

LEGISLATIVE BILL 812

Approved by the Governor April 18, 1986

Introduced by Barrett, 39

AN ACT relating to county officers; to amend sections 23-268, 23-1201.01, 23-1301, 23-1501, 23-1701, 23-1901.01, and 32-513, Reissue Revised Statutes of Nebraska, 1943, and section 29-1804, Revised Statutes Supplement, 1984; to provide residency requirements for certain officers; to change provisions relating to filing fees; and to repeal the original sections.

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

Section 1. That section 23-268, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-268. At the next general election after the adoption of township organization and the division of the county into supervisor districts, there shall be elected in each supervisor district one supervisor, who shall be nominated and elected by the qualified electors of the district from which he or she is elected. The supervisors elected in the odd-numbered districts shall hold their offices for two years, and the supervisors elected in the even-numbered districts shall hold their offices for four years. In city districts the ballots shall state which one of the supervisors is elected for the odd and which one for the even-numbered district. Each district shall thereafter elect one supervisor every four years, and each supervisor, after the first election as stated above, shall hold his office for the term of four years and until a his successor is elected and qualified.

A supervisor elected after November 1986 need not be a resident of the district when he or she files for election as a supervisor from a given district, but a supervisor shall reside in the district in which he or she holds office.

Sec. 2. That section 23-1201.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1201.01. (1) Except as provided in subsection (2) of this section, a county attorney elected after November 1986 need not be a resident of

the county when he or she files for election as county attorney, but a county attorney shall reside in the county in which he or she holds office.

(2) When there is no qualified attorney within a county who will accept the appointment of county attorney, the county board of such county may appoint a qualified attorney from any other county of the State of Nebraska to such office. In making such appointment, the county board shall negotiate a contract with the attorney, such contract to specify the terms and conditions of the appointment, including the compensation of the attorney, which compensation shall not be subject to the provisions of sections 23-1114.02 to 23-1114.06.

Sec. 3. That section 23-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1301. The county clerk shall keep his or her office at the county seat; shall attend the sessions of the county board; shall keep the seal, records, and papers of said the board; and shall sign the record of the proceedings of the board, and attest the same with the county seal. After, PROVIDED, that after the period of time specified by the State Records Administrator Board pursuant to sections 84-1201 to 84-1220 the Records Management Act, the county clerk may transfer such record of the proceedings of the board to the state archives of the Nebraska State Historical Society, for permanent preservation.

A county clerk elected after November 1986 need not be a resident of the county when he or she files for election as county clerk, but a county clerk shall reside in the county in which he or she holds office.

Sec. 4. That section 23-1501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1501. In each county of sixteen thousand inhabitants or more, and where the offices of register of deeds and county clerk are separate, the county board shall provide suitable office room, fireproof vaults of sufficient capacity, and necessary books, blanks, stationery, and office furniture for the use of the register of deeds.

A register of deeds elected after November 1986 need not be a resident of the county when he or she files for election as register of deeds, but a register of deeds shall reside in the county in which he or she holds office.

Sec. 5. A county treasurer elected after November 1986 need not be a resident of the county when he or she files for election as county treasurer, but a county treasurer shall reside in the county in which he or she holds office.

Sec. 6. That section 23-1701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1701. It is the duty of the sheriff to serve or otherwise execute, according to law, and return, writs or other legal process issued by lawful authority, and to him directed or committed, to the sheriff and to perform such other duties as may be required of him by law. The county sheriff shall prepare and file the required annual inventory statement of county personal property in his or her custody or possession, as provided in sections 23-346 to 23-350.

A sheriff elected after November 1986 need not be a resident of the county when he or she files for election as sheriff, but a sheriff shall reside in the county in which he or she holds office.

Sec. 7. That section 23-1901.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1901.01. (1) Except as provided in subsection (2) of this section, a county surveyor elected after November 1986 need not be a resident of the county when he or she files for election as county surveyor, but a county surveyor shall reside in the county in which he or she holds office.

(2) When there is no qualified surveyor within a county who will accept the office of county surveyor, the county board of such county may employ a competent surveyor either on a full-time or part-time basis from any other county of the State of Nebraska to such office. In making such employment, the county board shall negotiate a contract with the surveyor, such contract to specify the terms and conditions of the appointment or employment, including the compensation of the surveyor, which compensation shall not be subject to the provisions of section 33-116. A surveyor employed under this section subsection shall serve the same term as that of an elected surveyor and is shall not be required to reside in the county of employment.

