

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 522

Introduced by Linehan, 39.

Read first time January 22, 2019

Committee:

1 A BILL FOR AN ACT relating to county government; to amend sections
2 23-2501, 23-2502, 23-2505, 23-2508, 23-2509, 23-2511, 23-2512,
3 23-2513, 23-2515, and 23-2516, Reissue Revised Statutes of Nebraska,
4 and sections 23-2503, 23-2504, 23-2506, 23-2510, and 23-2514,
5 Revised Statutes Cumulative Supplement, 2018; to name the County
6 Civil Service Commission Act; to change provisions relating to the
7 purpose of the act and commission membership; to eliminate a
8 provision providing commission duties; to provide for appointment of
9 and prescribe duties for a human resources director; to harmonize
10 provisions; to repeal the original sections; and to outright repeal
11 section 23-2507, Revised Statutes Cumulative Supplement, 2018.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 17 of this act shall be known and may be
2 cited as the County Civil Service Commission Act.

3 Sec. 2. Section 23-2501, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 ~~23-2501~~ The purpose of the County Civil Service Commission Act
6 sections 23-2501 to 23-2516 is to guarantee to all citizens a fair and
7 equal opportunity for employment in the county offices governed by the
8 act and sections 23-2501 to 23-2516, to establish conditions of
9 employment and to promote economy and efficiency in such offices. In
10 addition, the purpose of the act is to establish a system of personnel
11 administration that meets the social, economic, and program needs of
12 county offices. Such system shall provide the means to recruit, select,
13 develop, and maintain an effective and responsive workforce and shall
14 include policies and procedures for employee hiring and advancement,
15 training and career development, position classification, salary
16 administration, benefits, discipline, discharge, and other related
17 matters. All appointments and promotions under the act shall be made
18 based on merit and fitness.

19 Sec. 3. Section 23-2502, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 ~~23-2502~~ As used in the County Civil Service Commission Act sections
22 ~~23-2501 to 23-2516,~~ unless the context otherwise requires:

23 (1) Employees shall mean all county employees of the county. The
24 term employees shall not include part-time employees, employees subject
25 to the state personnel service, court-appointed employees, employees of
26 the county attorney's office, employees of the public defender's office,
27 dentists, physicians, practicing attorneys, deputy sheriffs, officers
28 appointed by the Governor, or elected officers or the chief deputy of
29 each office or the deputy of each office if there is not more than one
30 deputy in the office;

31 (2) Part-time employee shall mean any person whose position is

1 seasonal or temporary as defined by the commission;

2 (3) Department head shall mean an officer holding an elected office,
3 an officer holding office by appointment of the Governor, the chief
4 deputy of any office or the deputy if there is not more than one deputy,
5 and such other persons holding positions as are declared to be department
6 heads by the county board; and

7 (4) Commission shall mean the civil service commission ~~Civil Service~~
8 ~~Commission~~.

9 Sec. 4. Section 23-2503, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 ~~23-2503~~ In any county having a population of four hundred thousand
12 inhabitants or more as determined by the most recent federal decennial
13 census, there shall be a civil service commission ~~Civil Service~~
14 ~~Commission~~ which shall be formed as provided in the County Civil Service
15 Commission Act ~~sections 23-2501 to 23-2516~~. A county shall comply with
16 this section within six months after a determination that the population
17 has reached four hundred thousand inhabitants or more as determined by
18 the most recent federal decennial census.

19 Sec. 5. Section 23-2504, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 ~~23-2504~~ (1) The commission shall consist of five members who shall
22 be in sympathy with the application of merit principles to public
23 employment. No member of the commission shall be a member of any local,
24 state, or national committee of a political party or an officer or member
25 of a committee in any partisan political club or organization.

26 (2) The members of the commission shall be as follows: (a) Two
27 elected officers selected from the offices of and elected by the county
28 commissioners, clerk, assessor, treasurer, public defender, register of
29 deeds, clerk of the district court, engineer surveyor, and sheriff, being
30 of opposite political parties if possible, and each party shall
31 separately select its own member, (b) two full-time permanent county

1 employees, and (c) one public member holding no public or political
2 office. The initial two such employees shall be selected by the two
3 elected officers referred to in subdivision (a) of this subdivision as
4 follows: Any such employee who is at least twenty-one years of age may
5 submit his or her name as a candidate to the elected officer of the
6 political party with which the employee is registered who shall then
7 select one commission member from such list of names. The four members of
8 the commission shall then select the public member. The commission shall
9 establish employee election procedures which shall provide that all
10 county employees subject to the County Civil Service Commission Act
11 ~~sections 23-2501 to 23-2516~~ may vote and, if not less than twenty-one
12 years of age, be candidates for a member of the commission. One employee
13 member of the commission shall be a Democrat elected by the Democrat-
14 registered employees subject to the County Civil Service Commission Act
15 ~~sections 23-2501 to 23-2516~~ and one employee member of the commission
16 shall be a Republican elected by the Republican-registered employees
17 subject to the County Civil Service Commission Act ~~sections 23-2501 to~~
18 ~~23-2516~~. An employee otherwise eligible to vote and be a candidate for
19 the office of employee member of the commission, but who is not
20 registered as either a Democrat or a Republican, may become eligible to
21 vote, and become a candidate for the office of employee member of the
22 commission by making a declaration that he or she desires to vote for
23 such a member of the commission, or be a candidate for such office, and,
24 in the same declaration, designating the party, Democrat or Republican,
25 with which he or she desires to be affiliated for this purpose. After
26 making such declaration, that employee shall have the same right to vote
27 for a candidate, and be a candidate for the office of employee member of
28 the commission as if the employee were a registered member of the party
29 so designated in the declaration. The manner, form, and contents of such
30 declaration shall be initially established by the two elected officials
31 referred to in subdivision (2)(a) of this section, subject to

