

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 363

Introduced by Ashford, 20

Read first time January 12, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to public service attorneys; to amend section
2 29-3927, Revised Statutes Cumulative Supplement, 2006;
3 to adopt the Legal Education for Public Service Loan
4 Repayment Act; to create a fund; to harmonize provisions;
5 and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known
2 and may be cited as the Legal Education for Public Service Loan
3 Repayment Act.

4 Sec. 2. The Legislature finds that many attorneys
5 graduate from law school with substantial educational debt that
6 prohibits many from considering public legal service work. A
7 need exists for public legal service entities to hire competent
8 attorneys. The public is better served by competent and qualified
9 attorneys working in the area of public legal service. Programs
10 providing educational loan forgiveness will encourage law students
11 and other attorneys to seek employment in the area of public legal
12 service and will enable public legal service entities to attract
13 and retain qualified attorneys.

14 Sec. 3. For purposes of the Legal Education for Public
15 Service Loan Repayment Act:

16 (1) Board means the Legal Education for Public Service
17 Loan Repayment Board;

18 (2) Educational loans means loans received as an
19 educational benefit, scholarship, or stipend toward a juris
20 doctorate degree and either (a) are made, insured, or guaranteed by
21 a governmental unit or (b) are made under a program funded in whole
22 or in part by a governmental unit or nonprofit institution; and

23 (3) Public legal service means providing legal service
24 to indigent persons, defending indigent persons in criminal
25 proceedings, or carrying out prosecutorial duties.

1 Sec. 4. The Legal Education for Public Service Loan
2 Repayment Board is created. The board shall consist of the director
3 of Nebraska Legal Services, the deans of Creighton School of
4 Law and the University of Nebraska College of Law, a student
5 from each law school selected by the dean of the law school,
6 a member of the Nebraska County Attorneys Association selected
7 by the president of the association, a member of the Nebraska
8 Criminal Defense Attorneys Association selected by the president
9 of the association, a member of the Nebraska State Bar Association
10 selected by the president of the association, and the chief counsel
11 of the Commission on Public Advocacy.

12 Sec. 5. The board shall select one of its members to be
13 chairperson. The board shall meet as necessary to carry out its
14 duties, but shall meet at least annually. The members shall serve
15 without compensation but shall be reimbursed for their actual and
16 necessary expenses as provided in sections 81-1174 to 81-1177.

17 Sec. 6. The board shall develop and recommend to the
18 Commission on Public Advocacy rules and regulations that will
19 govern the legal education for public service loan repayment
20 program. The rules and regulations shall include:

21 (1) Recipients shall be full-time, salaried attorneys
22 working for a governmental unit or tax-exempt charitable
23 organization and whose primary duties are public legal service;

24 (2) Loan applicants shall pay an application fee
25 established by the rules and regulations at a level anticipated

1 to cover all or most of the administrative costs of the program.
2 All application fees shall be remitted to the State Treasurer for
3 credit to the Legal Education for Public Service Loan Repayment
4 Fund. Every effort shall be made to minimize administrative costs
5 and thus the application fee;

6 (3) The maximum annual loan amount, which initially shall
7 not exceed six thousand dollars per year per recipient, shall be
8 an amount which is sufficient to fulfill the purposes of recruiting
9 and retaining public legal service attorneys in occupations and
10 areas with unmet needs, including attorneys to work in rural areas
11 and attorneys with skills in languages other than English. The
12 board may recommend adjustments of the loan amount annually to the
13 commission to account for inflation and other relevant factors;

14 (4) Loans shall be made only to refinance existing
15 educational loans;

16 (5) A general program structure of loan forgiveness shall
17 be established that qualifies for the tax benefits provided in
18 section 108(f) of the Internal Revenue Code, as defined in section
19 49-801.01; and

20 (6) Other criteria for loan eligibility, application,
21 payment, and forgiveness necessary to carry out the purposes of
22 the Legal Education for Public Service Loan Repayment Act shall be
23 established.

