargeable costs as described in section 32-1202, (b) dividing the total cost by the number of precincts participating in the election to fix the cost per precinct, (c) prorating the cost per precinct by the inked ballot inch in each precinct for each political subdivision, and (d) totaling the cost for each precinct for each political subdivision, except that the minimum charge for each primary and general election for each political subdivision shall be one hundred dollars.

(3) In lieu of the charge determined pursuant to subsection (2) of this section, the election commissioner or county clerk may charge public power districts the fee for election costs set by section 70-610.

(4) In lieu of the charge determined pursuant to subsection (2) of this section, the election commissioner or county clerk may bill school districts directly for the costs of an election held under section 10-703.01.

Source: Laws 1994, LB 76, § 368; Laws 1997, LB 764, § 104; Laws 2008, LB1067, § 1; Laws 2011, LB449, § 11; Laws 2015, LB575, § 27; Laws 2019, LB492, § 39; Laws 2022, LB843, § 43.

Effective Date: July 21, 2022

32-1204. Separate election; joint election; costs; political subdivisions; duties.

(1) Every political subdivision shall pay the cost of holding and conducting a separate election on its behalf by the election commissioner or county clerk. The election commissioner or county clerk shall fix and certify the total cost of the separate election to the political subdivision involved. Total cost shall include all chargeable costs as provided in section 32-1202.

(2) Except as provided in section 32-1203, if any two or more political subdivisions hold a joint election, the election commissioner or county clerk shall fix and certify to each political subdivision joining in such election the portion of the total cost which each shall bear.

(3) If a special issue is placed on the ballot of a joint or separate election by any political subdivision, the election commissioner or county clerk shall charge such political subdivision for any additional costs in printing ballots and in publication.

Source: Laws 1994, LB 76, § 369.

32-1205. Recall election; costs.

A political subdivision in which an official is recalled or a vacancy needs to be filled as the result of a recall petition shall pay the costs of the recall procedure and any special election held as a result of a recall election. If a recall election is canceled pursuant to section 32-1306, the political subdivision shall be responsible for costs incurred related to the canceled election. The costs shall include all chargeable costs as provided in section 32-1202 associated with preparing for and conducting a recall or special election.

Source: Laws 1994, LB 76, § 370; Laws 2008, LB312, § 3.

32-1206. Other elections; costs.

Any election not otherwise provided for in sections 32-1203 to 32-1205 which is conducted by the election commissioner or county clerk shall be paid for by the entity holding the election.

Source: Laws 1994, LB 76, § 371.

32-1207. Costs of elections; certification; payment; when due.

The election commissioner or county clerk shall fix and certify the cost of elections pursuant to sections 32-1203 to 32-1206. The cost of elections shall be due and payable from each political subdivision within thirty days after the receipt of the statement certifying the cost of the election. All payments received by the election commissioner or county clerk from each political subdivision for the cost of elections shall be placed in the county general fund and shall be used to help defray the cost of elections.

Source: Laws 1994, LB 76, § 372.

32-1208. Election equipment and materials; availability; costs.

The election commissioner or county clerk shall provide polling booths, ballot boxes, secrecy sleeves, and other ballot supply kits to political subdivisions upon request. The cost of such equipment and materials shall be amortized over a period of ten to twenty years and shall be chargeable to the political subdivision under section 32-1202.

Source: Laws 1994, LB 76, § 373; Laws 1997, LB 764, § 105.

32-1301. Recall; filing clerk, defined.

For purposes of sections 32-1301 to 32-1309, filing clerk shall mean the election commissioner or county clerk for recall of elected officers 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.

Source: Laws 1994, LB 76, § 374; Laws 2003, LB 444, § 9.

32-1302. Officials subject to recall.

(1) 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 31-786 to 31-793.

(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.

Source: Laws 1994, LB 76, § 375; Laws 1997, LB 874, § 12.

32-1303. Recall petition; signers and circulators; requirements; notification.

(1) A petition demanding that the question of removing an elected official or member of a governing body listed in section 32-1302 be submitted to the registered voters shall be signed by registered voters equal in number to at least thirty-five percent of the total vote cast for that office in the last general election, except that (a) for an office for which more than one candidate is chosen, the petition shall be signed by registered voters equal in number to at least thirty-five percent of the number of votes cast for the person receiving the most votes for such office in the last general election and (b) for a member of a governing body of a village, the petition shall be signed by registered voters of the village equal in number to at least forty-five percent of the total vote cast for the person receiving the most votes for that office in the last general election. The signatures shall be affixed to petition papers and shall be considered part of the petition.

(2) Petition circulators shall conform to the requirements of sections 32-629 and 32-630.

(3) The petition papers shall be procured from the filing clerk. Prior to the issuance of such petition papers, a recall petition filing form shall be signed and filed with the filing clerk by at least one registered voter. Such voter or voters shall be deemed to be the principal circulator or circulators of the recall petition. The filing form shall state the name and office of the official sought to be removed, shall include in concise language of sixty words or less the reason or reasons for which recall is sought, and shall request that the filing clerk issue initial petition papers to the principal circulator for circulation. The filing clerk shall notify the official sought to be removed by any method specified in section 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01, by leaving a copy of the filing form at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address. If the official chooses, he or she may submit a defense statement in concise language of sixty words or less for inclusion on the petition. Any such defense statement shall be submitted to the filing clerk within twenty days after the official receives the copy of the filing form. The filing clerk shall prepare the petition papers within five business days after receipt of the defense statement. The principal circulator or circulators shall gather the petition papers within twenty days after being notified by the filing clerk that the petition papers are available. The filing clerk shall notify the principal circulator or circulators that the necessary signatures must be gathered within thirty days from 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 persons who may act as circulators of such petitions.

(5) Petition signers shall conform to the requirements of sections 32-629 and 32-630. Each signer of a recall petition shall be a registered voter and qualified by his or her place of residence to vote for the office in question.

Source: Laws 1994, LB 76, § 376; Laws 1997, LB 764, § 106; Laws 2002, LB 1054, § 25; Laws 2003, LB 444, § 10; Laws 2004, LB 820, § 1; Laws 2008, LB39, § 4; Laws 2011, LB449, § 12; Laws 2018, LB377, § 5; Laws 2019, LB411, § 59.

32-1304. Petition papers; requirements.

(1) The Secretary of State shall design the uniform petition papers to be distributed by all filing clerks and shall keep a sufficient number of such blank petition papers on file for distribution to any filing clerk requesting recall petitions. The petition papers shall as nearly as possible conform to the requirements of section 32-628.

(2) In addition to the requirements specified in section 32-628, for the purpose of preventing fraud, deception, and misrepresentation, every sheet of each petition paper presented to a registered voter for his or her signature shall have upon it, above the lines for signatures, (a) a statement that the signatories must be registered voters qualified by residence to vote for the office in question and support the holding of a recall election and (b) in letters not smaller than sixteen-point type in red print (i) the name and office of the individual sought to be recalled, (ii) the reason or reasons for which recall is sought, (iii) the defense statement, if any, submitted by the official, and (iv) the name of the principal circulator or circulators of the recall petition. The decision of a county attorney to prosecute or not to prosecute any individual shall not be stated on a petition as a reason for recall.

(3) Every sheet of each petition paper presented to a registered voter for his or her signature shall have upon it, below the lines for signatures, an affidavit as required in subsection (3) of section 32-628 which also includes language substantially as follows: "and that the affiant stated to each signer, before the signer affixed his or her signature to the petition, the following: (a) The name and office of the individual sought to be recalled, (b) the reason or reasons for which recall is sought as printed on the petition, (c) the defense statement, if any, submitted by the official as printed on the petition, and (d) the name of the principal circulator or circulators of the recall petition".

(4) 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 32-1301 to 32-1309. The instructions shall include the following statements:

(a) 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.

(b) No one circulating this petition paper in an attempt to gather signatures shall allow a person to sign the petition until the circulator has stated to the person (i) the object of the petition as printed on the petition, (ii) the name and office of the individual sought to be recalled, (iii) the reason or reasons for which recall is sought as printed on the petition, (iv) the defense statement, if any, submitted by

the official as printed on the petition, and (v) the name of the principal circulator or circulators of the recall petition.

Source: Laws 1994, LB 76, § 377; Laws 2002, LB 1054, § 26; Laws 2003, LB 444, § 11.

32-1305. Petition papers; filing; signature verification; procedure.

(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 32-1303.

(2) If the filing clerk is the subject of a recall petition, the signature verification process shall be conducted by two election commissioners or county clerks appointed by the Secretary of State. Mileage and expenses incurred by officials appointed pursuant to this subsection shall be reimbursed by the political subdivision involved in the recall.

(3) Within fifteen business days after the filing of the petition, the filing clerk shall ascertain whether or not the petition is signed by the requisite number of registered voters. 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 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 requisite number of signatures has not been gathered, 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.

Source: Laws 1994, LB 76, § 378; Laws 2020, LB1055, § 16.

32-1306. Filing clerk; notification required; recall election; when held.

(1) If the recall petition is found to be sufficient, the filing clerk shall notify the official whose removal is sought and the governing body of the affected political subdivision that sufficient signatures have been gathered. Notification of the official sought to be removed may be by any method specified in section 25-505.01 or, if notification cannot be made with reasonable diligence by any of the methods specified in section 25-505.01, by leaving such notice at the official's usual place of residence and mailing a copy by first-class mail to the official's last-known address.