1 modification by the commission after it has been fully formed.

2 (3) The initial term of office of (a) the two elected officers shall
3 be three years from May 21, 1971; (b) the initial term of office of the
4 county employees shall be two years from May 21, 1971; and (c) the
5 initial term of the public member shall be three years from May 21, 1971.

6 (4) At the expiration of the initial term of office, a successor
7 member shall be elected or appointed as provided in the County Civil
8 Service Commission Act sections 23-2501 to 23-2516 for a term of three
9 years. Membership on the commission of any member shall terminate upon
10 the resignation of any member or at such time as the member no longer
11 complies with the qualifications for election or appointment to the
12 commission. In the event a member's term terminates prior to the
13 expiration of the term for which the member was elected or appointed, the
14 commission shall appoint a successor complying with the same
15 qualifications for the unexpired term.

16 Sec. 6. Section 23-2505, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 ~~23-2505~~ The members of the commission shall not receive compensation
19 for their services but shall be reimbursed for such necessary expenses
20 and mileage as may be incurred in the performance of their duties with
21 reimbursement for mileage to be made at the rate provided in section
22 81-1176. The county board shall provide sufficient funds in order that
23 such commission may function as set forth in the County Civil Service
24 Commission Act sections 23-2501 to 23-2516.

25 Sec. 7. Section 23-2506, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 ~~23-2506~~ The commission shall hold regular meetings at least once
28 every three months and shall designate the time and place thereof by
29 notice posted in the courthouse at least seven days prior to the meeting.
30 The commission shall adopt rules of procedure and shall keep a record of
31 its proceedings. The commission shall also make provision for special

1 meetings, and all meetings and records of the commission shall be open to
2 the public except as otherwise provided in the County Civil Service
3 Commission Act ~~sections 23-2501 to 23-2516~~. The commission shall elect
4 one of its members as chairperson for a period of one year or until a
5 successor has been duly elected and qualified.

6 Sec. 8. Section 23-2508, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 ~~23-2508~~ The commission may recommend to the county board salary and
9 pay plans for the employees.

10 Sec. 9. Section 23-2509, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 ~~23-2509~~ All employees governed by the County Civil Service
13 Commission Act ~~sections 23-2501 to 23-2516~~ on May 21, 1971, shall retain
14 their employment without the necessity of taking any qualifying
15 examination.

16 Sec. 10. Section 23-2510, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 ~~23-2510~~ Any employee may be discharged, suspended, or demoted in
19 rank or compensation by his or her department head by a written order
20 which shall specifically state the reasons therefor. Such order shall be
21 filed with the commission, and a copy of such order shall be served upon
22 the employee personally or by leaving it at his or her usual place of
23 residence. Any employee so affected may, within ten days after service of
24 the order, appeal such order to the commission. Notice of such appeal
25 shall be in writing, signed by the employee appealing, and delivered to
26 any member of the commission. The delivery of the notice of appeal shall
27 be sufficient to perfect an appeal, and no other act shall be deemed
28 necessary to confer jurisdiction of the commission over the appeal. In
29 the event any employee is discharged, suspended, or demoted prior to the
30 formation of the commission, such employee may appeal the order to the
31 commission within ten days after the formation of the commission in the

1 manner provided in this section.

2 Sec. 11. Section 23-2511, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 ~~23-2511~~ The commission shall, within two weeks after receipt of the
5 notice of appeal, hold a public hearing thereon at which the employee
6 shall be entitled to appear personally, be represented by counsel, cross-
7 examine witnesses, and produce evidence. The commission shall have the
8 authority to affirm, modify, or revoke the order appealed from, and the
9 finding and the decision of the commission shall be certified to the
10 department head who issued the order, and the finding and decision of the
11 commission shall be binding on all parties concerned. In the event of an
12 appeal to the commission, no order affecting an employee shall become
13 permanent until the finding and decision of the commission shall be
14 certified as provided in this section. Notwithstanding any other
15 provision of the County Civil Service Commission Act sections 23-2501 to
16 ~~23-2516~~, an employee affected by an order may request transfer to another
17 department governed by the County Civil Service Commission Act sections
18 ~~23-2501 to 23-2516~~ with the consent of the commission and the department
19 head of such other department.

