

## LEGISLATIVE BILL 359

Approved by the Governor March 19, 1982

Introduced by Newell, 13

AN ACT to amend sections 31-735.01 and 31-735.02, Reissue Revised Statutes of Nebraska, 1943, and section 31-735, Revised Statutes Supplement, 1981, relating to sanitary and improvement districts; to change provisions relating to district elections; to change provisions relating to the payment of election board members as prescribed; and to repeal the original sections.

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

Section 1. That section 31-735, Revised Statutes Supplement, 1981, be amended to read as follows:

31-735. (1) For any sanitary and improvement district located in a county with a population of one hundred thousand or more, on ~~on~~ the first Tuesday after the second Monday in September which is at least fifteen months after the judgment of the district court creating a sanitary and improvement district, and on the first Tuesday after the second Monday in September each two years thereafter, the board of trustees shall cause a special election to be held, at which election a board of trustees of five in number shall be elected. Each member elected to the board of trustees shall be elected to a term of two years and shall hold office until such member's successor is elected and qualified. ~~The term of office of an elected trustee on July 10, 1976, and a trustee appointed to fill the unexpired term of such elected trustee, shall be extended to the first Tuesday in September immediately following the date on which such term would otherwise have expired.~~ Any person desiring to file for office of trustee may file for such office with the county clerk, or election commissioner in counties having election commissioners, of the county in which the greater proportion in area of the district is located, not later than thirty days before the election. No filing fee shall be required. A person filing for the office of trustee to be elected at the election held four years after the first election of trustees and each election thereafter shall designate whether he or she is a candidate for election by the resident owners of such district or whether he or she is a candidate for election by all of the owners of real estate located in the district. The name of such candidate shall appear on only one ballot. The name of a person may be written in

and voted for as a candidate for the office of trustee, and such write-in candidate may be elected to the office of trustee. Such trustees shall be owners of real estate located in the district. The election shall be conducted at a location or place selected by the election commissioner, but situated within the boundaries of the district unless there is no building within the district or all of the owners in the district shall consent to an election outside the district, except that in any district having ten or less total owners, or in any districts where there are no resident owners, the election shall be held in such place in the county as the election commissioner shall designate. and--the The polling place shall remain open to the voters for not less than four consecutive hours between 8:00 a.m. and 8:00 p.m. of the date of election. Notice of the time and place of the election shall be mailed by the ~~clerk of the district at least~~ forty-five election commissioner not later than twenty days prior to the election to each person who is entitled to vote at the election for trustees whose property ownership or lease giving a right to vote is of record on the records of the register of deeds as of a date designated by the ~~board of trustees~~ election commissioner, which shall be not more than sixty-five days prior to the election.

(2) For any sanitary and improvement district located in a county with a population of less than one hundred thousand, on the first Tuesday after the second Monday in September which is at least fifteen months after the judgment of the district court creating a sanitary and improvement district, and on the first Tuesday after the second Monday in September each two years thereafter, the board of trustees shall cause a special election to be held, at which election a board of trustees of five in number shall be elected. Each member elected to the board of trustees shall be elected to a term of two years and shall hold office until such member's successor is elected and qualified. Any person desiring to file for office of trustee may file for such office with the county clerk, or election commissioner in counties having election commissioners, of the county in which the greater proportion in area of the district is located, not later than thirty days before the election. No filing fee shall be required. A person filing for the office of trustee to be elected at the election held four years after the first election of trustees and each election thereafter shall designate whether he or she is a candidate for election by the resident owners of such district or whether he or she is a candidate for election by all of the owners of real estate located in the district. The name of such candidate shall appear on only one ballot. The name of a person may be written in



and voted for as a candidate for the office of trustee, and such write-in candidate may be elected to the office of trustee. Such trustees shall be owners of real estate located in the district. The election shall be conducted at a location or place within the boundaries of the district unless there is no building within the district or all of the owners in the district shall consent to an election outside the district, and the polling place shall remain open to the voters for not less than four consecutive hours between 8:00 a.m. and 8:00 p.m. of the date of election. Notice of the time and place of the election shall be mailed by the clerk of the district not later than twenty days prior to the election to each person who is entitled to vote at the election for trustees whose property ownership or lease giving a right to vote is of record on the records of the register of deeds as of a date designated by the board of trustees, which shall be not more than sixty-five days prior to the election. Notice of the time and place of the election shall also be mailed by the clerk of the district to the county clerk or election commissioner at least forty-five days prior to the election.