(2) The governing body of the political subdivision shall, within twenty-one days after receipt of the notification from the filing clerk pursuant to subsection (1) of this section, order an election. The date of the election shall be the first available date that complies with section 32-405 and that can be certified to the election commissioner or county clerk at least fifty days prior to the election, except that if any other election is to be held in that political subdivision within ninety days after such notification, the governing body of the political subdivision shall provide for the holding of the recall election on the same day.

(3) All resignations shall be tendered as provided in section 32-562. If the official whose removal is sought resigns before the recall election is held, the governing body may cancel the recall election if the governing body notifies the election commissioner or county clerk of the cancellation on or before the fourth Thursday prior to the election, otherwise the recall election shall be held as scheduled.

(4) If a filing clerk is subject to a recall election, the Secretary of State shall conduct the recall election.

Source: Laws 1994, LB 76, § 379; Laws 2004, LB 820, § 2; Laws 2008, LB312, § 4; Laws 2011, LB449, § 13; Laws 2019, LB411, § 60; Laws 2020, LB1055, § 17; Laws 2022, LB843, § 45.

Effective Date: July 21, 2022

32-1307. Recall election; ballot.

The form of the official ballot at a recall election held pursuant to section 32-1306 shall conform to the requirements of this section. With respect to each person whose removal is sought, the question shall be submitted: Shall (name of person) be removed from the office of (name of office)? Immediately following each such question there shall be printed on the ballot the two responses: Yes and No. Next to each response shall be placed a square or oval in which the registered voters may vote for one of the responses by making a cross or other clear, identifiable mark. The name of the official which shall appear on the ballot shall be the name of the official that appeared on the ballot of the previous general election that included his or her name.

Source: Laws 1994, LB 76, § 380; Laws 2003, LB 358, § 43.

32-1308. Recall election; results; effect; vacancies; how filled.

(1) If a majority of the votes cast at a recall election are against the removal of the official named on the ballot or the election results in a tie, the official shall continue in office for the remainder of his or her term but may be subject to further recall attempts as provided in section 32-1309.

(2) If a majority of the votes cast at a recall election are for the removal of the official 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 official is deemed removed, the removal shall result in a vacancy in the office which shall be filled as provided in this section and sections 32-567 to 32-570 and 32-574.

(3) If the election results show a margin of votes equal to one percent or less between the removal or retention of the official in question, the Secretary of State, election commissioner, or county clerk shall order a recount of the votes cast unless the official named on the ballot files a written statement with the filing clerk that he or she does not want a recount.

(4) If there are vacancies in the offices of one-half or more of the members of any governing body 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 Secretary of State, election commissioner, or county clerk.

(5) No official 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 governing body during the remainder of his or her term of office.

Source: Laws 1994, LB 76, § 381; Laws 2015, LB575, § 28.

32-1309. Recall petition filing form prohibited; when.

No recall petition filing form shall be filed against an elected official 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.

Source: Laws 1994, LB 76, § 382; Laws 2019, LB411, § 61.

32-1310. Recall election; failure or refusal to call; county attorney; duties.

If the governing board of a political subdivision fails or refuses to call for a recall election by the date established in subsection (2) of section 32-1306, the county attorney in the county in which the board is located shall file an action in the district court to order the recall election. For offices filled by election in more than one county, the county attorney in the county with the most registered voters residing within the political subdivision shall file the action in the district court to order the recall election.

Source: Laws 2022, LB843, § 46.

Effective Date: July 21, 2022

32-1401. Initiative petition; form.

The form of a petition for initiating any law or any amendment to the Constitution of Nebraska shall comply with the requirements of sections 32-628 and 32-1403 and shall be substantially as follows:

Initiative Petition

The object of this petition is to (Print a concise statement in large type of the legal effect of the filing of the petition and the object sought to be secured by submitting the measure to the voters).

To the Honorable, Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of, respectfully demand that the following proposed law (or amendment to the Constitution of Nebraska as the case may be) shall be referred to the registered voters of the state for their approval or rejection at the general election to be held on the day of 20..., and each for himself or herself says:

I have personally signed this petition on the date opposite my name;

I am a registered voter of the State of Nebraska and county of and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and

My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

(Here follow numbered lines for signature, printed name, date of birth, date, street and number or voting precinct, and city, village, or post office address.)

Source: Laws 1994, LB 76, § 383; Laws 1997, LB 460, § 5; Laws 2004, LB 813, § 18.

Cross References

Constitutional amendments proposed by Legislature, procedure, see sections 49-201 to 49-211.

32-1402. Referendum petition; form.

The form of a petition for ordering a referendum upon any act or any part of any act passed by the Legislature of the State of Nebraska shall comply with the requirements of sections 32-628 and 32-1403 and shall be substantially as follows:

Referendum Petition

The object of this petition is to (Print a concise statement in large type of the legal effect of the filing of the petition and the object sought to be secured by submitting the measure to the voters).

To the Honorable, Secretary of State for the State of Nebraska:

We, the undersigned residents of the State of Nebraska and the county of, respectfully order that Legislative Bill No. entitled (title of act and, if the petition is against less than the whole act, then set forth here the part or parts on which the referendum is sought), passed by the Legislature of the State of Nebraska at its Session, shall be referred to the registered voters of the state for retention or repeal at the general election to be held on the day of 20..., and each for himself or herself says:

I have personally signed this petition on the date opposite my name;

I am a registered voter of the State of Nebraska and county of and am qualified to sign this petition or I will be so registered and qualified on or before the date on which this petition is required to be filed with the Secretary of State; and

My printed name, date of birth, street and number or voting precinct, and city, village, or post office address are correctly written after my signature.

(Here follow numbered lines for signature, printed name, date, date of birth, street and number or voting precinct, and city, village, or post office address.)

Source: Laws 1994, LB 76, § 384; Laws 1997, LB 460, § 6; Laws 2004, LB 813, § 19.

Annotations

Statutory form for referendum petition is furnished by this section. *Klosterman v. Marsh*, 180 Neb. 506, 143 N.W.2d 744 (1966).

Referendum petition need not have a copy of the measure attached to it until offered for filing, at which time it shall be sufficient if the referendum petition, taken as a whole, which includes all of the various sheets, has a full and correct

copy of the measure attached to it. *State ex rel. Ayres v. Amsberry*, 104 Neb. 273, 177 N.W. 179 (1920), judgment vacated in 104 Neb. 279, 178 N.W. 822 (1920).

This act is constitutional. *Barkley v. Pool*, 103 Neb. 629, 173 N.W. 600 (1919); *Barkley v. Pool*, 102 Neb. 799, 169 N.W. 730 (1918).

A referendum petition does not need to contain any part of the act unless the referendum is sought against only a part of the act, and a petition seeking a referendum against an entire act is valid even though the petition contains a copy of the act from which a word has been omitted. *Bartling v. Wait*, 96 Neb. 532, 148 N.W. 507 (1914).

32-1403. Initiative or referendum; petition; title and text required; filing.

A full and correct copy of the title and text of the law or amendment to the Constitution of Nebraska to be proposed by an initiative petition or the measure sought to be referred to the registered voters by a referendum petition shall be printed upon each sheet of the petition which contains signatures. The petition may be filed with the Secretary of State in numbered sections for convenience in handling.

Source: Laws 1994, LB 76, § 385.

32-1404. Initiative and referendum petitions; signers and circulators; requirements.

A signer of an initiative and referendum petition shall be a registered voter of the State of Nebraska on or before the date on which the petition is required to be filed with the Secretary of State and shall meet the requirements of section 32-630. A person who circulates initiative and referendum petitions shall comply with the requirements of section 32-629 and subsection (2) of section 32-630 and with the prohibitions contained in subdivisions (3)(a), (d), and (f) of section 32-630.

Source: Laws 1994, LB 76, § 386; Laws 1995, LB 337, § 4; Laws 1997, LB 460, § 7; Laws 2003, LB 444, § 12; Laws 2008, LB39, § 5; Laws 2015, LB367, § 2.

32-1405. Initiative and referendum petitions; sponsors; filing required; Revisor of Statutes; Secretary of State; duties.

(1) Prior to obtaining any signatures on an initiative or referendum petition, a statement of the object of the petition and the text of the measure shall be filed with the Secretary of State together with a sworn statement containing the names and street addresses of every person, corporation, or association sponsoring the petition.

(2) Upon receipt of the filing, the Secretary of State shall transmit the text of the proposed measure to the Revisor of Statutes. The Revisor of Statutes shall review the proposed measure and suggest changes as to form and draftsmanship. The revisor shall complete the review within ten business days after receipt from the Secretary of State. The Secretary of State shall provide the results of the review and suggested changes to the sponsor but shall otherwise keep the proposed measure, the review, and the sworn statement confidential for five days after receipt of the review by the sponsor. The Secretary of State shall then maintain the proposed measure, the opinion, and the sworn statement as public information and as a part of the official record of the initiative. The sponsor may make any changes recommended by the Revisor of Statutes and shall submit final language to the Secretary of State. If the final language is addressing a subject that is substantially different in form or substance from the initial filing or the changes recommended by the Revisor of Statutes, the Secretary of State shall reject it.

(3) The Secretary of State shall prepare the form of the petition from the final language filed by the sponsor and shall provide a copy of the form of the petition to the sponsor within five business days after receipt of the final language of the proposed measure. The sponsor shall print the petitions to be circulated from the forms provided. Prior to circulation, the sponsor shall file a sample copy of the petition to be circulated with the Secretary of State.

