

## LEGISLATIVE BILL 957

Approved by the Governor February 24, 1990

Introduced by Coordsen, 32; Abboud, 12

AN ACT relating to cities of the first class; to amend sections 16-103, 16-104, 16-302.01, and 16-306, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the reorganization of second-class cities as first-class cities; to change provisions relating to the division of a city into election wards; to change provisions relating to the election and terms of council members following reorganization; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 16-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-103. (1) After the proclamation, the city shall be governed by the laws of this state applicable to cities of the first class, except that the government of such city shall continue as organized at the date of such proclamation until the reorganization as a city of the first class. If a city of the second class becomes a city of the first class, the governing body shall call a special election for the purpose of electing new members of the city's governing body to be held not more than eight months after the proclamation is issued.

(2) For the purpose of electing city officials under the provisions of law relating to cities of the first class, the term of office for such officials shall be established by the city's governing body so as to conform with the intent and purpose of section 16-302-01. The mayor and council members of the city of the second class shall hold office only until the newly elected city officials assume office. All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to any such city at the time of its incorporation as a city of the first class shall remain in full force and effect after such incorporation until repealed or modified by the city within one year after the date of the filing of the certificate pursuant to section

16-102-

(2) The mayor and council members of the city of the second class shall be deemed to be the mayor and council members of the city of the first class on the date the proclamation is issued. All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to the city of the second class at the time of its incorporation as a city of the first class shall remain in full force and effect after such incorporation until repealed or modified by the city within one year after the date of the filing of the certificate pursuant to section 16-102.

(3) For the purpose of electing city officials under the provisions of law relating to cities of the first class, the terms of office for such officials shall be established by the city's governing body so as to conform with the intent and purpose of section 16-302.01.

Sec. 2. That section 16-104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-104. The If a city of the second class becomes a city of the first class, the mayor and council shall divide the city into not less than ~~four~~ three wards, as compact in form and equal in population as may be, the boundaries of which shall be defined by ordinance, to take effect at the next annual city election after reorganization except as provided in section 5-108. The mayor and council shall, within six years after the date the proclamation is issued, divide the city into not less than four wards, as compact in form and equal in population as may be, the boundaries of which shall be defined by ordinance except as provided in section 5-108. The division into not less than four wards shall be made as soon as possible after August 26, 1983. Each ward shall constitute an election district, except that ; ~~PROVIDED~~; when any ward ~~shall contain~~ has over five hundred legal voters, the mayor and council may divide such ward into two or more election districts.

Sec. 3. That section 16-302.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-302.01. (1) In any city of the first class, except any city having adopted the commissioner or city manager form of government, there shall be elected a mayor at large and one or two council members from each ward, who shall be ~~electors~~ registered voters

of the city and residents of the ward from which elected, except that there shall be at least four council members. Two council members shall be required for each ward in any city having fewer than four wards as provided in section 16-104. The council may also, by a two-thirds vote of its members, provide by ordinance for the election of the treasurer and clerk. All nominations and elections of such officers shall be held as provided in Chapter 32, or as provided in sections 16-302-01, 16-306, 17-102, 17-104, 17-107, 17-202 to 17-203-01, 17-701, 19-404, 19-405, 19-408, 19-411, 19-418, 19-432, 19-619, 19-621, 19-3002, 23-1312, 32-227-01, 32-4,146 to 32-4,151, 32-502, 32-504, 32-512, 32-513, 32-1051, 35-506, 79-516-04, 79-516-06, 79-701, and 79-803-03 32-4,146 to 32-4,151, 32-504, 32-512, and 32-513.

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

(3) All elected officers in a first-class city shall serve for a ~~term~~ ~~terms~~ of four years and until their successors are elected and have qualified.

(4) If the number of candidates properly filed for nomination at the primary election does not exceed two for each vacancy to be filled, all candidates properly filed shall be considered nominated, and no primary election for their nomination shall be required.

(5) When any second-class city by law becomes a first-class city, and adopts the first-class city form of government, as provided in sections 16-101 to 16-129 and it becomes necessary to establish the staggering of terms by nominating and electing members for terms of different durations at the same election, the candidates receiving the greatest number of votes shall be nominated and have their names placed on the general election ballot. In no case shall the city clerk, county clerk, or election commissioner place on the general election ballot more than twice the number of names required to fill the vacancies that will occur.

(6) In the case of a tie vote of any of the candidates in either the primary or general election, the city clerk, county clerk, or election commissioner shall notify such candidates to appear at his or her office on a given day and hour to determine the same by lot before the canvassing board, and the certificate of nomination or election shall be given accordingly. Notice to appear shall be given by certified mail.

(7) The city clerk, county clerk, or election commissioner in preparing the official ballot for the general election shall place thereon the names of the persons who received the greatest number of votes in the primary, but in no event shall the names on the general election ballot be more than twice the number of vacancies to be filled at the general election. Petitions for the filling of a vacancy on the ballot shall be filed in accordance with section 32-537.

(8) The city clerk, county clerk, or election commissioner shall place the names of the candidates on the general election ballot in the direct order according to the number of votes received at the primary election. If no primary election was held, the names of the candidates shall be placed upon the general election ballot in the order of their filing. The ~~term~~ terms of office of all such members shall commence on the first regular meeting of the council in December following their election. Any vacancy on the council resulting from causes other than expiration of the term shall be filled by vote of the remaining members as provided in section 32-4,152.

(9) Any city of the first class 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.

Sec. 4. That section 16-306, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-306. In any city which ~~may become~~ becomes a city of the first class any council member, whose term ~~extends shall extend~~ through another year ~~or years~~ by reason of his or her prior election under the provisions governing cities of the second class, shall hold his or her office as a council member from the ward in which he or she is a resident, as if he or she were elected for the same term under the provisions of sections 16-302-01, 16-306, 17-102, 17-104, 17-107, 17-202 to 17-203-01, 17-701, 19-404, 19-405, 19-408, 19-411, 19-418, 19-432, 19-619, 19-621, 19-3002, 23-1312, 32-227-01, 32-4,146 to 32-4,151, 32-502, 32-504, 32-512, 32-513, 32-1051, 35-506, 79-516-04, 79-516-06, 79-701, and 79-803-03 32-4,146 to 32-4,151, 32-504, 32-512, and 32-513.

Sec. 5. That original sections 16-103, 16-104, 16-302.01, and 16-306, Reissue Revised Statutes of Nebraska, 1943, are repealed.