

## LEGISLATIVE BILL 921

Approved by the Governor May 21, 1971

Introduced by William Skarda, Jr., 7th District; Glenn A. Goodrich, 20th District; Sam Klaver, 9th District; Eugene T. Mahoney, 5th District; Richard F. Proud, 12th District

AN ACT relating to counties; to provide a civil service system as prescribed for employees of counties having a population of more than three hundred thousand inhabitants; and to declare an emergency.

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

Section 1. The purpose of this act is to guarantee to all citizens a fair and equal opportunity for employment in the county offices governed by this act, to establish conditions of employment and to promote economy and efficiency in such offices.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Employees shall mean all county employees of the county. The term employees shall not include part-time employees, employees subject to the State Personnel Office Act, court-appointed employees, employees of the county attorney's office or dentists, physicians, practicing attorneys, deputy sheriffs, officers appointed by the Governor, elected officers or the chief deputy of each office or the deputy of each office if there is not more than one deputy in the office;

(2) Part-time employee shall mean any person whose position is seasonal or temporary as defined by the commission;

(3) Department head shall mean an officer holding an elected office, an officer holding office by appointment of the Governor, the chief deputy of any office or the deputy if there is not more than one deputy, and such other persons holding positions as are declared to be department heads by the county board; and

(4) Commission shall mean the Civil Service Commission.

Sec. 3. In any county having a population of three hundred thousand inhabitants or more, there shall be a Civil Service Commission which shall be formed as provided in this act within ninety days of the effective date of this act.

Sec. 4. (1) The commission shall consist of five members who shall be in sympathy with the application of merit principles to public employment. No member of the commission shall be a member of any local, state or national committee of a political party or an officer or member of a committee in any partisan political club or organization.

(2) The members of the commission shall be as follows: (a) Two elected officers selected from the offices of and elected by the county commissioners, clerk, assessor, treasurer, public defender, register of deeds, clerk of the district court, surveyor and sheriff, being of opposite political parties if possible, and each party shall separately select its own member, (b) two full-time permanent county employees, and (c) one public member holding no public or political office. The initial two such employees shall be selected by the two elected officers referred to in subdivision (a) of this subdivision as follows: Any such employee who is at least twenty-one years of age may submit his name as a candidate to the elected officer of his own party who shall then select one commission member from such list of names. The four members of the commission shall then select the public member. The commission shall establish employee election procedures which shall provide that all county employees subject to this act may vote and, if not less than twenty-one years of age, be candidates for a member of the commission. One employee member of the commission shall be a democrat elected by the democrat-registered employees subject to the act and one employee member of the commission shall be a republican elected by the republican-registered employees subject to the act. An employee otherwise eligible to vote and be a candidate for the office of employee member of the commission, but who is not registered as either a Democrat or a Republican, may become eligible to vote, and become a candidate for the office of employee member of the commission by making a declaration that he desires to vote for such a member of the commission, or be a candidate for such office, and, in the same declaration, designating the party, Democrat or Republican, with which he desires to be affiliated for this purpose. After making such declaration, that employee shall have the same right to vote for a

candidate, and be a candidate for the office of employee member of the commission as he would have had if he were a registered member of the party so designated in the declaration. The manner, form, and contents of such declaration shall be initially established by the two elected officials referred to in subdivision (2) (a) of this section, subject to modification by the commission after it has been fully formed.

(3) The initial term of office of (a) the two elected officers shall be three years from the effective date of this act; (b) the initial term of office of the county employees shall be two years from the effective date of this act; and (c) the initial term of the public member shall be three years from the effective date of this act.

At the expiration of the initial term of office, a successor member shall be elected or appointed as provided in this act for a term of three years. Membership on the commission of any member shall terminate upon the resignation of any member or at such time as the member no longer complies with the qualifications for election or appointment to the commission. In the event a member's term terminates prior to the expiration of the term for which he was elected or appointed, the commission shall appoint a successor complying with the same qualifications for the unexpired term.

Sec. 5. The members of the commission shall not receive compensation for their services but shall be reimbursed for such necessary expenses and mileage as may be incurred in the performance of their duties. The county board shall provide sufficient funds in order that such commission may function as set forth in this act.