Source: Laws 1994, LB 76, § 387; Laws 1995, LB 337, § 5; Laws 2019, LB411, § 62; Laws 2022, LB843, § 47.

Effective Date: July 21, 2022

Annotations

1. Sponsors

2. Miscellaneous

1. Sponsors

A non-named person or entity's motivation to decline to be a named sponsor is irrelevant to the question of who must be listed as a sponsor of an initiative or referendum petition. *Christensen v. Gale*, 301 Neb. 19, 917 N.W.2d 145 (2018).

Defining sponsors who must be disclosed on an initiative or referendum petition as those who assume responsibility for the petition process serves the dual purposes of informing the public of (1) who may be held responsible for the petition, exposing themselves to potential criminal charges if information is falsified, and (2) who stands ready to accept responsibility to facilitate the referendum's inclusion on the ballot and defend the referendum process if challenged. *Christensen v. Gale*, 301 Neb. 19, 917 N.W.2d 145 (2018).

In the context of the statutory requirement that an initiative or referendum petition contain a sworn statement containing the names and street addresses of every person or entity sponsoring the petition, "sponsoring the petition" means assuming responsibility for the initiative or referendum petition process. *Christensen v. Gale*, 301 Neb. 19, 917 N.W.2d 145 (2018).

Limiting the category of "sponsors," in the context of the sponsor-disclosure requirement for initiative or referendum petitions, to those persons or entities who have specifically agreed to be responsible for the petition process and serve in the capacities the statutes require of sponsors, lends clarity and simplicity to the petition process, thereby facilitating and preserving its exercise. *Christensen v. Gale*, 301 Neb. 19, 917 N.W.2d 145 (2018).

"[S]ponsoring the petition" in the context of subsection (1) of this section means assuming responsibility for the initiative or referendum petition process. *Hargesheimer v. Gale*, 294 Neb. 123, 881 N.W.2d 589 (2016).

Petition was legally insufficient when it omitted a sworn statement of the sponsors and their street addresses. *Loontjer v. Robinson*, 266 Neb. 902, 670 N.W.2d 301 (2003).

2. Miscellaneous

Substantial compliance in filing the itemized verified statement of contributions and expenditures is all that is required. *State ex rel. Morris v. Marsh*, 183 Neb. 521, 162 N.W.2d 262 (1968).

Referendum petition against legislative act may be circulated as soon as act is passed. *Klosterman v. Marsh*, 180 Neb. 506, 143 N.W.2d 744 (1966).

The 1939 amendment to this section, which requires that a copy of the form of the petition together with a list of the known sponsors and those contributing funds be filed before the petition is circulated, is valid and mandatory, and the Secretary of State may refuse to file a petition where there has not been compliance with these requirements of this section. *State ex rel. Winter v. Swanson*, 138 Neb. 597, 294 N.W. 200 (1940).

This section, prior to the 1919 amendment, did not apply to a referendum petition and such a petition is sufficient if, at the time it is offered for filing, taking all of the sheets together as a whole, it has a full and correct copy of the measure attached to it. *State ex rel. Ayres v. Amsberry*, 104 Neb. 273, 177 N.W. 179 (1920), judgment vacated in 104 Neb. 279, 178 N.W. 822 (1920).

This section and section 32-705 provide generally for the duties of circulators of initiative and referendum petitions. *Barkley v. Pool*, 103 Neb. 629, 173 N.W. 600 (1919).

Under former law this section did not apply to referendum petitions. *Bartling v. Wait*, 96 Neb. 532, 148 N.W. 507 (1914).

Initiative procedure did not constitute adequate remedy to correct existing inequalities in apportionment of legislative districts. *League of Nebraska Municipalities v. Marsh*, 209 F.Supp. 189 (D. Neb. 1962).

32-1405.01. Initiative and referendum measures; informational pamphlet; contents; distribution.

(1) The Secretary of State shall develop and print one informational pamphlet on all initiative and referendum measures to be placed on the ballot. The pamphlet shall include the measure number, the ballot title and text, and the full text of each initiated or referred measure and arguments both for and against each measure.

(2) The Secretary of State shall write the arguments for and against each measure, and each set of arguments shall consist of no more than two hundred fifty words. Information for the arguments may be provided by the sponsors of the measure, opponents to the measure, and other sources.

(3) The Secretary of State shall distribute the pamphlets to election commissioners and county clerks at least six weeks prior to the election. The election commissioners and county clerks shall immediately make the pamphlets available in their offices and in at least three other public locations that will facilitate distribution to the public.

Source: Laws 1995, LB 337, § 7.

32-1405.02. Initiative and referendum measures; public hearing; notice.

After the Secretary of State certifies the initiative and referendum measures for the ballot under subsection (3) of section 32-1411, the Secretary of State shall hold one public hearing in each congressional district for the purpose of allowing public comment on the measures. Notice of each hearing shall be published once in such newspapers as are necessary to provide for general circulation within the congressional district in which the meeting will be held not less than five days prior to the hearing. The hearings shall be held not more than eight weeks prior to the election.

Source: Laws 1995, LB 337, § 8.

32-1406. Initiative and referendum petitions; principal circulator; name and address.

The election commissioner or county clerk shall provide the name and address of the principal circulator of an initiative or referendum petition upon request. The principal circulator shall inform the election commissioner or county clerk of the name and address to be provided.

Source: Laws 1994, LB 76, § 388.

32-1407. Initiative petition; filing deadline; issue placed on ballot; when; referendum petition; filing deadline; affidavit of sponsor.

(1) Initiative petitions shall be filed in the office of the Secretary of State at least four months prior to the general election at which the proposal would be submitted to the voters.

(2) When a copy of the form of any initiative petition is filed with the Secretary of State prior to obtaining signatures, the issue presented by such petition shall be placed before the voters at the next general election occurring at least four months after the date that such copy is filed if the signed petitions are found to be valid and sufficient. All signed initiative petitions shall become invalid on the date of the first general election occurring at least four months after the date on which the copy of the form is filed with the Secretary of State.

(3) Petitions invoking a referendum shall be filed in the office of the Secretary of State within ninety days after the Legislature at which the act sought to be referred was passed has adjourned sine die or has adjourned for more than ninety days.

(4) At the time of filing the signed petitions, at least one sponsor shall sign an affidavit certifying that the petitions contain a sufficient number of signatures to place the issue on the ballot if such number of signatures were found to be valid.

Source: Laws 1994, LB 76, § 389; Laws 2019, LB411, § 63.

Annotations

Pursuant to subsection (1) of this section, county officials must determine whether each signer was registered as a voter on or before the date on which the petition was required to be filed with the Secretary of State. *State ex rel. Bellino v. Moore*, 254 Neb. 385, 576 N.W.2d 793 (1998).

This section does not invalidate initiative petitions if the time required for a judicial determination of the validity of the initiative effort extends to a date beyond that of the next ensuing general election; in such event, the election is to be held as early after the judgment of the court as it can be. *State ex rel. Labeledz v. Beermann*, 229 Neb. 657, 428 N.W.2d 608 (1988).

32-1408. Initiative and referendum petitions; Secretary of State; refuse filing; when.

The Secretary of State shall not accept for filing any initiative or referendum petition which interferes with the legislative prerogative contained in the Constitution of Nebraska that the necessary revenue of the state and its governmental subdivisions shall be raised by taxation in the manner as the Legislature may direct.

Source: Laws 1994, LB 76, § 390.

32-1409. Initiative and referendum petitions; signature verification; procedure; certification; Secretary of State; duties.

(1) Upon the receipt of the petitions, the Secretary of State, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the pages of the filed petition. The Secretary of State shall deliver the various pages of the filed petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the pages of the petition, the election commissioner or county clerk shall issue to the Secretary of State a written receipt that the pages of the petition are in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall determine if each signer was a registered voter on or before the date on which the petition was required to be filed with the Secretary of State. The election commissioner or county clerk shall compare the signer's signature, printed name, date of birth, street name and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The determination of the election commissioner or county clerk may be rebutted by any credible evidence which the election commissioner or county clerk finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of such petition, the sufficiency of such petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process. If the Secretary of State receives reports from a sufficient number of the counties that signatures in excess of one hundred ten percent of the number necessary to place the issue on the ballot have been verified, the Secretary of State may instruct the election commissioners and county clerks in all counties to stop verifying signatures and certify the number of signatures verified as of receipt of the instruction from the Secretary of State.

(2) Upon completion of the determination of registration, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the petition page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to any page or pages of the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall deliver all pages of the petition and the certifications to the Secretary of State within forty days after the receipt of such pages from the Secretary of State. The delivery shall

be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. The Secretary of State may grant to the election commissioner or county clerk an additional ten days to return all pages of the petition in extraordinary circumstances.

(3) Upon receipt of the pages of the petition, the Secretary of State shall issue a written receipt indicating the number of pages of the petition that are in his or her custody. When all the petitions and certifications have been received by the Secretary of State, he or she shall strike from the pages of the petition all but the earliest dated signature of any duplicate signatures and such stricken signatures shall not be added to the total number of valid signatures. Not more than twenty signatures on one sheet shall be counted. All signatures secured in a manner contrary to sections 32-1401 to 32-1416 shall not be counted. Clerical and technical errors in a petition shall be disregarded if the forms prescribed in sections 32-1401 to 32-1403 are substantially followed. The Secretary of State shall total the valid signatures and determine if constitutional and statutory requirements have been met. The Secretary of State shall immediately serve a copy of such determination by certified or registered mail upon the person filing the initiative or referendum petition. If the petition is found to be valid and sufficient, the Secretary of State shall proceed to place the measure on the general election ballot.

