

## LEGISLATIVE BILL 88

Approved by the Governor March 22, 1977

Introduced by Labeledz, S, for the Governor

AN ACT to amend section 81-117, Reissue Revised Statutes of Nebraska, 1943, relating to state administrative departments; to change the manner in which overtime shall be compensated; to repeal the original section; and to declare an emergency.

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

Section 1. As used in section 81-117, unless the context otherwise requires:

(1) Employee shall mean an employee of any state agency, department, commission, board, or office, except (a) state employees who hold a publicly-elected office of the State of Nebraska, (b) state employees who serve as a chief administrative officer for a state agency, department, commission, board, or office, and (c) all academic personnel of the University of Nebraska and the state colleges;

(2) Department shall mean and include any state agency, department, commission, board, or office, specifically including the University of Nebraska and the state colleges; and

(3) Overtime pay is computed on the basis of hours worked.

Sec. 2. That section 81-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-117. (1) No head of a department or employee therein employed at a fixed compensation; shall be paid for any extra services, unless expressly authorized by law; Provided, that when any employee is required to work more than forty hours in any week because of--emergencies he may, in the discretion of the department head, be granted the equivalent time off compensatory time off at the rate of one and one half times the hours worked in excess of forty in subsequent weeks when his duties will permit, or be paid a sum equivalent to one and one half times his hourly pay or his monthly pay prorated on an hourly basis for such overtime hours.

(2) No state agency, engaged in the operation of a hospital or an establishment which is an institution

primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, shall be deemed to have violated this act if a period of eight hours per day or eighty hours per fourteen consecutive calendar days is established for purposes of determining overtime compensation. Regular employees working on the hourly basis shall be paid wages equivalent to their regular wages for the usual number of work hours for days declared by statutory act or proclamation of the President of the United States or the Governor to be holidays; Provided, employees who have had at least one year of continuous employment with the state as hourly employees shall be guaranteed forty hours work each week. Each head of a department shall annually, on or before December 1, and at such other times as the Governor may require, report in writing to the Governor concerning the condition, management, and financial transactions of his department for the past fiscal year.

(3) No state agency shall be deemed to have violated this act with respect to employment in fire protection activities, law enforcement activities, including security personnel at correctional institutions, or agricultural activities, if (a) in a work period of twenty-eight consecutive days the employee receives, for four tours of duty which in the aggregate exceed two hundred hours, or (b) in the case of such employees to whom a work period of at least seven but less than twenty-eight days applies, in such work periods the employee receives, for four tours of duty which in the aggregate exceed the number of hours which bear the same ratio to the number of consecutive days of work period as two hundred hours bears to twenty-eight days, compensation at a rate not less than one and one half times the regular rate at which the employee is paid for all hours in excess of subdivisions (a) and (b) of this subsection.

Sec. 3. The payment or granting of compensatory time off in lieu of payment as prescribed in this act shall not apply to (1) agency heads, their deputies and assistants, (2) chiefs of divisions, bureaus, or comparable organizational elements, and (3) other professional, executive, and administrative employees occupying classes of positions that by custom in business, industry, and other governmental jurisdictions are normally exempt from receiving overtime pay and may require the individual to work extra and irregular hours and that acceptance of such position constitutes the employee's acknowledgment that such requirement is a part of an obligation to the state as an employee thereof. The term deputy as used in this section shall not apply to the deputy state fire marshals or deputy state

sheriffs.

Sec. 4. That original section 81-117, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.