Sec. 6. The commission shall hold regular meetings at least once every three months, and shall designate the time and place thereof by notice posted in the court house at least seven days prior to the meeting. The commission shall adopt rules of procedure and shall keep a record of its proceedings. The commission shall also make provision for special meetings and all meetings and records of the commission shall be open to the public except as otherwise provided in this act. The commission shall elect one of its members as chairman for a period of one year or until his successor has been duly elected and qualified.

Sec. 7. (1) The commission may prescribe the following: (a) General employment policies and procedures; (b) regulations for recruiting, examination and certification of qualified applicants for employment and the maintenance of registers of qualified candidates for employment for all employees governed by this act; (c) a system of personnel records containing general data on all employees and standards for the development and maintenance of personnel records to be maintained within the offices governed by this act; (d) regulations governing such matters as hours of work, promotions, transfers, demotions, probation, terminations and reductions in force; (e) regulations for use by all offices governed by this act relating to such matters as employee benefits, vacation, sick leave and holidays.

(2) The commission shall require department heads to provide sufficient criteria to enable the commission to properly conduct employment examinations.

(3) The commission shall require department heads to supply to the commission position classification plans, job descriptions and job specifications.

(4) Individual personnel records shall be available for inspection only by the employee involved, his department head and such other persons as the commission shall authorize.

(5) The commission shall have such other powers as are necessary to effectuate the purposes of this act.

(6) All acts of the commission pursuant to the authority conferred in this section shall be binding on all county department heads governed by this act.

Sec. 8. The commission may recommend to the county board salary and pay plans for the employees.

Sec. 9. All employees governed by this act on the effective date of this act shall retain their employment without the necessity of taking any qualifying examination.

Sec. 10. Any employee may be discharged, suspended, or demoted in rank or compensation by his department head by a written order which shall specifically state the reasons therefor. Such order shall be filed with the commission and a copy of such order shall be served upon the employee personally or by leaving it at his usual place of residence. Any

employee so affected may, within ten days after service of the order, appeal such order to the commission. Notice of such appeal shall be in writing, signed by the employee appealing, and delivered to any member of the commission. The delivery of the notice of appeal shall be sufficient to perfect an appeal and no other act shall be deemed necessary to confer jurisdiction of the commission over the appeal. In the event any employee is discharged, suspended or demoted prior to the formation of the commission, such employee may appeal the order to the commission within ten days after the formation of the commission in the manner provided in this section.

Sec. 11. The commission shall, within two weeks after receipt of the notice of appeal, hold a public hearing thereon at which the employee shall be entitled to appear personally, be represented by counsel, cross examine witnesses and produce evidence. The commission shall have the authority to affirm, modify or revoke the order appealed from, and the finding and the decision of the commission shall be certified to the department head who issued the order, and the finding and decision of the commission shall be binding on all parties concerned. In the event of an appeal to the commission, no order affecting an employee shall become permanent until the finding and decision of the commission shall be certified as provided in this section. Notwithstanding any other provision of this act, an employee affected by an order may request transfer to another department governed by this act with the consent of the commission and the department head of such other department.

Sec. 12. To effectively carry out the duties imposed on the commission by this act, the commission shall have the power to subpoena witnesses, administer oaths, and compel the production of books and papers.

Sec. 13. No employee or person desiring to be an employee in an office governed by this act shall be appointed, demoted or discharged, or in any way favored or discriminated against because of political, racial, or religious opinions or affiliations, but advocating, or being a member of a political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence shall be sufficient reason to discharge an employee.

Sec. 14. Notwithstanding any other provision of this act, any person who holds the position of chief deputy, or deputy if there is not more than one deputy

in the office, may be removed by the elected officer from the position of chief deputy or deputy without cause but such person shall, if he has been an employee of the county for more than two years prior to his appointment as chief deputy or deputy, have the right, unless discharged or demoted as provided in sections 10 and 11 of this act, to remain as a county employee at a salary not less than eighty per cent of his average salary during the three preceding years.

Sec. 15. An appeal from a final order of the commission shall be in the manner provided in section 25-1937, Reissue Revised Statutes of Nebraska, 1943.

Sec. 16. If any provision of this act or of any rule, regulation or order thereunder or the application of such provision to any person or circumstances shall be held invalid, the remainder of this act and the application of such provision of this act or of such rule, regulation or order to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Sec. 17. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.