(4) The Secretary of State may adopt and promulgate rules and regulations for the issuance of all necessary forms and procedural instructions to carry out this section.

Source: Laws 1994, LB 76, § 391; Laws 1995, LB 337, § 6; Laws 1997, LB 460, § 8; Laws 2007, LB311, § 1; Laws 2019, LB411, § 64.

Annotations

Pursuant to subsection (3) of this section, the Secretary of State is required to determine if constitutional requirements have been met before placing a measure on the ballot. *State ex rel. Lemon v. Gale*, 272 Neb. 295, 721 N.W.2d 347 (2006).

Subsection (1) of this section is unconstitutional because it requires an "exact match" of information and does not on its face provide for the Secretary of State to allow county officials to make exceptions to the matching requirement. *State ex rel. Stenberg v. Moore*, 258 Neb. 199, 602 N.W.2d 465 (1999).

Pursuant to subsection (1) of this section, upon receipt of initiative petitions, the Secretary of State delivers them to the election commissioners and clerks of each county for verification of each signature. When performing the verification procedures, county officials are required to compare the signer's printed name; street address or voting precinct; city, village, or post office address; and signature with voter registration records to determine if the signer is a registered voter. The signature is presumed to be valid only if all of these items match. Pursuant to subsection (1) of this section, county officials must determine whether each signer was registered as a voter on or before the date on which the petition was required to be filed with the Secretary of State. Pursuant to subsection (1) of this section, the

findings of county officials as to the validity or invalidity of petition signatures may be rebutted by any credible evidence that the Secretary of State finds sufficient. Pursuant to subsection (1) of this section, a party cannot challenge the constitutionality of this section in the same action in which it attempts to rely upon the same section. Pursuant to subsection (1) of this section, a finding by county officials of the invalidity of individual signatures cannot be rebutted by the use of random statistical sampling. Pursuant to subsection (2) of this section, county officials are required to certify their verification of petition signatures to the Secretary of State within 40 days after their receipt of the petitions. Pursuant to subsection (3) of this section, the Secretary of State is required to determine the total number of valid signatures and determine whether the constitutional and statutory requirements have been met. The Secretary of State is required to notify the person filing the initiative petition of the result of the verification process. State ex rel. Bellino v. Moore, 254 Neb. 385, 576 N.W.2d 793 (1998).

Pursuant to subsection (3) of this section (formerly subsection (5) of section 32-705), the Secretary of State will approve a proposed petition if the statutorily prescribed forms are substantially complied with. Duggan v. Beermann, 249 Neb. 411, 544 N.W.2d 68 (1996).

32-1410. Initiative and referendum petitions; ballot title; statement of effect; Attorney General; duties; appeal.

(1) When an initiative petition is filed with the Secretary of State to propose a measure to the registered voters of the state, the Secretary of State shall transmit a copy of the measure to the Attorney General. Within ten days after receiving the copy, the Attorney General shall provide and return to the Secretary of State a ballot title for such measure. The ballot title shall express the purpose of the measure in not exceeding one hundred words and shall not resemble, so far as to be likely to create confusion, any title previously filed for any measure to be submitted at that election. The Attorney General also shall prepare a statement to be printed in italics immediately preceding the ballot title on the official ballot. Such statement shall in clear and concise language explain the effect of a vote for and against the measure in such language that the statement will not be intentionally an argument or likely to create prejudice, either for or against the measure. The ballot title shall be so worded that those in favor of adopting the measure shall vote For and those opposing the adoption of the measure shall vote Against.

(2) When a referendum petition is filed with the Secretary of State to refer a measure to the registered voters of the state, the Secretary of State shall transmit a copy of the measure to the Attorney General. Within ten days after receiving the copy, the Attorney General shall provide and return to the Secretary of State a ballot title for such measure. The ballot title may be distinct from the legislative title of the measure, shall express the purpose of the measure in not exceeding one hundred words, and shall not resemble, so far as to be likely to create confusion, any title previously filed for any measure to be submitted at that election. The Attorney General also shall prepare a statement to be printed in italics immediately preceding the ballot title on the official ballot. Such statement shall in clear and concise language explain the effect of a vote to retain and a vote to repeal the measure in such language that the statement will not be intentionally an argument or likely to create prejudice, either for retention or for repeal of the measure. The ballot title shall be so worded that those in favor of retaining the measure shall vote Retain and those opposing the measure shall vote Repeal.

(3) Any person who is dissatisfied with the ballot title provided by the Attorney General for any measure may appeal from his or her decision to the district court as provided in section 32-1412. The person shall file a petition asking for a different title and setting forth the reasons why the title prepared by the Attorney General is insufficient or unfair. No appeal shall be allowed from the decision of the Attorney General on a ballot title unless the appeal is taken within ten days after the decision is filed. A copy of every such decision shall be served by the Secretary of State or the clerk of the district court upon the person offering or filing such initiative or referendum petition or appeal. Service of such decision may be by mail or

electronic transmission and shall be made forthwith. The district court shall thereupon examine the measure, hear arguments, and in its decision thereon certify to the Secretary of State a ballot title for the measure in accord with the intent of this section by September 1 prior to the statewide general election.

(4) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Source: Laws 1994, LB 76, § 392.

Cross References

Administrative Procedure Act, see section 84-920.

Annotations

Pursuant to subsection (3) of this section, the district court for Lancaster County is authorized to review only the ballot title and lacks jurisdiction to alter the explanatory statement. *Thomas v. Peterson*, 307 Neb. 89, 948 N.W.2d 698 (2020).

Subsection (3) of this section begins with the presumption that the ballot title prepared by the Attorney General is valid, and it places the burden upon the dissatisfied party to dispel this presumption. A deferential standard is to be applied to a ballot title prepared by the Attorney General. A dissatisfied person must prove by the greater weight of the evidence that the ballot title is insufficient or unfair. *Thomas v. Peterson*, 307 Neb. 89, 948 N.W.2d 698 (2020).

The word "insufficient" means "inadequate; especially lacking adequate power, capacity, or competence." The word "unfair" means to be "marked by injustice, partiality, or deception." *Thomas v. Peterson*, 307 Neb. 89, 948 N.W.2d 698 (2020).

Whether a ballot title is insufficient or unfair is a question of law. *Thomas v. Peterson*, 307 Neb. 89, 948 N.W.2d 698 (2020).

32-1411. Initiative and referendum measures; numbering; placement on ballot.

(1) The Secretary of State shall number the measures proposed by initiative or referendum to be voted upon at the next general election. Beginning with the 1986 general election, the first measure shall be numbered 400 and the succeeding measures shall be numbered consecutively 401, 402, 403, 404, 405, and so on.

(2) When any initiative or referendum petition is regularly and legally filed with the Secretary of State, he or she shall, at the next general election, cause to be printed on an official ballot in a nonpartisan manner the ballot title and number of the measure. The ballot titles shall be printed on the official ballot in a random order as determined by the Secretary of State. The statement prepared by the Attorney General shall be printed in italics immediately preceding the ballot title on the official ballot. Measures proposed by initiative petition shall be designated and distinguished on the ballot by the heading Proposed by Initiative Petition. Measures referred by petition shall be designated Referendum ordered by Petition of the People. All initiative and referendum measures shall be submitted in a nonpartisan manner without any indication or suggestion on the ballot that they have been approved or endorsed by any political party or organization.

(3) At the time the Secretary of State furnishes to the election commissioners or county clerks certified copies of the names of the candidates for state and other offices, the Secretary of State shall furnish to each election commissioner or county clerk a certified copy of the ballot titles and numbers of the measures proposed by initiative or referendum to be voted upon at the next general election. The election commissioner or county clerk shall print such ballot titles and numbers upon the official ballot in the order presented by the Secretary of State and the relative position required by this section.

Source: Laws 1994, LB 76, § 393; Laws 1997, LB 460, § 9.

32-1412. Initiative and referendum measures; refusal of Secretary of State to place on ballot; jurisdiction of district court; parties; appeal.

(1) If the Secretary of State refuses to place on the ballot any measure proposed by an initiative petition presented at least four months preceding the date of the election at which the proposed law or constitutional amendment is to be voted upon or a referendum petition presented within ninety days after the Legislature enacting the law to which the petition applies adjourns sine die or for a period longer than ninety days, any resident may apply, within ten days after such refusal, to the district court of Lancaster County for a writ of mandamus. If it is decided by the court that such petition is legally sufficient, the Secretary of State shall order the issue placed upon the ballot at the next general election.

(2) On a showing that an initiative or referendum petition is not legally sufficient, the court, on the application of any resident, may enjoin the Secretary of State and all other officers from certifying or printing on the official ballot for the next general election the ballot title and number of such measure. If a suit is filed against the Secretary of State seeking to enjoin him or her from placing the measure on the official ballot, the person who is the sponsor of record of the petition shall be a necessary party defendant in such suit.

(3) Such suits shall be advanced on the trial docket and heard and decided by the court as quickly as possible. Either party may appeal to the Court of Appeals within ten days after a decision is rendered. The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

(4) The district court of Lancaster County shall have jurisdiction over all litigation arising under sections 32-1401 to 32-1416.

