

LEGISLATIVE BILL 28

Approved by the Governor February 2, 1971

Introduced by C. W. Holmquist, 16th District

AN ACT to amend section 81-137, Reissue Revised Statutes of Nebraska, 1943, and sections 81-167, 81-263.94, 81-563, 81-8,219, and 81-1010, Revised Statutes Supplement, 1969, relating to state administrative departments; to harmonize the provisions with previous legislation; to correct internal references; to clarify the provisions of certain laws; and to repeal the original sections.

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

Section 1. That section 81-137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-137. The Governor shall also submit to the Legislature at the same time he submits the budget, copies of a tentative bill for all proposed appropriations of the budget clearly itemized and properly classified, for the ensuing appropriation period, and no appropriation shall be made in excess of the items and recommendations contained in the budget unless by a ~~three-fifths~~ two-thirds vote of the Legislature, but any item or recommendation therein contained may be rejected or decreased in amount.

Sec. 2. That section 81-167, Revised Statutes Supplement, 1969, be amended to read as follows:

81-167. Each state officer, department, commission, board, bureau, court or other agency, occupying quarters in the Capitol Building or any state building which may hereafter be located adjacent thereto, shall advance to the ~~State--Purchasing--Agent,~~ under-the-direction materiel division of the ~~Director~~ Department of Administrative Services, a sum estimated to be sufficient to cover his, her or its postage for at least one month but never to exceed two months' average use as determined by the ~~State-Purchasing-Agent~~ materiel division. On the first day of each month, the ~~State Purchasing-Agent~~ materiel division shall send a statement to each state officer, department, commission, board, bureau, court or other agency of their mailings during the month, and each state officer, department, commission, board, bureau, court or other agency shall

remit by warrant to the State-Purchasing-Agent materiel division the amount of such statement. No overdrafts shall be permitted. If the original amount advanced to the State-Purchasing-Agent materiel division for postage is not sufficient to cover the postage, additional advances shall be made by the respective state officer, department, commission, board, bureau, court or other agency.

Sec. 3. That section 81-263.94, Revised Statutes Supplement, 1969, be amended to read as follows:

81-263.94. All herds shall meet the following herd health requirements:

(1) All animals in the herd shall be maintained in a healthy condition, and shall be properly fed and kept.

(2) The herd shall be located in an area within the state which meets the requirements of a modified accredited area in which not more than one half of one per cent of the cattle have been found to be infected with tuberculosis as determined by the department pursuant to sections 54-706 to 54-722. If the herd is not located in such an area, it shall be tested annually under the jurisdiction of the program provided by sections 54-706 to 54-722. All additions to the herd shall be from an area or from herds meeting these same requirements.

(3) The herd shall be located in an area within the state in which the percentage of cattle affected with brucellosis does not exceed one per cent and the percentage of herds in which brucellosis is present does not exceed five per cent, in accordance with provisions of sections ~~54-304~~ 54-1301 to ~~54-347~~ 54-1347. If the area in which the herd is located does not meet these requirements, the herd shall be blood-tested annually or milk-ring-tested semiannually. All additions to the herd shall be from an area or from herds meeting these same requirements. Within three years after December 25, 1969 all milk offered for sale for manufacturing purposes shall be from herds meeting the requirements of Plan A for the eradication of brucellosis in accordance with the provisions of sections ~~54-304~~ 54-1301 to ~~54-347~~ 54-1347.

(4) Milk from cows known to be infected with mastitis or milk containing residues of drugs used in treating mastitis or any other infection shall not be

sold or offered for sale for human food. Milk from cows treated for mastitis by infusion of the udder, treatment of infected quarters by the introduction of drugs into the udder through the teat canal, shall be excluded from the supply for at least seventy-two hours after the last treatment, unless the label of the antibiotic container states otherwise. Drugs administered by injection into the blood stream or muscular tissue that leave a residue in the milk longer than ninety-six hours after injection shall not be used.

