

LEGISLATIVE BILL 85

Approved by the Governor March 3, 2003

Introduced by Landis, 46

AN ACT relating to state government; to amend sections 8-105, 44-119, and 81-1373, Reissue Revised Statutes of Nebraska, and section 81-1316, Revised Statutes Supplement, 2002; to provide for reclassification of certain deputies and examiners as at-will employees; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 8-105, Reissue Revised Statutes of Nebraska, is amended to read:

8-105. (1) The director may employ such deputies, examiners, and other assistants as he or she may need to discharge in a proper manner the duties imposed upon him or her by law. Neither the director, nor any deputy or assistant, shall employ any person who at the time of hire is a relative of the director or a relative of any deputy or assistant in the work of the department. The deputies, examiners, and other assistants shall perform such duties as shall be assigned to them. The deputies and financial institution examiners hired after the effective date of this act shall hold office at the will of the director and shall receive such salary as set by the director and approved by the Governor based upon the level of credentials for the positions. Each employee who is employed as a deputy or a financial institution examiner on the effective date of this act may elect to become employed at will. The election to become employed at will may be made at any time upon notification to the director in writing, but once made, such election shall be final. Until the election to be employed at will is made, the employee shall be treated as continuing participation in the State Personnel System. The director shall, with the approval of the Governor, fix the compensation of the ~~deputies, examiners, and other examiners~~ and assistants, which shall be paid either monthly or on a biweekly basis.

(2) The deputies, examiners, and other assistants, before assuming the duties of office, shall be bonded under the blanket surety bond required by section 11-201.

Sec. 2. Section 44-119, Reissue Revised Statutes of Nebraska, is amended to read:

44-119. In order to discharge the responsibilities of the department, including the requirements of the Insurers Examination Act, there shall be appointed a sufficient staff of actuaries and examiners which shall include:

- (1) One or more life insurance actuaries;
- (2) One or more property and casualty insurance actuaries;
- (3) One or more actuarial examiners;
- (4) A chief financial examiner and one or more assistant chief financial examiners;
- (5) One or more financial examiners;
- (6) A chief market conduct examiner; and
- (7) One or more market conduct examiners.

The examiners described in subdivisions (3) through (5) of this section hired after the effective date of this act shall hold office at the will of the director and shall receive such salary as fixed by the director and approved by the Governor based upon the level of credentials for the positions. Each employee who is employed as an examiner on the effective date of this act may elect to become employed at will. The election to become employed at will may be made at any time upon notification to the director in writing, but once made, such election shall be final. Until the election to be employed at will is made, the employee shall be treated as continuing participation in the State Personnel System.

Sec. 3. Section 81-1316, Revised Statutes Supplement, 2002, 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; ~~and~~
- (t) The Director of Medical Services established under section 83-125 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, Thomas Fitzgerald Veterans' Home, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva; and
- (u) 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.

(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 Employees	Number of Noncovered 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	14
over 5000	17

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.

In no case shall a current state employee's career protections or coverage by personnel rules and regulations be revoked without the prior written agreement of such employee.

Sec. 4. Section 81-1373, Reissue Revised Statutes of Nebraska, is amended to read:

81-1373. (1) For the purpose of implementing the state employees' right to organize for the purpose of collective bargaining, there are hereby created twelve bargaining units for all state agencies except the University of Nebraska, the Nebraska state colleges, and other constitutional offices. The units shall consist of state employees whose job classifications are occupationally and functionally related and who share a community of interest. The bargaining units shall be:

(a) Maintenance, Trades, and Technical, which unit is composed of generally recognized blue collar and technical classes, including highway maintenance workers, carpenters, plumbers, electricians, print shop workers, auto mechanics, engineering aides and associates, and similar classes;

(b) Administrative Support, which unit is composed of clerical and administrative nonprofessional classes, including typists, secretaries, accounting clerks, computer operators, office service personnel, and similar classes;

(c) Health and Human Care Nonprofessional, which unit is composed of institutional care classes, including nursing aides, psychiatric aides,

therapy aides, and similar classes;