Source: Laws 1994, LB 76, § 394; Laws 2018, LB193, § 69.

Cross References

Administrative Procedure Act, see section 84-920.

Annotations

The Nebraska Supreme Court can direct the legal removal of a petition from the ballot even if it cannot direct its physical removal. *Chaney v. Evnen*, 307 Neb. 512, 949 N.W.2d 761 (2020).

Pursuant to subsection (2) of this section, the issue of whether a measure complies with the requirements of Neb. Const. art. III, sec. 2, is a question of legal sufficiency and is justiciable by a court before the measure is submitted to the voters. *State ex rel. Lemon v. Gale*, 272 Neb. 295, 721 N.W.2d 347 (2006).

Subsection (2) of this section allows a court to consider whether an initiative petition is legally sufficient and questions dealing with statutory provisions

concerning the form of a petition and the technical requirements of the sponsors affect the legal sufficiency of an initiative. *Loontjer v. Robinson*, 266 Neb. 902, 670 N.W.2d 301 (2003).

A prayer for injunctive relief under this section can be properly joined with a prayer for declaratory relief. *Duggan v. Beermann*, 249 Neb. 411, 544 N.W.2d 68 (1996).

The ten-day time limit imposed by this section within which to seek a writ of mandamus against the Secretary of State's sufficiency determination of an initiative petition violates neither the First nor Fourteenth Amendments to the U.S. Constitution. *State ex rel. Labedz v. Beermann*, 229 Neb. 657, 428 N.W.2d 608 (1988).

Under the provisions of this section, Nebraska citizens have ten days from the day the Secretary of State formally files an order refusing to place an initiative on the ballot to bring an action for a writ of mandamus in the district court for Lancaster County. *State ex rel. Labedz v. Beermann*, 229 Neb. 657, 428 N.W.2d 608 (1988).

This section governs the time for taking an appeal in cases arising under the Initiative and Referendum Act, and, unless a transcript is filed in the Supreme Court within the time prescribed by this section, the Supreme Court cannot obtain jurisdiction of such cases on appeal. *State ex rel. Ayres v. Amsberry*, 104 Neb. 279, 178 N.W. 822 (1920), vacating former judgment in 104 Neb. 273, 177 N.W. 179 (1920).

The provisions of this act authorizing injunction suits are valid, and the remedies provided for by this section are available to and may be invoked by any citizen. *Barkley v. Pool*, 103 Neb. 629, 173 N.W. 600 (1919); *Barkley v. Pool*, 102 Neb. 799, 169 N.W. 730 (1918).

32-1413. Initiative and referendum measures; publication required; rate.

Immediately preceding any general election at which any initiative or referendum measure is to be submitted to the registered voters, the Secretary of State shall cause to be published in all legal newspapers in the state once each week for three consecutive weeks a true copy of the ballot title and text and the number of each measure to be submitted in the form in which the measure will be printed on the official ballot. The publication shall be at a rate charged as provided in section 33-141.

Source: Laws 1994, LB 76, § 395.

Annotations

This section is not applicable to amendments to the Constitution proposed by the Legislature. State ex rel. Hall v. Cline, 118 Neb. 150, 224 N.W. 6 (1929).

32-1414. Initiative and referendum measures; counting, canvassing, and return of votes; proclamation by Governor.

The votes on initiative and referendum measures shall be counted, canvassed, and returned in the same manner as votes for candidates are counted, canvassed, and returned, and the abstract of votes made by the election commissioners or county clerks shall be returned on abstract sheets in the manner provided by section 32-1034 for abstracts of votes for state and county officers. The board of state canvassers shall canvass the votes upon each initiative or referendum measure in the same manner as is prescribed in the case of presidential electors. The Governor shall, within ten days of the completion of the canvass, issue his or her proclamation giving the whole number of votes cast in the state approving and rejecting each measure and declaring such measures as are approved by the constitutional number or majority of those voting to be in full force and effect as the law of the State of Nebraska from the date of such proclamation. If two or more measures are approved at such election which are known to conflict with each other or to contain conflicting provisions, the Governor shall also proclaim which is paramount in accordance with section 32-1416.

Source: Laws 1994, LB 76, § 396.

32-1415. Initiative or referendum; approved; preservation and printing.

If an initiative or referendum is approved by the voters at the general election, the copies of the initiative or referendum petition filed with the Secretary of State and a certified copy of the Governor's proclamation declaring the measure approved by the people shall be identified and preserved. The Secretary of State shall cause every measure approved by the people to be printed with the general laws enacted by the next session of the Legislature with the date of the Governor's proclamation declaring the same to have been approved by the people.

Source: Laws 1994, LB 76, § 397.

32-1416. Conflicting laws; adoption; which law controls.

If two or more conflicting laws are approved by the registered voters at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict even though such law may not have received the greater majority of affirmative votes. If two or more conflicting amendments to the Constitution of Nebraska are approved by the registered voters at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict even though such amendment may not have received the greater majority of affirmative votes.

Source: Laws 1994, LB 76, § 398.

32-1417. Constitution of United States; proposed amendment; adoption or rejection; submission to voters for advisory vote.

(1) If a proposed amendment to the Constitution of the United States is duly submitted to the Legislature of the State of Nebraska as provided in Article V of the Constitution of the United States, a petition may be filed with the Secretary of State requesting that such proposed amendment be submitted to a vote of the people for an advisory opinion as to whether the proposed amendment to the Constitution of the United States shall be adopted or rejected. The petition shall set forth at length the proposed amendment and shall be signed by a number of registered voters of the state equal to ten percent of the votes cast at the immediately preceding presidential election. The registered voters signing the petition shall be so distributed as to include two percent of the registered voters of each of three-fifths of the counties of the state. When the petition is filed with the Secretary of State, he or she shall submit the proposed amendment to the registered voters of the state at the first general election held at least four months after such petition has been filed.

(2) The procedure for placing the proposed amendment on the ballot shall be the same as for placing initiated measures on the ballot under the Constitution and laws of Nebraska so far as is applicable. The ballot title on each such question submitted shall be designated as follows: Advisory Vote on Amendment to Constitution of United States Ordered by Petition of the People. The question shall be submitted in substantially the following form:

Is it desirable that the Legislature ratify the following proposed amendment to the Constitution of the United States:

(Setting out proposed amendment)

For ratification

Against ratification

(3) The result of the vote cast on a question submitted under this section shall be regarded as advisory to the Legislature of the opinion of the people concerning such proposed amendment to the Constitution of the United States but shall not be binding upon the Legislature or any member thereof or be considered as controlling in any action taken either to ratify or not to ratify such amendment.

Source: Laws 1994, LB 76, § 399.

32-1501. Interference or refusal to comply with Secretary of State; penalty.

Any person who willfully interferes with or refuses to comply with the requirements of and cooperate with the Secretary of State or his or her designated agent in carrying out the powers and duties prescribed in sections 32-202 and 32-203 shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 400.

32-1502. Election falsification; penalty.

A person shall be guilty of election falsification if, orally or in writing, he or she purposely states a falsehood under oath lawfully administered or in a statement made under penalty of election falsification (1) as to a material matter relating to an election in a proceeding before a court, tribunal, or public official or (2) in a matter in relation to which an oath or statement under penalty of election falsification is authorized by law, including a statement required for verifying or filing a voter registration application or voting early or a statement required by a new or former resident to enable him or her to vote for President or Vice President of the United States. Any person committing election falsification shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 401; Laws 2005, LB 98, § 30; Laws 2005, LB 566, § 55.

32-1503. Registration of voters; prohibited acts; penalty.

Any person who (1) falsely impersonates an elector and registers or attempts or offers to register in the name of such elector, (2) knowingly or fraudulently registers or offers to, attempts to, or makes application to register in or under the name of any other person, in or under any false, assumed, or fictitious name, or in or under any name not his or her own, (3) knowingly or fraudulently registers in two election districts, (4) having registered in one district, fraudulently attempts or offers to register at any other election district in which he or she does not have a lawful right to register, (5) knowingly or willfully does any unlawful act to secure registration for himself or herself or any other person, (6) knowingly, willfully, or fraudulently, by false impersonation or by any unlawful means, causes, procures, or attempts to cause or procure the name of any registered voter in any election precinct to be erased or stricken from any register of the voters of such precinct, (7) by force, threat, menace, intimidation, bribery, reward, offer or promise of reward, or other unlawful means, prevents, hinders, or delays any person having a lawful right to register or to be registered from duly exercising such right, (8) knowingly, willfully, or fraudulently compels, induces, or attempts or offers to compel or induce, by any unlawful means, any deputy registrar to register any person not lawfully entitled to registration in such precinct or to register any false, assumed, or fictitious name or any name of any other person, (9) knowingly, willfully, or fraudulently interferes with, hinders, or delays any deputy registrar in the discharge of his or her duties, (10) counsels, advises, induces, or attempts to induce any deputy registrar to refuse to perform or neglect to comply with his or her duties or to violate any of the provisions of the Election Act, or (11) aids, counsels, procures, or advises any person to do any act forbidden by this section or to omit to do any act by law directed to be done shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 402.

32-1504. Deputy registrar; neglect of duties; penalty.