20 Sec. 12. Section 23-2512, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 ~~23-2512~~ To effectively carry out the duties imposed on the
23 commission by the County Civil Service Commission Act sections 23-2501 to
24 ~~23-2516~~, the commission shall have the power to subpoena witnesses,
25 administer oaths, and compel the production of books and papers.

26 Sec. 13. Section 23-2513, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 ~~23-2513~~ No employee or person desiring to be an employee in an
29 office governed by the County Civil Service Commission Act sections
30 ~~23-2501 to 23-2516~~ shall be appointed, demoted, or discharged, or in any
31 way favored or discriminated against because of political, racial, or

1 religious opinions or affiliations, but advocating, or being a member of
2 a political party or organization that advocates the overthrow of the
3 government of the United States or of this state by force or violence
4 shall be sufficient reason to discharge an employee.

5 Sec. 14. Section 23-2514, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 ~~23-2514~~ Notwithstanding any other provision of the County Civil
8 Service Commission Act ~~sections 23-2501 to 23-2516~~, any person who holds
9 the position of chief deputy, or deputy if there is not more than one
10 deputy in the office, may be removed by the elected officer from the
11 position of chief deputy or deputy without cause, but such person shall,
12 if he or she has been an employee of the county for more than two years
13 prior to the appointment as chief deputy or deputy, have the right,
14 unless discharged or demoted as provided in sections 10 23-2510 and 11 of
15 this act 23-2511, to remain as a county employee at a salary not less
16 than eighty percent of his or her average salary during the three
17 preceding years.

18 Sec. 15. (1) The county board shall appoint a human resources
19 director to help carry out the County Civil Service Commission Act. Such
20 human resources director shall be a person experienced in the field of
21 personnel administration and in known sympathy with the application of
22 merit principles in public employment. The human resources director shall
23 report to the county board. In addition to other duties imposed upon him
24 or her by the county board, the human resources director shall:

25 (a) Apply and carry out the act and the rules and regulations
26 thereunder;

27 (b) Attend meetings of the commission and act as its secretary and
28 keep minutes of its proceedings;

29 (c) Establish and maintain a roster of all employees in the
30 classified service which shall set forth the class title, pay, status,
31 and other pertinent data for each employee;

1 (d) Appoint such employees and experts and special assistants as may
2 be necessary;

3 (e) Foster and develop, in cooperation with appointing authorities
4 and others, programs for the improvement of employee effectiveness,
5 including, but not limited to, training, safety, health, counseling, and
6 welfare;

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

10 (g) Perform such other duties as he or she may consider necessary or
11 desirable to carry out the purposes of the act.

12 (2) The human resources director may provide the following
13 recommendations to the county board with the assistance of and
14 consultation with the commission: (a) General employment policies and
15 procedures; (b) regulations for recruiting, examination, and
16 certification of qualified applicants for employment and the maintenance
17 of registers of qualified candidates for employment for all employees
18 governed by the County Civil Service Commission Act; (c) a system of
19 personnel records containing general data on all employees and standards
20 for the development and maintenance of personnel records to be maintained
21 within the offices governed by the County Civil Service Commission Act;
22 (d) regulations governing such matters as hours of work, promotions,
23 transfers, demotions, probation, terminations, and reductions in force;
24 and (e) regulations for use by all offices governed by the County Civil
25 Service Commission Act relating to such matters as employee benefits,
26 vacation, sick leave, and holidays.

27 (3) The human resources director shall require department heads to
28 provide sufficient criteria to enable the commission to properly conduct
29 employment examinations, and shall require department heads to supply to
30 the commission position classification plans, job descriptions, and job
31 specifications.

1 (4) Individual personnel records shall be available for inspection
2 only by the employee involved, the employee's department head, and such
3 other persons as the commission shall authorize.

4 Sec. 16. Section 23-2515, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 ~~23-2515~~ An appeal from a final order of the commission shall be in
7 the manner provided in sections 25-1901 to 25-1908.

8 Sec. 17. Section 23-2516, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 ~~23-2516~~ If any provision of the County Civil Service Commission Act
11 ~~sections 23-2501 to 23-2516~~ or of any rule, regulation, or order
12 thereunder or the application of such provision to any person or
13 circumstances shall be held invalid, the remainder of the County Civil
14 Service Commission Act ~~sections 23-2501 to 23-2516~~ and the application of
15 such provision of the County Civil Service Commission Act ~~sections~~
16 ~~23-2501 to 23-2516~~ or of such rule, regulation, or order to persons or
17 circumstances other than those as to which it is held invalid shall not
18 be affected thereby.

19 Sec. 18. Original sections 23-2501, 23-2502, 23-2505, 23-2508,
20 23-2509, 23-2511, 23-2512, 23-2513, 23-2515, and 23-2516, Reissue Revised
21 Statutes of Nebraska, and sections 23-2503, 23-2504, 23-2506, 23-2510,
22 and 23-2514, Revised Statutes Cumulative Supplement, 2018, are repealed.

23 Sec. 19. The following section is outright repealed: Section
24 23-2507, Revised Statutes Cumulative Supplement, 2018.