(d) Social Services and Counseling, which unit is composed of generally professional-level workers providing services and benefits to eligible persons. Classes shall include job service personnel, income maintenance personnel, social workers, counselors, and similar classes;

(e) Administrative Professional, which unit is composed of professional employees with general business responsibilities, including accountants, buyers, personnel specialists, data processing personnel, and similar classes;

(f) Protective Service, which unit is composed of institutional security personnel, including correctional officers, building security guards, and similar classes;

(g) Law Enforcement, which unit is composed of employees holding powers of arrest, including Nebraska State Patrol officers and sergeants, ~~game wardens~~ conservation officers, fire marshal personnel, and similar classes. Sergeants, investigators, and patrol officers employed by the Nebraska State Patrol as authorized in section 81-2004 shall be presumed to have a community of interest with each other and shall be included in this bargaining unit notwithstanding any other provision of law which may allow for the contrary;

(h) Health and Human Care Professional, which unit is composed of community health, nutrition, and health service professional employees, including nurses, doctors, psychologists, pharmacists, dietitians, licensed therapists, and similar classes;

(i) Examining, Inspection, and Licensing, which unit is composed of employees empowered to review certain public and business activities, including driver-licensing personnel, revenue agents, bank and insurance examiners who remain in the State Personnel System under sections 8-105 and 44-119, various public health and protection inspectors, and similar classes;

(j) Engineering, Science, and Resources, which unit is composed of specialized professional scientific occupations, including civil and other engineers, architects, chemists, geologists and surveyors, and similar classes;

(k) Teachers, which unit is composed of employees required to be licensed or certified as a teacher; and

(l) Supervisory, which unit is composed of employees who are supervisors as defined in section 48-801.

All employees who are excluded from bargaining units pursuant to the Industrial Relations Act, all employees of the personnel division of the Department of Administrative Services, and all employees of the Division of Employee Relations of the Department of Administrative Services shall be excluded from any bargaining unit of state employees.

(2) Any employee organization, including one which represents other state employees, may be certified or recognized as provided in the Industrial Relations Act as the exclusive collective-bargaining agent for a supervisory unit, except that such unit shall not have full collective-bargaining rights but shall be afforded only meet-and-confer rights.

(3) It is the intent of the Legislature that professional and managerial employee classifications and office and service employee classifications be grouped in broad occupational units for the University of Nebraska and the Nebraska state colleges established on a university-wide or college-system-wide basis, including all campuses within the system. Any unit entirely composed of supervisory employees of the University of Nebraska or the Nebraska state colleges shall be afforded only meet-and-confer rights. Except as provided in subsection (4) of this section, the bargaining units for academic, faculty, and teaching employees of the University of Nebraska and the Nebraska state colleges shall continue as they exist on April 9, 1987, and any adjustments thereto or new units therefor shall continue to be determined pursuant to the Industrial Relations Act.

(4) Except as provided in subdivision (2)(c) of section 85-1,119, when the institution now known as Kearney State College is transferred to the control and management of the Board of Regents of the University of Nebraska, any academic, faculty, and teaching employees of Kearney State College who are included in a bargaining unit and represented by a certified or recognized collective-bargaining agent as of June 30, 1991, shall, on and after July 1, 1991, compose a separate bargaining unit of University of Nebraska employees, and such agent shall be entitled to certification by the commission for the new bargaining unit without the necessity of a representation election. Any adjustments to the unit or the representation thereof shall be determined pursuant to the Industrial Relations Act.

(5) Other constitutional offices shall continue to subscribe to the procedures for unit determination in the Industrial Relations Act, except that the commission is further directed to determine the bargaining units in such

manner as to (a) reduce the effect of overfragmentation of bargaining units on the efficiency of administration and operations of the constitutional office and (b) be consistent with the administrative structure of the constitutional office. Any unit entirely composed of supervisory employees of a constitutional office shall be afforded only meet-and-confer rights.

Sec. 5. Original sections 8-105, 44-119, and 81-1373, Reissue Revised Statutes of Nebraska, and section 81-1316, Revised Statutes Supplement, 2002, are repealed.

Sec. 6. Since an emergency exists, this act takes effect when passed and approved according to law.