Any deputy registrar who is guilty of any willful neglect of his or her duty or of any corrupt or fraudulent conduct or practice in the execution of his or her duty or who willfully neglects or, when called upon, willfully declines to exercise the powers conferred on him or her by sections 32-301 to 32-330 shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 403.

32-1505. Deputy registrar; liquor violations; penalty.

No deputy registrar shall bring, attempt to bring, take, cause to be taken, order, or send into any place of registration or revision of registration any liquor or shall at any such time or place drink or partake of any liquor at such place of registration or revision of registration. A person violating this section shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 404.

32-1506. Election records; prohibited acts; penalty.

Any deputy registrar, judge or clerk of election, or other officer having the custody of records, registers, copies of records or registers, oaths, certificates, or any other paper, document, or evidence of any description by law directed to be made, filed, or preserved who steals, willfully destroys, mutilates, defaces, falsifies, or fraudulently removes such paper, document, or evidence or any part thereof, who fraudulently makes an entry, erasure, or alteration in such paper, document, or evidence except as allowed and directed by the Election Act, who permits any other person to commit any violation listed in this section, or who advises, procures, or abets the commission of such a violation shall be guilty of a Class III misdemeanor and shall forfeit his or her office. Any other person who violates this section shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 405.

32-1507. False swearing; political party affiliation; penalty.

Any registered voter, candidate, or proposed candidate who swears falsely as to political party affiliation or swears that he or she affiliates with two or more political parties shall be guilty of a Class IV misdemeanor.

Source: Laws 1994, LB 76, § 406.

32-1508. Willful or corrupt false swearing; registration of voters; penalty.

Any person who is guilty of willful or corrupt false swearing in taking an oath prescribed by or upon any examination provided for in sections 32-301 to 32-330 or upon being challenged as unqualified to register to vote shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 407.

32-1509. Repealed. Laws 1997, LB 764, § 113.

32-1510. Interference with voter registration; penalty.

Any person who causes any breach of the peace or uses any disorderly violence or threat of violence which impedes or hinders any registration of voters or revision of voter registration lists or interferes with the lawful proceedings of any deputy registrar shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 409.

32-1511. Interference with deputy registrar; penalty.

Any person who (1) knowingly or willfully obstructs, hinders, assaults, or, by bribery, solicitation, or otherwise, interferes with any deputy registrar in carrying out his or her powers or duties, (2) hinders or prevents the attendance of any deputy registrar at any registration of voters or revision of voter registration lists, or (3) unlawfully molests, interferes with, removes, or ejects from any place of registration or revision of registration any deputy registrar or unlawfully threatens, attempts, or offers to do so shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 410.

32-1512. Voter registration; irregularities or defects; not a defense; when.

Irregularities or defects in the mode of noticing, convening, holding, or conducting any registration or revision of registration authorized by sections 32-301 to 32-330 shall not constitute a defense to a prosecution for a violation of any of the provisions of sections 32-1503 to 32-1511.

Source: Laws 1994, LB 76, § 411.

32-1513. Candidate filing form; nominating petitions; prohibited acts; penalty.

Any person who (1) offers to accept and receive or accepts and receives any money or valuable thing in consideration for his or her filing or agreeing to file or not filing or agreeing not to file a candidate filing form for himself or herself as a candidate for nomination in any primary election, (2) offers to accept or receives any money or any valuable thing in consideration for withdrawing his or her name as a candidate for nomination at a primary election, (3) offers or, with knowledge of the same, permits any person to offer for his or her benefit any bribe to a voter to induce him or her to sign any candidate filing form or accept any such bribe or promise of gain of any kind in the nature of a bribe as a consideration for signing the same whether such bribe or promise of gain in the nature of a bribe is offered or accepted before or after such signing, or (4) signs more petitions for nomination than there are positions to fill in any kind of office shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 412.

32-1514. Candidate filing form; forgery; penalty.

Any person who forges any candidate filing form shall be guilty of a Class III felony.

Source: Laws 1994, LB 76, § 413.

32-1515. Candidate filing form; wrongful failure to file; penalty.

Any person who is in possession of any candidate filing form entitled to be filed under the Election Act and who wrongfully suppresses or neglects or willfully fails to file such candidate filing form or fails to cause such candidate filing form to be filed at the proper time in the proper office shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 414.

32-1516. Candidate filing form; initials or signatures on ballot; prohibited acts; penalty.

Any person who falsely makes or falsely swears to any candidate filing form or any part thereof, fraudulently defaces or destroys any candidate filing form or any part thereof, files or receives for filing any candidate filing form knowing that the form or any part thereof is falsely made, suppresses any duly filed candidate filing form or any part thereof, or forges or falsely places any initials or signatures on any ballot under section 32-916 or 32-947 shall be guilty of a Class III felony.

Source: Laws 1994, LB 76, § 415; Laws 1997, LB 764, § 107.

32-1517. Election officials; employers; prohibited acts; penalties.

(1) Any person appointed to be a precinct or district inspector or a judge or clerk of election who refuses, neglects, or fails to serve without excuse shall be guilty of a Class IV misdemeanor.

(2) Any employer of a person appointed to be a precinct or district inspector or a judge or clerk of election who threatens to discharge or coerces or attempts to coerce such person by reason of his or her service as an inspector or a judge or clerk of election shall be guilty of a Class III misdemeanor and such employer shall be subject to a mandatory five-hundred-dollar fine upon conviction.

(3) Any employer of a person appointed to be a precinct or district inspector or a judge or clerk of election who discharges such person from employment, docks such person's pay, overtime pay, sick leave, or vacation time, or in any other way penalizes such person because of his or her service as an inspector, a judge, or a clerk shall be guilty of a Class III felony.

Source: Laws 1994, LB 76, § 416.

32-1518. Election officials; other violations of Election Act; penalty; political subdivision; member of governing body; failure or refusal to perform duty; penalty.

(1) Any judge or clerk of election, any precinct or district inspector, or any other person upon whom any duty is imposed by the Election Act relating to elections who willfully does or performs anything prohibited by the act for which no other penalty is provided or neglects or omits to perform any such duty shall be guilty of a Class I misdemeanor and shall forfeit his or her office.

(2) Any member of a governing body of a political subdivision upon whom a duty is imposed under subsection (2) of section 32-1306 who fails or refuses to perform such duty is guilty of a Class I misdemeanor.

Source: Laws 1994, LB 76, § 417; Laws 2022, LB843, § 48.

Effective Date: July 21, 2022

Annotations

Under this section, a county clerk who neglects to furnish ballots and correct them, as required by the election laws, is liable to forfeit his office and to be fined and imprisoned. *Wahlquist v. Adams County*, 94 Neb. 682, 144 N.W. 171 (1913).

32-1519. Judge or clerk of election; prohibited acts; penalty.

(1) Any judge of election who (a) knowingly receives or sanctions the reception of an improper or illegal vote from any person who is not a registered voter, (b) receives or sanctions the reception of a ballot from any person who refuses to answer any question which is put to him or her in accordance with the Election Act, (c) refuses to take the oath prescribed by the act, (d) sanctions the refusal by any other judge of election to administer any oath required by the act when such oath is required, or (e) refuses to receive or sanctions the rejection of a ballot from any registered voter at the place where such registered voter properly and legally offers to vote shall be guilty of a Class III misdemeanor.

(2) Any judge or clerk of election on whom any duty is enjoined by the act who willfully neglects any such duty or who engages in any corrupt conduct in the discharge of his or her duty shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 418.

32-1520. Ballot with unlawful printing; prohibited acts; penalty.

Any person causing ballots to be printed with a designated heading containing a name or names not found on the official ballot having such heading or any person knowingly peddling or distributing any such ballot with the intent to have such ballot voted at any election shall be guilty of a Class IV misdemeanor.

Source: Laws 1994, LB 76, § 419.

32-1521. Persons authorized to print and distribute ballots; violation; penalty.

Any person who prints or causes to be printed or distributed any ballot marked Official Ballot other than an election commissioner, county clerk, or city or village clerk shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 420.

32-1522. Ballots and other election documents; prohibited acts; penalties.

(1) A judge or clerk of election, a printer, or any other person entrusted with the custody or delivery of ballots, blanks, list of voters book and official summary of votes cast, card of instructions, or other required papers who knowingly and willfully (a) unlawfully opens or permits to be opened any sealed packages containing ballots, (b) gives or delivers to any person not lawfully entitled thereto an official ballot, or (c) unlawfully misplaces or carries away, negligently loses, permits to be taken away from him or her, fails to deliver, or destroys any such package of ballots or any ballot, blank, list of voters book and official summary of votes cast, card of instructions, or other required paper shall be guilty of a Class III felony.

(2) Any printer employed to print the official ballots or any person engaged in printing the same who knowingly and willfully (a) prints or causes or permits to be printed any official ballots printed otherwise than the copy for the same furnished by the election commissioner or county clerk, (b) prints any false or fraudulent ballots, (c) appropriates any of such ballots to himself or herself or gives, delivers, or knowingly permits any of such ballots to be taken by any person other than the election commissioner or county clerk, or (d) seals up or causes or permits to be sealed up or delivers to the election commissioner or county clerk a less number of ballots than the number endorsed thereon shall be guilty of a Class I misdemeanor.

(3) Any person who knowingly has in his or her possession any official ballot illegally obtained or attempts to vote any ballot other than the official ballot lawfully obtained shall be guilty of a Class I misdemeanor.