Sec. 4. That section 81-563, Revised Statutes Supplement, 1969, be amended to read as follows:

81-563. There is hereby established in the state treasury the Electrical Division Fund. ~~Such--fund shall receive and disburse all--funds--appropriated--for use--of--the--State--Electrical--Division.~~ All money received under the provisions of sections 81-553 to 81-570 shall be deposited with the state treasury and by the State Treasurer credited to the Electrical Division Fund. One half of the amount received by the State Treasurer and credited to the Electrical Division Fund derived from license fees shall be paid to the governmental subdivision in which the permittee is a resident if such subdivision provides inspection service within its jurisdiction on electrical installations, work and maintenance.

Sec. 5. That section 81-8,219, Revised Statutes Supplement, 1969, be amended to read as follows:

81-8,219. (1) The provisions of this act shall not apply to:

(a) Any claim based upon an act or omission of an employee of the state, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state agency or an employee of the state, whether or not the discretion be abused;

(b) Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer;

(c) Any claim for damages caused by the imposition or establishment of a quarantine by the

state, whether such quarantine relates to persons or property;

(d) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(e) Any claim by an employee of the state which is covered by the Nebraska workmen's compensation law; or

(f) Any claim based on activities of the Nebraska National Guard, when such claim is cognizable under the National Guard Tort Claims Act of the United States, 32 USCA 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances.

(2) With respect to any tort claim based on the alleged insufficiency or want of repair of any highway or bridge on the state highway system, it is the intent of the Legislature to waive the state's immunity from suit and liability to the same extent that liability has been imposed upon counties pursuant to section ~~39-834~~ 23-2410, and only to that extent. The Legislature further declares that judicial interpretations of section ~~39-834~~ 23-2410 governing the liability of counties on December 25, 1969 also shall be controlling on the liability of the state for the alleged insufficiency or want of repair of any highway or bridge. It is the further intent of the Legislature that the words insufficiency or want of repair shall refer to a spot or localized highway defect and shall not be construed to refer to the general or overall condition of a highway.

Sec. 6. That section 81-1010, Revised Statutes Supplement, 1969, be amended to read as follows:

81-1010. The chief of the transportation services bureau shall have the following duties, powers and responsibilities:

(1) To establish standards for which a state agency may qualify for the full-time assignment of state-owned motor vehicles;

(2) To create a motor pool or motor pools for the use of agencies whose travel requirements do not meet the qualifications set out in subdivision (1) of

this section;

(3) To repair, maintain, and lease to state agencies all vehicles owned by the transportation services bureau and approve the ~~Purchasing--Agent's~~ acquisition, sale or trade of each and every state-owned vehicle made by the materiel division of the Department of Administrative Services;

(4) To consult with the various state agencies using state vehicles and write specifications for state-owned vehicles to be purchased by the ~~Purchasing Agent~~ materiel division; and

(5) To present to the accounting division of the Department of Administrative Services cost and maintenance records of state-owned vehicles so that the various state agencies which use state-owned vehicles may be billed for such use. Income arising from these billings shall be deposited to the Transportation Services Bureau Revolving Fund, which is hereby created. All expenses of acquisition, operation, and maintenance of state-owned vehicles used primarily for transportation of state employees shall be paid from such fund. The Department of Administrative Services shall develop a system of time and mileage charges for the purpose of billing the various state agencies for their vehicle usage. The daily, weekly, or monthly charge shall cover all fixed expenses of such vehicles and the mileage charge shall cover the variable costs of operation. All salaries, capital equipment other than vehicle acquisition, capital construction, and other administrative costs of this bureau shall be paid out of appropriations from the General Fund.

Sec. 7. That original section 81-137, Reissue Revised Statutes of Nebraska, 1943, and sections 81-167, 81-263.94, 81-563, 81-8,219, and 81-1010, Revised Statutes Supplement, 1969, are repealed.