

LEGISLATIVE BILL 494

Approved by the Governor April 5, 1971

Introduced by William H. Hasesbrook, 18th District

AN ACT relating to public power; to permit officers and employees of public power districts and public power and irrigation districts to serve as officers or employees of cities of the first or second class, villages, and school districts; to amend sections 16-502, 17-611, 18-301, 19-613, and 79-442, Reissue Revised Statutes of Nebraska, 1943, and section 16-325, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 5, Eighty-second Legislature, First Session, 1971; and to repeal the original sections.

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

Section 1. Officers and employees of public power districts and public power and irrigation districts shall be permitted to serve as officers or employees of cities of the first class, cities of the second class, villages, and school districts with which the public power district has one or more contracts. No contracts of any such public power district or public power and irrigation district shall be void or voidable by reason of such service by its officers or employees.

Sec. 2. That section 16-325, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 5, Eighty-second Legislature, First Session, 1971, be amended to read as follows:

16-325. (1) There may be in each city a board of public works which shall consist of three members, each having a three-year term of office, or five members, each having a five-year term of office, the number to be set by ordinance, which members shall be residents of said city and be appointed by the mayor, by and with the assent of the council. When such board is first established, one member shall be appointed for a term of one year, one for two years, and one for three years and, in the case of a five member board, an additional member shall be so appointed for four years and another for five years. Thereafter, as their terms expire, all members shall be appointed for a full term of three or five years as the case may be. The mayor, by and with the assent of the council, shall designate

one of the members of such board to be the chairman thereof.

(2) Each of the members of the board of public works shall, before entering upon the discharge of his duties, take an oath to discharge faithfully the duties of his office. Except as provided in section 1 of this act, No no member of such board shall ever be directly or indirectly interested in any contract entered into by the board on behalf of such city nor be interested, either directly or indirectly, in the purchase of any material to be used or applied for municipal purposes.

(3) It shall be the duty of the board of public works to (a) make contracts on behalf of the city for the performance of all such work and erection of all such improvements in the manner provided in section 16-321, (b) superintend the performance of all such work and the erection of all such improvements, (c) approve the estimates of the city engineer, which may be made from time to time, of the value of the work as the same may progress, (d) accept any work done or improvements made when the same shall be fully completed according to contract, subject to the approval of the mayor and council, and (e) perform such other duties as may be conferred upon such board by ordinance.

(4) Any member of the board of public works may at any time be removed from office by the mayor and a majority of the council, and the proceedings in regard thereto shall be entered in the journal of the council.

Sec. 3. That section 16-502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-502. Except as provided in section 1 of this act, No no officer of any city shall be interested, directly or indirectly, in any contract to which the corporation, or anyone for its benefit, is a party, when the consideration of the same is in an amount in excess of two thousand dollars in any one year, and no contract may be divided for the purpose of evading the requirements of this section; and such interest in any such contract shall void the obligation thereof on the part of such corporation; Provided, the receiving of deposits, cashing of checks, and buying and selling warrants and bonds of indebtedness of any such city by a financial institution shall not be considered a contract under the provisions of this section. Nor shall any officer receive any pay or perquisites from the city other than his salary, as provided by ordinance and the

law relating to cities of the first class, and the city council shall not pay or appropriate any money or any valuable thing to any person not an officer for the performance of any act, service or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of such corporation, unless the same is specifically appropriated and ordered by a vote of three-fourths of all the members elected to the council; Provided, that ownership of less than one per cent of the outstanding stock of any class in a corporation shall not constitute an interest, direct or indirect, within the meaning of this section.

Sec. 4. That section 17-611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-611. Except as provided in section 1 of this act, ~~No~~ ~~no~~ officer of any city or village shall be interested, directly or indirectly, in any contract to which the corporation or anyone for its benefit is a party, when the consideration of the same is in an amount in excess of two thousand dollars in any one year, and no contract may be divided for the purpose of evading the requirements of this section. Except as provided in section 1 of this act, ~~any~~ ~~any~~ such interest in any such contract shall avoid the obligation thereof on the part of such corporation; provided, the receiving of deposits, cashing of checks, and buying and selling warrants and bonds of indebtedness of any such city or village by a financial institution shall not be considered a contract under the provisions of this section. No officer shall receive any pay or perquisites from the city other than his salary. Neither the city council nor board of trustees shall pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of such corporation; provided, that ownership of less than one per cent of the outstanding stock of any class in a corporation shall not constitute an interest, direct or indirect, within the meaning of this section.

Sec. 5. That section 18-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-301. Except as provided in section 1 of this act, ~~any~~ ~~any~~ officer of any city or village in this state who shall be interested, directly or indirectly, in any contract to which the city or village is a party,

or who shall enter into any contract to furnish or shall furnish to any contractor or subcontractor with a city or village of which he is an officer, any material to be used in performing any contract with such city or village, when the consideration of either of such type of contract is in an amount in excess of two thousand dollars in any one year, shall, upon conviction thereof, be fined in any sum not less than one thousand dollars nor more than five thousand dollars; Provided, the receiving of deposits, cashing of checks, and buying and selling warrants and bonds of indebtedness of any city or village of this state by a financial institution shall not be considered a contract under the provisions of this section; and provided further, that ownership of less than one per cent of the outstanding stock of any one class shall not constitute an interest, direct or indirect, within the meaning of this section. No contract may be divided for the purpose of evading the requirements of this section.

Sec. 6. That section 19-613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-613. Members of the council shall be residents and qualified electors of the city. Except as provided in section 1 of this act, ~~They they~~ shall not hold any other public office or employment except that of notary public or member of the state militia, and shall not be interested in the profits or emoluments of any contract, job, work or service for the city. Except as provided in section 1 of this act, ~~any any~~ such contract in which any member is or may become interested may be declared void by the council. Any councilman who shall cease to possess any of the qualifications herein required, or who shall have been convicted of a crime while in office, shall forthwith forfeit his office. The council shall be the judge of the election and qualifications of its members, subject to review by the courts.

Sec. 7. That section 79-442, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-442. Except as provided in section 1 of this act, ~~no no~~ school officer shall be a party to any oral or written school contract for building, furnishing supplies, or services in amounts in excess of two thousand dollars in any one school year, and no contract may be divided for the purpose of evading the requirements of this section; Provided, the receiving of

deposits, cashing of checks, and buying and selling warrants and bonds of indebtedness of any school district of this state by a financial institution shall not be considered a contract under the provisions of this section; and provided further, that ownership of less than one per cent of the outstanding stock of any one class shall not constitute an interest, direct or indirect, within the meaning of this section. Any officer of a board of education, any person, any agent, official, or employee of a firm or corporation, or any firm or corporation violating the provisions of this section shall be guilty of a felony and shall, upon conviction thereof, be fined not less than fifty dollars nor more than one thousand dollars or imprisoned in the Nebraska Penal and Correctional Complex not more than one year, or both such a fine and imprisonment. In addition thereto, if such a person is a member of a board of education he shall be ousted from public office by a court having jurisdiction.

Sec. 8. That original sections 16-502, 17-611, 18-301, 19-613, and 79-442, Reissue Revised Statutes of Nebraska, 1943, and section 16-325, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 5, Eighty-second Legislature, First Session, 1971, are repealed.