Source: Laws 1994, LB 76, § 421.

32-1523. Obstruction of polling place or building; penalty.

Any person who obstructs the doors or entries or prevents free ingress to and egress from a polling place or building shall be guilty of a Class V misdemeanor.

Source: Laws 1994, LB 76, § 422.

32-1524. Electioneering; circulation of petitions; prohibited acts; penalty.

(1) For purposes of this section:

(a) Electioneering means the deliberate, visible display or audible or physical dissemination of information for the purpose of advocating for or against:

(i) Any candidate on the ballot for the election at which such display or dissemination is occurring;

(ii) Any elected officeholder of a state constitutional office or federal office at the time of the election at which such display or dissemination is occurring;

(iii) Any political party on the ballot for the election at which such display or dissemination is occurring; or

(iv) Any measure on the ballot for the election at which such display or dissemination is occurring; and

(b) Information includes:

(i) Such a candidate's name, likeness, logo, or symbol;

(ii) Such a ballot measure's number, title, subject matter, logo, or symbol;

(iii) A button, hat, pencil, pen, shirt, sign, or sticker containing information prohibited by this section;

(iv) Audible information prohibited by this section; and

(v) Literature or any writing or drawing referring to a candidate, officeholder, or ballot measure described in subdivision (a) of this subsection.

(2) No judge or clerk of election or precinct or district inspector shall do any electioneering while acting as an election official.

(3) No person shall do any electioneering or circulate petitions within any polling place or any building designated for voters to cast ballots by the election commissioner or county clerk pursuant to the Election Act while the polling place or building is set up for voters to cast ballots or within two hundred feet of any such polling place or building except as otherwise provided in subsection (5) of this section.

(4) No person shall do any electioneering within two hundred feet of any secure ballot drop-box.

(5) Subject to any local ordinance, a person may display yard signs on private property within two hundred feet of a polling place or building designated for voters to cast ballots if the property is not under common ownership with the property on which the polling place or building is located.

(6) Any person violating this section shall be guilty of a Class V misdemeanor.

Source: Laws 1994, LB 76, § 423; Laws 2006, LB 940, § 2; Laws 2016, LB874, § 7; Laws 2019, LB411, § 65; Laws 2022, LB843, § 49.

Effective Date: July 21, 2022

32-1525. Polling and interviews; poll watchers; prohibited acts; penalty.

(1) No person shall conduct an exit poll, a public opinion poll, or any other interview with voters on election day seeking to determine voter preference within twenty feet of the entrance of any polling place or, if inside the polling place or building, within one hundred feet of any voting booth.

(2)(a) No poll watcher shall interfere with any voter in the preparation or casting of such voter's ballot or prevent any election worker from performing the worker's duties.

(b) A poll watcher shall not provide assistance to a voter as described in section 32-918 unless selected by the voter to provide assistance as provided in section 32-918.

(c) A poll watcher shall not engage in electioneering as defined in section 32-1524 while engaged in observing at a polling place.

(d) A poll watcher shall maintain a distance of at least eight feet from the sign-in table, the sign-in register, the polling booths, the ballot box, and any ballots which have not been cast, except that if the polling place is not large enough for a distance of eight feet, the judge of election shall post a notice of the minimum distance the poll watcher must maintain from the sign-in table, the sign-in register, the polling booths, the ballot box, and any ballots which have not been cast. The posted notice shall be clearly visible to the voters and shall be posted prior to the opening of the polls on election day. The minimum distance shall not be determined to exclude a poll watcher from being in the polling place.

(3) Any person violating this section shall be guilty of a Class V misdemeanor.

Source: Laws 1994, LB 76, § 424; Laws 2020, LB1055, § 18.

32-1526. Fraudulent placement of ballot in ballot box; penalty.

Any judge or clerk of election who puts a ballot into the ballot box, except his or her own ballot or such as may be received in the regular discharge of his or her duties as a judge or clerk, or who knowingly permits any ballot which was fraudulently placed or deposited in such ballot box by any other person to remain in the ballot box or to be counted with the legal votes cast at such election shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 425.

32-1527. Voting of ballots; prohibited acts; penalty.

(1) No voter shall receive an official ballot from any person other than a judge of election, and no person other than a judge of election shall deliver an official ballot to a voter.

(2) No voter shall vote or offer to vote any ballot except an official ballot received from a judge of election.

(3) No voter shall place any mark upon an official ballot by which it may afterwards be identified as the one voted by him or her.

(4) No person shall solicit a voter to show his or her ballot after it is marked to any person to reveal the contents thereof or the name of the candidate or candidates for whom he or she has marked his or her vote. This subsection does not prohibit a voter from voluntarily photographing his or her ballot after it is marked and revealing such photograph in a manner that allows the photograph to be viewed by another person.

(5) No person other than a judge of election shall receive from a voter an official ballot prepared for voting.

(6) Any person violating this section shall be guilty of a Class V misdemeanor.

Source: Laws 1994, LB 76, § 426; Laws 2016, LB874, § 8.

32-1528. Nonresident of school district, village, or precinct; illegal voting; penalty.

Any person who votes a ballot in any school district, village, or precinct of a city in this state in which he or she does not actually reside or into which he or she has come for merely temporary purposes shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 427.

Annotations

A voter was found to reside in a voting district for the purposes of this section when he had a bodily presence in the district, made improvements upon his home in the district, spent 5 to 10 nights per month at his home in the district, repeatedly exercised his right to vote in the district, and was forced to spend time outside the district for medical reasons. *State v. Jensen*, 269 Neb. 213, 691 N.W.2d 139 (2005).

A voter was found to reside in a voting district for the purposes of this section when she had a physical presence at a home in the district, made improvements upon her home in the district, intended to remain at her home in the district, repeatedly voted in the district, and was forced to spend time outside the district to care for her son due to his medical condition. *State v. Jensen*, 269 Neb. 213, 691 N.W.2d 139 (2005).

Whether a voter is habitually present at a particular residence is not dispositive of the issue of domicile for purposes of this section. *State v. Jensen*, 269 Neb. 213, 691 N.W.2d 139 (2005).

32-1529. Nonresident of state; illegal voting; penalty.

Any resident of another state who votes in this state shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 428.

32-1530. Ineligible voter; illegal voting; penalty.

Any person who votes (1) who is not a resident of this state or registered in the county or who at the time of election is not of the constitutionally prescribed age of a registered voter, (2) who is not a citizen of the United States, or (3) after being disqualified by law by reason of his or her conviction of a felony and prior to the end of the two-year period after completing the sentence, including any parole term, shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 429; Laws 2005, LB 53, § 6.

32-1531. Nonresident of county; illegal voting; penalty.

Except as provided in sections 32-933 to 32-937, any person who is a resident of this state and who goes or comes into any county of which he or she is not an actual resident and votes in such county shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 430.

32-1532. Aiding and abetting ineligible voter; penalty.

Any person who procures, aids, assists, counsels, or advises another to give his or her vote, knowing that such other person is not a resident of this state or a registered voter of the county as required by law at the time of election, is not of the constitutionally prescribed age of a registered voter, is not a citizen of the United States, or is not duly qualified as a result of any other disability to vote at the place where and the time when the vote is to be given shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 431.

32-1533. Aiding and abetting nonresident of county; penalty.

Any person who procures, aids, assists, counsels, or advises another to go or come into any county for the purpose of giving his or her vote in such county knowing that the other person is not duly qualified to vote in such county shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 432.

32-1534. Voting more than once; penalty.

Any person who votes more than once at the same election shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 433.

32-1535. Unauthorized removal of ballots; penalty.

Any person who removes any ballot from the polling room before the closing of the polls except as otherwise authorized under the Election Act shall be guilty of a Class V misdemeanor.

Source: Laws 1994, LB 76, § 434.

32-1536. Bribery; prohibited acts; penalty.

(1) Any person who accepts or receives any valuable thing as a consideration for his or her vote for any person to be voted for at any election shall be guilty of a Class II misdemeanor.

(2) Any person who, by bribery, attempts to influence any voter of this state in voting, uses any threat to procure any voter to vote contrary to the inclination of such voter, or deters any voter from voting shall be guilty of a Class II misdemeanor.

Source: Laws 1994, LB 76, § 435.

32-1537. Employer; prohibited acts; penalty.

Any person who (1) coerces or attempts to coerce any of his or her employees in their voting or in any other political action at any caucus, convention, or election held or to be held in this state or (2) attempts to influence the political action of his or her employees by threatening to discharge them because of their political action or by threats on the part of such person to close his or her place of business in the event of the passage or defeat of any issue on the ballot, in the event of the election or defeat of any candidate for public office, or in the event of the success or defeat of any political party at any election shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 436.

32-1538. Fraudulent assistance of illiterate voter; penalty.

Any person who, with intent to induce a voter who cannot read to vote contrary to his or her inclination, furnishes the voter with a ballot and informs him or her that the ballot contains a name or names different from the name or names which are written or printed on the ballot or who fraudulently or deceitfully changes a ballot of any voter so that such voter is prevented from voting for the candidate or candidates as he or she intended shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 437.

32-1539. Ballot for early voting; prohibited acts; penalty.

