

LEGISLATIVE BILL 500

Approved by the Governor May 21, 1979

Introduced by Government, Military and Veterans Affairs Committee, Keyes, 3, Chmn.; Johnson, 8; Wagner, 41; Landis, 46; Kelly, 35; Chambers, 11

AN ACT relating to state employees; to provide for equal employment opportunities; to create an office; to define terms; to provide penalties; to provide reporting procedures; and to provide an operative date.

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

Section 1. It is declared to be the public policy of Nebraska that each division of state government shall take positive action in all areas of its operation to insure that all citizens are given fair and equal opportunities for employment and advancement regardless of race, color, religion, national origin, age, sex, marital status, or physical or mental disability.

Affirmative actions shall be taken to insure the implementation of this policy in state government employment. This policy and the obligation to provide equal employment opportunity include, but are not limited to:

- (1) Hiring, placement, upgrading, transfer, or demotion;
- (2) Recruitment, advertising, or solicitation for employment;
- (3) Treatment during employment;
- (4) Rates of pay or other forms of compensation;
- (5) Selection for training;
- (6) Layoff, termination, or reinstatement; and
- (7) Any other condition of employment.

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

- (1) Equal employment opportunity shall mean the right of all persons to work and to advance on the basis of merit and ability without regard to race, color, religion, national origin, age, sex, marital status, or

physical or mental disability;

(2) Affirmative action shall mean a deliberate and sustained effort to identify and eliminate barriers to employment and advancement which may discriminate against various groups. Particular emphasis shall be focused on racial minorities and women but not to the exclusion of the criteria set forth in subsection (1) of this section. The ultimate goal is to achieve, at all levels, a state government work force which is representative of the state working population. The composition of the state working population shall be determined annually through reports of the Department of Labor. Such a goal is to be an integral part of every aspect of personnel policy;

(3) Office shall mean the Affirmative Action Office;

(4) Program shall mean the Affirmative Action Program;

(5) Agency shall mean each department, agency, office, board, commission, and committee of the State of Nebraska under the executive authority of the Governor;

(6) Plan shall mean the Affirmative Action Plan prepared by the individual agencies; and

(7) Officer shall mean the Affirmative Action Officer.

Sec. 3. There is hereby created the Affirmative Action Office which shall be a division of the Department of Personnel. The office shall be under the administrative control of the Director of Personnel.

Sec. 4. The Affirmative Action Office shall consist of such employees as may be necessary to carry out the purposes of this act.

Sec. 5. The Affirmative Action Officer shall be selected by the Director of Personnel.

Sec. 6. The officer shall be the head of the office. The officer shall be given all necessary top management support to insure that there is compliance with Nebraska's program and shall be provided with sufficient staff and budget support to carry out the duties of the office. The officer shall:

(1) Have the authority and responsibility for coordinating, directing, and implementing the program;

(2) Promulgate rules and regulations for the development of the Affirmative Action Plan;

(3) Provide counseling and technical assistance to the agencies in the development of their plans;

(4) Review agency plans and direct modification to insure the effectiveness of the plans and their compliance with the program;

(5) Monitor the progress of agency plans by establishing reporting forms as required by the program;

(6) Review the quarterly reports of the agencies;

(7) Monitor the progress of the program and report quarterly to the Governor;

(8) Make formal recommendations for legislation, when necessary, in order to make changes in the affirmative action system;

(9) Serve as liaison between the state and federal compliance agencies;

(10) Plan, coordinate, and conduct training in equal employment opportunity, racial awareness, concerns of women, the disabled, and aging for all segments of the state government work force;

(11) Coordinate the activities of the agency affirmative action individual in each agency; and

(12) Submit an annual report to the Governor and Legislature.

Sec. 7. Commencing July 1, 1980, each agency shall submit a plan for that agency to the office and the Affirmative Action Committee for review and shall work with the officer to insure effectiveness of the plan.

Sec. 8. The head of each agency with more than ten employees shall appoint at least one individual as agency affirmative action individual for the agency to coordinate equal employment and affirmative action efforts with the office.

Sec. 9. There shall be an Affirmative Action Committee appointed by the Governor comprised of individuals from the following groups: Ethnic minorities, women, the aging, disabled, and the general public. Three-fourths of those appointed must have a working knowledge of affirmative action with experience

gained by employment, education, or general interest. The committee will be composed of no more than ten members.

Sec. 10. The Affirmative Action Committee shall:

(1) Provide liaison activities with the office with respect to problems and suggestions relative to affirmative action;

(2) Review agency plans for effectiveness at the request of the office or the agency and suggest revisions;

(3) Advise the office and the Governor of the effectiveness and the status of the total program; and

(4) Act as an advisory board for referral to the Governor of noncompliance cases.

Sec. 11. Meetings of the Affirmative Action Committee shall be held quarterly on call by the office or upon written request by three or more members of the Affirmative Action Committee or the office.

Sec. 12. Members of the Affirmative Action Committee will receive reimbursement for expenses in accordance with the provisions of sections 84-306.01 to 84-306.05, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto.

Sec. 13. Each agency shall cooperate with the Affirmative Action Officer in the performance of his or her duties. The efforts and results of all directors, managers, and supervisors will be used in the evaluation of work performance. Directors, managers, and supervisors shall be obligated to prevent harassment of employees involved in the implementation of affirmative action plans and those hired through affirmative action efforts.

Sec. 14. Each agency plan shall be reviewed by the office and approved or disapproved after submission. In every case where noncompliance is indicated, efforts shall be made to secure compliance through a corrective action plan. A specific commitment will be put forth in writing. The commitment will indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such change. If an agency's plan does not comply with the rules and regulations adopted and promulgated by the office, or if the agency's goals

and timetables are not being met, the office shall meet with the director of the agency to discuss the deficiencies. If an agreement cannot be reached in the informal meeting, the agency's noncompliance shall be reviewed by the Affirmative Action Committee. Agency directors shall take responsibility for all noncompliance within their particular agency. In all cases when such corrective action plan does not resolve the noncompliance, the Affirmative Action Committee shall report such noncompliance to the Governor. Such report shall be in writing and shall be made available to the news media at the same time that it is submitted to the Governor.

Sec. 15. This act shall become operative on January 1, 1980.