24 Sec. 7. The commission shall accept applications for loan
25 forgiveness on an annual basis from qualified persons and shall

1 present those applications to the board for its consideration. The
2 board shall make recommendations for loans to the commission and
3 the commission shall certify the eligible recipients and the loan
4 amount per recipient. The loans awarded to the recipients shall
5 come from funds appropriated by the Legislature and any other funds
6 that may be available from the Legal Education for Public Service
7 Loan Repayment Fund.

8 Sec. 8. The commission may solicit and receive donations
9 from law schools, corporations, nonprofit organizations, bar
10 associations, bar foundations, law firms, individuals, or other
11 sources for purposes of the Legal Education for Public Service
12 Loan Repayment Act. The donations shall be remitted to the State
13 Treasurer for credit to the Legal Education for Public Service Loan
14 Repayment Fund.

15 Sec. 9. The Legal Education for Public Service Loan
16 Repayment Fund is created. The fund shall consist of funds donated
17 to the public service loan repayment program pursuant to section
18 8 of this act and application fees collected under the Legal
19 Education for Public Service Loan Repayment Act. Any money in
20 the fund available for investment shall be invested by the state
21 investment officer pursuant to the Nebraska Capital Expansion Act
22 and the Nebraska State Funds Investment Act.

23 Sec. 10. Section 29-3927, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 29-3927 (1) With respect to its duties under section

1 29-3923, the commission shall:

2 (a) Adopt and promulgate rules and regulations for its
3 organization and internal management and rules and regulations
4 governing the exercise of its powers and the fulfillment of its
5 purpose;

6 (b) Appoint and abolish such advisory committees as may
7 be necessary for the performance of its functions and delegate
8 appropriate powers and duties to them;

9 (c) Accept and administer loans, grants, and donations
10 from the United States and its agencies, the State of Nebraska and
11 its agencies, and other sources, public and private, for carrying
12 out the functions of the commission;

13 (d) Enter into contracts, leases, and agreements
14 necessary, convenient, or desirable for carrying out its purposes
15 and the powers granted under this section with agencies of state or
16 local government, corporations, or persons;

17 (e) Acquire, hold, and dispose of personal property in
18 the exercise of its powers;

19 (f) Provide legal services to indigent persons through
20 the divisions in section 29-3930; and

21 (g) Adopt guidelines and standards, which are recommended
22 to the commission by the council, for county indigent defense
23 systems, including, but not limited to, standards relating to
24 the following: The use and expenditure of funds appropriated
25 by the Legislature to reimburse counties which qualify for

1 reimbursement; attorney eligibility and qualifications for court
2 appointments; compensation rates for salaried public defenders,
3 contracting attorneys, and court-appointed attorneys and overall
4 funding of the indigent defense system; maximum caseloads for
5 all types of systems; systems administration, including rules for
6 appointing counsel, awarding defense contracts, and reimbursing
7 defense expenses; conflicts of interest; continuing legal education
8 and training; and availability of supportive services and expert
9 witnesses.

10 (2) The standards adopted by the commission under
11 subdivision (1)(g) of this section are intended to be used as a
12 guide for the proper methods of establishing and operating indigent
13 defense systems. The standards are not intended to be used as
14 criteria for the judicial evaluation of alleged misconduct of
15 defense counsel to determine the validity of a conviction. They may
16 or may not be relevant in such judicial evaluation, depending upon
17 all the circumstances.

18 (3) With respect to its duties related to the provision
19 of civil legal services to eligible low-income persons, the
20 commission shall have such powers and duties as described in
21 sections 25-3001 to 25-3004.

22 (4) The commission may adopt and promulgate rules and
23 regulations governing the Legal Education for Public Service Loan
24 Repayment Act which are recommended by the Legal Education for
25 Public Service Loan Repayment Board pursuant to the act. The

1 commission shall have the powers and duties provided in the act.

2 Sec. 11. Original section 29-3927, Revised Statutes

3 Cumulative Supplement, 2006, is repealed.