

## LEGISLATIVE BILL 212

Approved by the Governor March 15, 1994

Introduced by Hillman, 48; Baack, 47

AN ACT relating to county government; to authorize adoption of policies and procedures relating to employees by certain counties; to define terms; to provide for classified and unclassified service; to authorize creation of personnel policy boards and appointment of county personnel officers in certain counties; to provide powers and duties; to provide for rules and regulations; to provide for program compliance with federal law; and to provide a penalty.

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

Section 1. The county board of any county with a population of less than one hundred fifty thousand inhabitants may adopt policies and procedures pursuant to this act which concern employee hiring, advancement, training, career development, position classification, salary administration, fringe benefits, discharge, and other related activities.

Sec. 2. For purposes of this act:

- (1) Appointing authority shall mean officials and appointed department directors authorized to make appointments in the county service;
- (2) Classified service shall mean the positions in the county service to which this act is made applicable;
- (3) County board shall mean the board of county supervisors or board of county commissioners of a county with a population of less than one hundred fifty thousand inhabitants;
- (4) County personnel officer shall mean the employee designated by the county board to administer a program adopted pursuant to this act;
- (5) Department shall mean a major functional unit of the county government headed by an official or established by the county board;
- (6) Deputy shall mean an individual who serves as the first assistant to and at the pleasure of an official;
- (7) Lay member shall mean anyone not employed by the county or acting on its behalf other than a member of the personnel policy board; and
- (8) Official shall mean an officer elected by the popular vote of the people or a person appointed to a countywide office.

Sec. 3. If a program is adopted pursuant to this act, the county service shall be divided into the classified service and the unclassified service. All officials and employees of the county shall be in the classified service unless specifically designated as being in the unclassified service. Positions in the unclassified service shall not be governed by personnel rules and regulations adopted pursuant to this act. Unless otherwise designated by rules and regulations adopted pursuant to this act, the unclassified service shall include the following:

- (1) Officials;
- (2) The county personnel officer and the administrative assistant to the county board;
- (3) Bailiffs;
- (4) Department heads and one principal assistant or deputy for each county department;
- (5) Members of boards and commissions appointed by the county board;
- (6) Persons employed in a professional or scientific capacity to make or conduct a temporary and special investigation or examination on behalf of the county board;
- (7) Attorneys, including deputy county attorneys;
- (8) Employees who are covered by the state personnel system; and
- (9) Deputy sheriffs.

Nothing in this act shall be construed as precluding the appointing authority from filling any positions in the unclassified service in the manner in which positions in the classified service are filled.

Sec. 4. (1) A personnel policy board may be created by resolution of the county board. The members of a personnel policy board shall include one elected county official chosen by the elected county officials other than the members of the county board, one county board member chosen by the county board, one member chosen by the employees who are not described in subdivisions (1) through (9) of section 3 of this act, one lay member chosen by the elected county officials, and one lay member chosen by the county board. All members shall serve four-year terms, except of the members first chosen, the elected county official and the county board member shall serve

one-year terms, the lay member chosen by the county board shall serve a two-year term, the lay member chosen by the elected county officials shall serve a three-year term, and the member chosen by the employees shall serve a four-year term. Each member of the board shall hold office until his or her successor is appointed and qualified. Any person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed in the same manner for the remainder of the term.

(2) A majority of the county board and elected county officials may remove any member of the personnel policy board for nonattendance at three meetings.

(3) A personnel policy board shall elect a chairperson from among its members. A board shall meet at such time and place as shall be specified by call of the chairperson or the county personnel officer. At least one meeting shall be held quarterly. Three members shall constitute a quorum for the transaction of business. Board members shall serve without compensation but shall receive reimbursement for actual and necessary expenses.

Sec. 5. The powers and duties of a personnel policy board shall be:

(1) To review and make recommendations to the county board on the personnel rules and regulations and any amendments thereto prior to the approval by the county board;

(2) To advise and assist the county personnel officer, if appointed, on matters of personnel policy, administration, and practice;

(3) To direct the county personnel officer, if appointed, in fostering the interest and cooperation of institutions of learning and civic, professional, and employee organizations in the improvement of personnel standards and the development of high public regard for the county as an employer and for careers in the county service;

(4) To require the county personnel officer, if appointed, to make any investigation which the personnel policy board may consider necessary concerning the management of personnel in the county service;

(5) To review any grievance or case of disciplinary action of a classified service employee when appealed by such employee in accordance with approved personnel rules and regulations and issue a determination that is binding on all parties concerned;

(6) To make annual reports and recommendations to the county board; and

(7) To perform such other acts and duties as may be expressly set forth in this act and in the rules and regulations adopted pursuant thereto and such other acts and duties as directed by the county board in furtherance of the purposes of this act.

Sec. 6. Only the county board of a county having a personnel policy board may appoint a county personnel officer who shall be a person experienced in the field of personnel administration. The person appointed may be an elected county official, a member of the personnel policy board, a county employee, or a person employed for the position.

Sec. 7. In addition to other duties imposed upon a county personnel officer, if appointed, a county personnel officer may:

(1) Attend meetings of the personnel policy board and act as its secretary and keep minutes of its proceedings;

(2) Establish and maintain a roster of all employees in the classified service in which there shall be set forth as to each employee the class title, pay or status, and other pertinent data;

(3) Establish and maintain a central record-keeping system for all county personnel records;

(4) Foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness, including training, safety, health, counseling, and welfare;

(5) Encourage and exercise leadership in the development of effective personnel administration with the several county agencies, departments, and institutions; and

(6) Perform such other lawful acts as the personnel policy board may direct.