Any person who (1) impersonates or makes a false representation in order to obtain a ballot for early voting, (2) knowingly connives to help a person to vote such a ballot illegally, (3) destroys, steals, marks, or mutilates any such ballot after the same has been voted or aids or abets another to do so, (4) delays in delivering such a ballot to the election commissioner or county clerk to prevent the ballot from arriving in time to be counted, (5) in any manner aids or attempts to aid any person to vote such a ballot unlawfully, (6) hinders or attempts to hinder a registered voter from voting any such ballot, or (7) hinders or attempts to hinder any official from delivering or counting any such ballot shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 438; Laws 2005, LB 98, § 31.

32-1540. Fraudulent placement of ballot into ballot box; penalty.

Any person who fraudulently puts a ballot into the ballot box shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 439.

32-1541. List of voters book; prohibited acts; penalty.

Any person who willfully, knowingly, and with fraudulent intent inscribes, writes, or causes to be inscribed or written in or upon any list of voters book the name of any person not entitled to vote at such election shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 440.

32-1542. Election records and returns; prohibited acts; penalty.

Any person who has in his or her possession any falsely made, altered, forged, or counterfeited list of voters book, official summary of votes cast, or election returns of any election and who knows such book, summary, or election returns to be falsely made, altered, forged, or counterfeited, with the intent to hinder, defeat, or prevent a fair expression of the popular will at such election, shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 441.

32-1543. Unlawful destruction or possession of ballot or ballot box; penalty.

Any person who unlawfully attempts to destroy a ballot or who unlawfully, by force, violence, fraud, or other improper means, obtains or attempts to obtain possession of a ballot box or a ballot which was deposited in a ballot box while the voting at the election is going on or before the ballots have been duly taken out of the ballot box by a judge of election shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 442.

32-1544. Unlawful destruction of election material; prohibited acts; penalty.

Any person who, from the time any ballots are cast or voted until the time has expired for using the same as evidence in any contest of an election, unlawfully destroys or attempts to destroy or incites or requests another to destroy any ballot box, list of registered voters, sign-in register, or record of early voters used at any election, unlawfully destroys, falsifies, marks, or writes on any ballot cast or voted, or changes, alters, erases, or tampers with any name contained on any ballot cast or voted shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 443; Laws 1997, LB 764, § 108; Laws 2005, LB 98, § 32.

32-1545. Election results or returns; prohibited acts; penalty.

(1) Any person disclosing any election results or election returns before the closing of the polls without the express authorization of the election commissioner or county clerk shall be guilty of a Class IV felony.

(2) Any person other than the election commissioner or county clerk who receives partial returns or election results and releases such partial returns or results without the express authorization of the election commissioner or county clerk shall be guilty of a Class IV felony.

(3) Any person who attempts to disseminate any election results or election returns before the closing of the polls shall be guilty of a Class IV felony.

(4) Any person who in any way causes the release of any election results or election returns without the express authorization of the election commissioner or county clerk shall be guilty of a Class IV felony.

Source: Laws 1994, LB 76, § 444.

32-1546. Petition signers and circulators; prohibited acts; penalties.

(1) Any person who is not, at the time of signing a petition, a registered voter and qualified to sign the petition except as provided for initiative and referendum petitions in section 32-1404 or who signs any name other than his or her own to any petition shall be guilty of a Class I misdemeanor.

(2) 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.

Source: Laws 1994, LB 76, § 445; Laws 2003, LB 444, § 13.

Annotations

The 1977 revision of this section repealed by implication the penalty provision then contained in section 32-705. *State v. Fellman*, 236 Neb. 850, 464 N.W.2d 181 (1991).

"Falsely," as used in this section, specifies the element of deliberate or intentional untruth or deceit regarding a circulator's swearing to a petitioner's signature on an initiative petition. This section, defining the crime of "false swearing," in reference to an initiative petition, is not unconstitutional for vagueness. *State v. Monastero*, 228 Neb. 818, 424 N.W.2d 837 (1988).

32-1547. Member of the Legislature or constitutional officer; multiple filing prohibited; penalty.

Any person serving as a member of the Legislature or in an elective office described in Article IV, section 1, of the Constitution of Nebraska who files for more than one elective office to be filled in the same election except for the position of delegate to a county, state, or national political party convention shall be guilty of a Class IV misdemeanor.

Source: Laws 1994, LB 76, § 446.

32-1548. County attorney; prosecute violations; suspension of sentence or judgment; when.

Except as provided in subdivision (2) of section 84-205, the county attorney of any county in this state shall prosecute all complaints which may be made of violations of the Election Act to final judgment. The court before which any conviction for such violation shall be had shall not in any case suspend sentence or judgment for more than twenty days, except that no indictment or information for such violation shall be brought to trial unless the complainant, if he or she is found, has had at least two days' notice, in writing, from the county attorney of the day when he or she intends to try the same.

Source: Laws 1994, LB 76, § 447; Laws 1997, LB 758, § 2.

32-1549. Citation in lieu of arrest; Supreme Court; powers; prosecution; procedure; failure to appear; penalty.

(1) A peace officer may issue a citation in lieu of arrest for any offense which is a misdemeanor under the Election Act. The citation may be served in the same manner as an arrest warrant, in the same manner as a summons in a civil action, or by certified mail.

(2) To achieve uniformity, the Supreme Court may prescribe the form of citation. The citation shall include a description of the crime or offense charged, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the court deems appropriate, but shall not include a place for the cited person's social security number. The court may provide that a copy of the citation shall constitute the complaint filed in the trial court.

(3) When a citation is used by a peace officer, he or she shall enter on the citation all required information, including the name and address of the cited person, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the citation. One copy of the citation shall be delivered to the person cited, and a duplicate thereof shall be signed by such person, giving his or her promise to appear at the time and place stated in the citation. Such person shall be released from custody upon signing the citation. As soon as practicable, the copy signed by the person cited shall be delivered to the prosecuting attorney.

(4) At least twenty-four hours before the time set for the appearance of the cited person, the prosecuting attorney shall issue and file a complaint charging such person with an offense or such person shall be released from the obligation to appear as specified. A person cited pursuant to this section may waive his or her right to trial. The Supreme Court may prescribe uniform rules for such waivers.

(5) Anyone may use a credit card authorized by the court in which the person is cited as a means of payment of his or her fine and costs.

(6) Any person failing to appear or otherwise comply with the command of a citation shall be guilty of a Class III misdemeanor.

Source: Laws 1994, LB 76, § 448; Laws 2002, LB 82, § 16.

32-1550. Arrest; grounds.

(1) Any peace officer having grounds for issuing a citation under the Election Act may take the accused into custody when the accused fails to identify himself or herself satisfactorily or refuses to sign the citation or when the officer has reasonable grounds to believe that (a) the accused will refuse to respond to the citation, (b) such custody is necessary to protect the accused or others when his or her continued liberty would constitute a risk of immediate harm, (c) such action is necessary in order to carry out legitimate investigative functions, (d) the accused has no ties to the jurisdiction reasonably sufficient to assure his or her appearance, or (e) the accused has previously failed to appear in response to a citation.

(2) Notwithstanding that a citation is issued, a peace officer is authorized to take a cited person to an appropriate medical facility if the person appears mentally or physically unable to care for himself or herself.

(3) Nothing in this section or section 32-1549 shall be construed to affect the rights, lawful procedures, or responsibilities of peace officers using the citation procedure in lieu of the arrest or warrant procedure.

Source: Laws 1994, LB 76, § 449.

32-1551. Special election by mail; prohibited acts; penalty.

Any person who (1) impersonates or makes a false representation in order to obtain a ballot for an election to be held by mail as provided in sections 32-952 to 32-959, (2) knowingly connives to help a person to vote such a ballot illegally, (3) destroys, steals, marks, or mutilates any such ballot after the same has been voted or aids or abets another to do so, (4) delays in delivering such a ballot to the election commissioner or county clerk to prevent the ballot from arriving in time to be counted, (5) in any manner aids or attempts to aid any person to vote such a ballot unlawfully, (6) hinders or attempts to hinder a registered voter from voting any such ballot, or (7) hinders or attempts to hinder any official from delivering or counting any such ballot shall be guilty of a Class IV felony.

Source: Laws 1996, LB 964, § 13.

32-1601. Repealed. Laws 2013, LB 79, § 41.

32-1602. Repealed. Laws 2013, LB 79, § 41.

32-1603. Repealed. Laws 2013, LB 79, § 41.

32-1604. Repealed. Laws 2013, LB 79, § 41.

32-1604.01. Repealed. Laws 2013, LB 79, § 41.

32-1605. Repealed. Laws 2013, LB 79, § 41.

32-1606. Repealed. Laws 2013, LB 79, § 41.

32-1606.01. Repealed. Laws 2013, LB 79, § 41.

32-1607. Repealed. Laws 2013, LB 79, § 41.

32-1608. Repealed. Laws 2013, LB 79, § 41.

32-1608.01. Repealed. Laws 2013, LB 79, § 41.

32-1608.02. Repealed. Laws 2013, LB 79, § 41.

32-1608.03. Repealed. Laws 2013, LB 79, § 41.

32-1609. Repealed. Laws 2013, LB 79, § 41.

32-1610. Repealed. Laws 2013, LB 79, § 41.

32-1611. Repealed. Laws 2013, LB 79, § 41.

32-1612. Repealed. Laws 2013, LB 79, § 41.

32-1613. Repealed. Laws 2013, LB 79, § 41.

32-1614. Repealed. Laws 2006, LB 188, § 21.

32-1701. Repealed. Laws 2009, LB 154, § 27.