(3) For any sanitary and improvement district, persons Persons whose ownership or right to vote becomes of record or is received after such date may vote upon establishing their right to vote to the satisfaction of the election board. Such notice shall state the time, place, and purpose of the election. At the first election and at the election held two years after the first election, any person may cast one vote for each trustee for each acre of unplatted land or fraction thereof and one vote for each platted lot which he or she may own in the district. At the election held four years after the first election of trustees, two members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district, and three members shall be elected by all of the owners of real estate located in the district pursuant to this section. Every resident property owner may cast one vote for a candidate for each office of trustee to be filled by election of resident property owners only. Such resident property owners may also each cast one vote for each acre of unplatted land, or fraction thereof, and for each platted lot owned within the district for a candidate for each office of trustee to be filled by election of all property owners. For each office of trustee to be filled by election of all property owners of the district, every legal property owner not resident within such sanitary and improvement district may cast one vote for each acre of unplatted land or fraction thereof and one vote for each platted lot which he or she owns in the district. At the

election held eight years after the first election of trustees, three members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district, and two members shall be elected by all of the owners of real estate located in the district pursuant to this section, except that, if more than fifty per cent of the homes in any sanitary and improvement district are used as a second, seasonal, or recreational residence, the owners of such property shall be considered legal property owners resident within such district for purposes of electing trustees, and at the election held six years after the first election of trustees, three members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district, and two members shall be elected by all of the owners of real estate located in the district pursuant to this section. If there are not any legal property owners resident within such district the five members shall be elected by the legal property owners of all property within such district as provided in this section. Any corporation, public, private, or municipal, owning any land or lot in the district, may vote at such election the same as an individual. For purposes of voting for trustees, each condominium apartment under a condominium property regime established under the Condominium Property Act shall be deemed to be a platted lot and the lessee, or the owner of the lessee's interest, under any lease for an initial term of not less than twenty years which requires the lessee to pay taxes and special assessments levied on the leased property, shall be deemed to be the owner of the property so leased and entitled to cast the vote of such property. When ownership of a platted lot or unplatted land is held jointly by two or more persons, whether as joint tenants, tenants in common, limited partners, or any other form of joint ownership, only one person shall be entitled to cast the vote of such property. The executor, administrator, guardian, or trustee of any person or estate interested shall have the right to vote. No corporation, estate, or trust shall be deemed to be a resident owner for purposes of voting for trustees. Should two or more persons or officials claim the right to vote on the same tract, the election board shall determine the party entitled to vote. Such board shall select one of their number chairperson and one of their number clerk. In case of a vacancy on said board the remaining trustees shall fill the vacancy on said board until the next election.

Sec. 2. That section 31-735.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:



31-735.01. (1) At any election held to elect trustees of a sanitary and improvement district, the ballots shall be received, counted, and canvassed by an election board of two persons appointed by the election commissioner or the county clerk in counties having no election commissioner.

(2) The election board members (a) for any sanitary and improvement district located in a county with a population of one hundred thousand or more, shall be paid the same hourly compensation for each hour worked as provided in section 32-210.01 for judges and clerks of election, as such rate may from time to time be adjusted by the Legislature, and (b) for any sanitary and improvement district located in a county with a population of less than one hundred thousand, shall be paid, by the district, three dollars per hour for each hour worked.

(3) The For any sanitary and improvement district located in a county with a population of less than one hundred thousand, the district shall furnish ballots for the election, and such ballots shall be in form approved by the election commissioner or county clerk.

Sec. 3. That section 31-735.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-735.02. (1) The For any sanitary and improvement district, the county clerk or election commissioner shall certify the results of the election to the district.

(2) The For any sanitary and improvement district located in a county with a population of less than one hundred thousand, the election board shall also certify to the district the number of hours worked by the board. Payment shall be made by the district directly to election board members within forty-five days following such certification. Upon completion of the canvass, the county clerk or election commissioner shall turn all supplies, ballots, and books over to the district for which the election was held.

Sec. 4. For purposes of sections 31-735, 31-735.01, and 31-735.02 a sanitary and improvement district shall be deemed to be located in a county with a population of one hundred thousand or more if the greater proportion in area of the district is located in such county.

Sec. 5. For any county with a population of one hundred thousand or more, not later than June first of each year the election commissioner shall determine which sanitary and improvement districts in the county are required to hold elections in such year and shall so notify the clerk of each such district on or before July first of such year. The entire costs of conducting the election shall be borne by the sanitary and improvement district holding the election, and such costs shall include all expenses such as procuring a list of the property owners of record in each such district, printing and mailing notices of the elections to such property owners, printing and preparing ballots, paying compensation and mileage for the election boards conducting such elections, and also indirect expenses, such as the pro rata amount of any additional clerical expense or other miscellaneous expenses to be incurred by the election commissioner in conducting all of such elections to be held in such calendar year. Within sixty days after the elections have been held, each district shall be charged and billed for all of the actual expenses incurred by the election commissioner attributable to such district. Payment of the total amount billed to the district shall be made by the district to the election commissioner within sixty days after receipt of such billing.

Sec. 6. That original sections 31-735.01 and 31-735.02, Reissue Revised Statutes of Nebraska, 1943, and section 31-735, Revised Statutes Supplement, 1981, are repealed.