

LEGISLATIVE BILL 291

Approved by the Governor March 7, 1983

Introduced by Morehead, 30; Remmers, 1; Barrett, 39

AN ACT to amend sections 19-1801 and 19-3501, Reissue Revised Statutes of Nebraska, 1943, relating to cities and villages; to allow certain cities and villages to have civil service commissions as prescribed; to change a provision relating to employee pension plans; and to repeal the original sections.

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

Section 1. That section 19-1801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-1801. (1) There is hereby created, in every city in the State of Nebraska having a population of more than five thousand inhabitants and having a full paid fire or police department or a fire or police department having paid members, a civil service commission which shall be composed of three persons; PROVIDED, sections 19-1801 to 19-1823 shall not apply to cities with a population in excess of forty thousand which have adopted or which hereafter adopt a home rule charter under and pursuant to sections 2 to 5, inclusive, of Article XI of the Constitution of this state. Any city or village having a population of five thousand or less may come within the provisions of sections 19-1801 to 19-1823 by a vote of the electors of such city or village. If any city of the first class which established a civil service commission decreases in population to less than five thousand, as determined by the latest federal census, and continues to have a full paid fire or police department or a fire or police department having paid members, the civil service commission shall be continued for at least two years, and thereafter continued at the option of the local governing body of such city. The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, commission, or otherwise, is or are vested by law with the power and authority to select, appoint, or employ the chief of a fire or police department in any such city prior to April 1, 1957.

(2) The members of the civil service commission,

referred to in subsections (1), (3), and (4) of this section, shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein such person resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years.

(3) Any member of the civil service commission, referred to in subsections (1), (2), and (4) of this section, may be removed from office for incompetency, incompatibility, dereliction of duty, malfeasance in office, or other good cause by the appointing power; PROVIDED, that no member of the commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the appointing power; AND PROVIDED FURTHER, that the commissioner so removed shall have the right to appeal to the district court of the county in which such commission is located, which court shall thereupon proceed to hear and determine such appeal in a summary manner. Such an appeal shall be only upon the ground that such judgment or order of removal was not made in good faith for cause and the hearing on such appeal shall be confined to the determination of whether or not it was so made.

(4) The members of the civil service commission, referred to in subsections (1), (2), and (3) of this section, shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by sections 19-1801 to 19-1823. Two members of such commission shall constitute a quorum. The concurring votes of two members of such commission shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission, under or by virtue of the provisions of sections 19-1801 to 19-1823. Confirmation of the appointment or appointments of commissioners, made under the provisions of subsection (1) of this section, by any legislative body shall not be required. At the time of any appointment, not more than two commissioners, including the one or ones to be appointed, shall be adherents of the same political party. ~~Any city or village having a population of five thousand inhabitants or less may come within the provisions of sections 19-1801 to 19-1823 by a vote of the electors of such city or village.~~

Sec. 2. That section 19-3501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3501. (1) The governing body of cities of the first and second class and villages may, by appropriate

ordinance or proper resolution, establish a pension plan designed and intended for the benefit of the regularly employed or appointed full-time employees of the city. Provided, the provisions of this section shall not apply to firemen or policemen who are included under the provisions of an existing pension or retirement system established by the municipality or by the Legislature. Any recognized method of funding a pension plan may be employed. The employee shall contribute an amount at least equal to the city's contribution under the plan; PROVIDED, that the city may contribute, in addition to amounts matched by the employee, amounts to be used for the purpose of funding employee past service benefits only. Any two or more cities of the first and second class and villages may jointly establish such a pension plan by adoption of appropriate ordinances or resolutions. Such a pension plan may be integrated with Old Age and Survivors Insurance, otherwise generally known as Social Security.

(2) Subsection (1) of this section shall not apply to firefighters or police officers who are included under an existing pension or retirement system established by the municipality employing such firefighters or police officers or the Legislature. If a city of the first class decreases in population to less than five thousand, as determined by the latest federal census, any police officer or firefighter employed by such city on or prior to the date such city becomes a city of the second class shall retain the level of benefits established by the Legislature for police officers or firefighters employed by a city of the first class on the date such city becomes a city of the second class.

Sec. 3. That original sections 19-1801 and 19-3501, Reissue Revised Statutes of Nebraska, 1943, are repealed.