

LEGISLATIVE BILL 447

Approved by the Governor May 29, 2019

Introduced by McDonnell, 5.

A BILL FOR AN ACT relating to the Nebraska State Historical Society; to amend section 82-101.01, Reissue Revised Statutes of Nebraska, and section 81-1316, Revised Statutes Cumulative Supplement, 2018; to exempt certain employees of the Nebraska State Historical Society from the State Personnel System; to change provisions relating to election of the board of trustees of the Nebraska State Historical Society; and to repeal the original sections.

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

Section 1. Section 81-1316, Revised Statutes Cumulative Supplement, 2018, is amended to read:

81-1316 (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t)(i) The Director of Behavioral Health of the Division of Behavioral Health; (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; and (v) the Director of Public Health of the Division of Public Health;
- (u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;
- (v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;
- (w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;
- (x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services or the Department of Veterans' Affairs;
- (y) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System; ~~and~~
- (z) All personnel of the Tax Equalization and Review Commission; ~~and~~
- (aa) The associate director of the Conservation Division of the Nebraska State Historical Society and all personnel employed as a Conservator I or Conservator II of the Conservation Division of the Nebraska State Historical Society.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency

Number of Noncovered

Employees	Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	40
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

Sec. 2. Section 82-101.01, Reissue Revised Statutes of Nebraska, is amended to read:

82-101.01 (1) The initial board of trustees shall be comprised of the current members of the society's board of directors. As their terms expire under the society's presently existing bylaws, their successors shall be selected. Those outgoing board members who were elected shall be replaced by trustees elected by the society's membership as provided in this section. Those outgoing board members who were gubernatorial appointments shall be replaced by trustees appointed by the Governor. The trustees who are elected shall be elected for three-year terms from the same congressional district as the trustees whose terms have expired. The trustees selected by the Governor shall be appointed for three-year terms from the same congressional district as the trustees whose terms have expired.

(2) A nominating committee comprised of society members, one from each of the congressional districts, shall be appointed each year by the president of the board of trustees with the approval of the board of trustees. Such appointments shall be made at least one hundred twenty days prior to the date of the annual meeting of the members. The nominating committee shall file, in writing, its slate of nominees for trustee with the secretary of the society not later than ninety days prior to the date of the annual meeting. Thereafter, additional nominations may be made for trustee by written petition filed by not less than twenty-five active members of the society, which petition shall be filed with the secretary of the society not later than sixty days prior to the annual meeting. Candidates nominated by the nominating committee shall file a similar petition. Not later than thirty days prior to the date of the annual meeting, the secretary of the society shall deliver mail a ballot listing the names of the nominees to the active members of the society eligible to vote, to be marked by the members and returned to the secretary. The ballot shall be mailed or sent electronically. All Such returned ballots, whether sent electronically or by mail, must be received by the secretary at least ten days prior to the date of the annual meeting in order to be counted. The board of trustees shall adopt a system of ballot certification insuring a secret ballot and that the person submitting the ballot is a society member entitled to vote. The returned ballots shall be counted by the secretary of the society, and the names of the successful candidates shall be announced at the annual meeting. The ballots and other records of the election shall be retained for one year following the election until after the annual meeting and shall be available for inspection by any member prior to the annual meeting. All members of the nominating committee, all members signing a nominating petition, and all members who are entitled to cast a ballot must be active members of the society who are in good standing. A member shall be considered in good standing when the member has fulfilled all requirements for membership. All general and other specified classes of members shall be eligible to vote for election or to be chosen as an officer or trustee or to serve as a member of the nominating committee. Only nominees named on the ballot shall be eligible for election.

The candidate for a particular trustee post receiving the highest number of votes shall be declared elected even though such votes do not constitute a majority of the votes cast for such post. When two trustees are elected from a congressional district for a certain term, those declared elected shall be the two receiving the highest number of votes cast for such term, even though one or both fail to receive a majority of the votes cast for such term.

(3) The term of each trustee shall begin on January 1 of the year following the year of his or her election or appointment and shall end on December 31 of the final year of the term to which the member was elected or appointed.

(4) No trustee shall be eligible to serve for more than two full consecutive three-year terms but may be eligible for election or appointment to the board of trustees after having not served for at least a period of three years.

(5) In the event a vacancy occurs on the board of trustees, the board of trustees shall fill the position of an elected trustee for the remainder of the unexpired term and the Governor shall fill the position of an appointed trustee for the remainder of the unexpired term.

(6) In the event the boundaries of the congressional districts are altered or increase or decrease in number, the trustees shall continue to serve the term for which they were elected or appointed. Thereafter, the board of trustees shall be adjusted so as to be in accordance with the boundaries and number of congressional districts.

(7) Members of the board of trustees shall serve without pay. The trustees shall receive remuneration for travel and expenses incurred while engaged in the business of the society.

Sec. 3. Original section 82-101.01, Reissue Revised Statutes of Nebraska, and section 81-1316, Revised Statutes Cumulative Supplement, 2018, are repealed.