Sec. 8. The personnel policy board, if created, shall, with the assistance of two advisory groups, one of classified employees and one of department heads, adopt proposed personnel rules and regulations for the classified service and provide reasonable notice of proposed rules and regulations to the heads of all agencies, departments, county employee associations, and institutions affected thereby. Any person affected by such rules and regulations shall be given an opportunity, upon request, to appear before the personnel policy board and present his or her views on the rules and regulations. The personnel policy board shall submit proposed rules and regulations or amendments for adoption by the county board. The county board

may consider and adopt only personnel rules and regulations or amendments proposed by the personnel policy board and may not repeal or revoke a rule or regulation except upon the recommendation of the personnel policy board.

The rules and regulations or amendments may provide:

(1) For a single integrated classification plan covering all positions in the county service except those expressly exempt from this act, which shall (a) group all positions into defined classes containing a descriptive class title and a code identifying each class and (b) be based on similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required and the same schedule of pay may be equitably applied to all positions in the same class. After the classification plan has been approved by the personnel policy board, the county personnel officer shall be responsible for the administration and maintenance of the plan and for the allocation of each classified position. Any employee affected by the allocation of a position to a class shall, upon request, be given a reasonable opportunity to be heard on such allocation by the personnel policy board which shall issue an advisory opinion to the county personnel officer;

(2) For a compensation plan for all employees in the classified service, comprising salary schedules, attendance regulations, premium payments, special allowances, and fringe benefits, considering the amount of money available, the prevailing rates of pay in government and private employment, the cost of living, the level of each class of position in the classification plan, and other relevant factors. The compensation plan and amendments to such plan shall be adopted in the manner prescribed for rules and regulations and shall in no way limit the authority of the county board relative to appropriations for salary and wage expenditures;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. The rules and regulations shall provide for the public announcement of the holding of examinations and shall authorize the county personnel officer to prescribe examination procedures and to place the names of successful candidates on eligible lists in accordance with their respective ratings. Examinations may be assembled or unassembled and may include various job-related examining techniques, such as rating training and experience, written tests, oral interviews, recognition of professional licensing, performance tests, investigations, and any other measures of ability to perform the duties of the position. Examinations shall be scored objectively and employment registers shall be established in the order of final score. Certification of eligibility for appointment to vacancies shall be in accordance with a formula which limits selection by the hiring department from among the highest ranking available and eligible candidates, but which also permits selective certification under appropriate conditions as prescribed in the rules and regulations;

(4) For promotions which shall give appropriate consideration to examinations and to record of performance, seniority, and conduct. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service and preference may be given to employees within the department in which the vacancy occurs;

(5) For the rejection of candidates who fail to comply with reasonable requirements of the county personnel officer in regard to such factors as physical conditions, training, and experience, who have been guilty of infamous or disgraceful conduct, who are currently abusing alcohol or narcotics, or who have attempted any deception or fraud in connection with an examination;

(6) For prohibiting disqualification of any person from (a) taking an examination, (b) promotion, or (c) holding a position, solely because of race, sex, national origin, physical disabilities, age, political or religious opinions or affiliations, or other factors which have no bearing upon the individual's fitness to hold the position;

(7) For a period of probation, not to exceed one year, before appointment or promotion may be made complete and during which period a probationer may be separated from his or her position without the right of appeal or hearing. After a probationer has been separated, he or she may again be placed on the eligible list at the discretion of the county personnel officer. The rules and regulations shall provide that a probationer shall be dropped from the payroll at the expiration of his or her probationary period if, within ten days prior thereto, the appointing authority has notified the county personnel officer in writing that the services of the employee have been unsatisfactory;

(8) For temporary or seasonal appointments of limited terms of not to exceed one year;

(9) For part-time appointment in which the employee accrues benefits

of full-time employment on a basis proportional to the time worked;

(10) For emergency employment for not more than thirty days with or without examination with the consent of the county personnel officer and department head;

(11) For provisional employment without competitive examination when there is no appropriate eligible list available. Provisional employment shall not continue longer than six months and successive provisional appointments shall not be allowed;

(12) For transfer from a position in one department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(13) For layoff by reason of lack of funds or work, abolition of the position, or material change in duties or organization, for the layoff of nontenured employees first, and for reemployment of permanent employees so laid off, giving consideration in both layoff and reemployment to performance record and seniority in service;

(14) For establishment of a plan for resolving employee grievances and complaints;

(15) For holidays, for attendance regulations in the various classes of positions in the classified service, and for annual, sick, and special leaves of absence, with or without pay or at reduced pay;

(16) For the development of employee morale, safety, and training programs;

(17) For a procedure whereby an appointing authority may suspend, reduce, demote, or dismiss an employee for misconduct, inefficiency, incompetence, insubordination, malfeasance, or other unfitness to render effective service and for the investigation and public hearing of appeals of such suspended, reduced, demoted, or dismissed employee;

(18) For granting of leave without pay to a permanent employee to accept a position in the unclassified service and for his or her return to a position comparable to that formerly held in the classified service at the conclusion of such service;

(19) For regulation covering political activity of employees in the classified service; and

(20) For other rules and regulations not inconsistent with this act and the implementation of personnel policy in the county.

Sec. 9. Whenever federal Hatch Act provisions are applicable to programs, action shall be taken to assure that all personnel practices in those programs are in accordance with federal regulations. Those practices found not to be in compliance with such regulations shall not be implemented in those programs.

Sec. 10. The county board of a county which creates a personnel policy board may, by a two-thirds majority, vote to abolish such board, terminate the position of the personnel officer, and revoke all rules and regulations.

Sec. 11. Any person who willfully violates this act or the rules and regulations adopted pursuant to this act shall be guilty of a Class II misdemeanor.