

LEGISLATIVE BILL 12

Approved by the Governor February 15, 1991

Introduced by Executive Board: Labedz, 5, Chairperson

AN ACT relating to officeholders; to amend section 70-624.04, Reissue Revised Statutes of Nebraska, 1943, and sections 16-305, 17-108.02, 19-613, 32-563, and 32-1037, Revised Statutes Supplement, 1990; to transfer provisions relating to holding multiple offices; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 16-305, Revised Statutes Supplement, 1990, be amended to read as follows:

16-305. The mayor and members of the council of a city of the first class shall be residents and registered voters of the city and shall be permitted to hold other elective office as provided in section 32-563 4 of this act.

All officers and employees of the city shall receive such compensation as the mayor and council may fix at the time of their appointment or employment, subject to the limitations set forth in this section. The local governing body of the city may at its discretion by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The city manager in a city under the city manager plan of government as provided in Chapter 19, article 6, may in his or her discretion combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be

construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined.

Sec. 2. That section 17-108.02, Revised Statutes Supplement, 1990, be amended to read as follows:

17-108.02. The mayor and members of the council of cities of the second class shall be residents and registered voters of the city and shall be permitted to hold other elective office as provided in section ~~32-563~~ 4 of this act.

All officers and employees of the city shall receive such compensation as the mayor and council may fix at the time of their appointment or employment, subject to the limitations set forth in this section. The local governing body of the city may at its discretion by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The city manager in a city under the city manager plan of government as provided in Chapter 19, article 6, may in his or her discretion combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so

merged and combined. For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

Sec. 3. That section 19-613, Revised Statutes Supplement, 1990, be amended to read as follows:

19-613. Members of the council shall be residents and registered voters of the city and shall hold no other employment with the city. They shall be permitted to hold other elective office as provided in section ~~32-563~~ 4 of this act. Any council member who ceases to possess any of the qualifications required by this section or who has been convicted of a crime while in office shall forthwith forfeit such office. The council shall be the judge of the election and qualifications of its members, subject to review by the courts.

Sec. 4. That section 32-563, Revised Statutes Supplement, 1990, be amended to read as follows:

~~32-563-~~ (1) Except as provided in subsection (2) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.

(2) No person serving as a member of the Legislature or in an elective office described in Article IV, section 1, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

(3) Whenever an incumbent of an elective office subject to subsection (2) of this section assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

(4) For purposes of this section, elective office shall mean an office which is filled at any election, including an election held in conjunction with the annual meeting of a public body created by an act of the Legislature.

Sec. 5. That section 32-1037, Revised Statutes Supplement, 1990, be amended to read as follows:

32-1037. Every civil office shall be vacant, except as provided in section 32-1038, upon the happening of any one of the following events at any time before the expiration of the term of such office:

- (1) Resignation of the incumbent;
- (2) ~~death~~ Death of incumbent;
- (3) ~~removal~~ Removal of incumbent from office;
- (4) ~~decision~~ Decision of a competent tribunal declaring the office of incumbent vacant;
- (5) ~~incumbent~~ Incumbent ceasing to be a resident of the state, district, county, township, precinct, or ward in which the duties of his or her office are to be exercised or for which he or she may have been elected;
- (6) ~~failure~~ Failure to elect at a proper election, there being no incumbent to continue in office until his or her successor is elected and qualified nor other provision relating thereto;
- (7) ~~forfeiture~~ Forfeiture of office as provided by any law of the state;
- (8) ~~conviction~~ Conviction of an infamous crime or of any public offense involving the violation of the oath of office of incumbent; or
- (9) ~~incumbent~~ Incumbent of an elective office assuming another elective office as provided in subsections (2) and (3) of section 32-563 4 of this act.

Sec. 6. That section 70-624.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-624.04. Officers and employees of public power districts, public power and irrigation districts, and public utility companies shall be permitted to hold other elective office as provided in section 32-563 4 of this act. No contracts of any such public power district, public power and irrigation district, or public utility company shall be void or voidable by reason of such service by its officers or employees.

Sec. 7. That original section 70-624.04, Reissue Revised Statutes of Nebraska, 1943, and sections 16-305, 17-108.02, 19-613, 32-563, and 32-1037, Revised Statutes Supplement, 1990, are repealed.