Sec. 8. That section 29-1804, Revised Statutes Supplement, 1984, be amended to read as follows:

29-1804. There is hereby created in counties that now have or that shall hereafter attain a

population in excess of one hundred thousand inhabitants, and in other counties upon approval by the county board, the office of public defender, who, in counties having a population in excess of one hundred thousand inhabitants which have not elected a public defender prior to July 10, 1984, shall be elected at the next general election following July 10, 1984, or the year in which the county attains a population of one hundred thousand inhabitants, and who, in other counties, shall be elected at the first general election of county officers following approval by the county board, and every four years thereafter. The public defender shall be a lawyer licensed to practice law in this state. He or she shall take office after election and qualification at the same time that other county officers take office, except that upon the creation of such office in any county, a qualified person may be appointed by the county board to serve as public defender until such office can be filled by an election in accordance with the provisions of this section.

Commencing July 10, 1984, in counties having a population of more than one hundred thousand inhabitants, the public defender shall devote his or her full time to the legal work of the office of the public defender and shall not engage in the private practice of law. All assistant public defenders in such counties shall devote their full time to the legal work of such office of the public defender and shall not engage in the private practice of law so long as each assistant public defender shall receive the same annual salary as each deputy county attorney of comparable ability and experience shall receive in such counties.

No public defender or assistant public defender shall solicit or accept any fee for representing a criminal defendant in a prosecution in which the public defender or assistant is already acting as the defendant's court-appointed counsel.

A public defender elected after November 1986 need not be a resident of the county when he or she files for election as public defender, but a public defender shall reside in the county in which he or she holds office.

Sec. 9. That section 32-513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-513. A filing fee shall be paid by or on behalf of each candidate prior to the filing of any nomination papers. The filing fee, there shall be paid to the county treasurer or city treasurer in case

of municipal officers for the use of the general fund of the county or city. The fee shall be paid to the proper treasurer of the candidate's residence, or if under the provisions of sections 1 to 8 of this act the candidate does not reside at the time of filing in the county in which such candidate is seeking office, the filing fee shall be paid to the county treasurer in the county where the office is sought. The filing fees shall be by or on behalf of each candidate, a filing fee as follows: For the office of United States Senator, for state officers, including members of the Legislature, members of Congress, county officers, including county superintendent of public instruction, district superintendent of public instruction, and municipal officers, except those subject to subsection (3) of section 14-204, subsection (2) of section 15-301, or subsection (9) of section 16-302.01 regardless of whether the municipality has taken action under such subsections, a sum equal to one per cent of the annual salary such candidate will receive if he or she is elected and qualifies for the office he or she files for as a candidate; for directors of public power and irrigation districts in those districts receiving annual gross revenue of forty million dollars or more, twenty-five dollars, and in those districts receiving annual gross revenue of less than forty million dollars, ten dollars; and reclamation districts, ten dollars. No nominating papers shall be filed until the proper treasurer's receipt, showing the payment of such filing fee, shall be presented to the officer with whom the nominating paper is to be filed. No certificate of nomination or certificate of election shall be issued to any candidate who is nominated or elected by write-in votes until the filing fee required for such office is paid and the receipt is filed with the person issuing the certificate, which filing fee shall be paid within ten days after the canvass of the votes. A filing fee of twenty-five dollars shall be required from candidates for Regents of the University of Nebraska and the State Board of Education. There shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than five hundred dollars per year. No filing fee shall be required of any candidate completing an affidavit in support of request to file for public office in forma pauperis. A pauper, for purposes of this section, is defined as one whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his

or her requirements, and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own.

The term available resources includes every type of property or interest in property that an individual owns and may convert into cash, with the exception of:

- (1) Real property used as a home;
- (2) Household goods of a moderate value used in the home; and
- (3) Assets to a maximum value of three thousand dollars used by a recipient in a planned effort directed towards self-support.

Sec. 10. That original sections 23-268, 23-1201.01, 23-1301, 23-1501, 23-1701, 23-1901.01, and 32-513, Reissue Revised Statutes of Nebraska, 1943, and section 29-1804, Revised Statutes Supplement, 1984, are repealed.