

LEGISLATIVE BILL 747

Approved by the Governor February 10, 1984

Introduced by Business & Labor Committee, Barrett, 39,
Chairperson; R. Peterson, 21; Eret, 32;
McDonald, 31; Goll, 16; Wesely, 26;
Labeledz, 5

AN ACT relating to labor; to amend sections 48-605, 48-606.01, 48-609, 48-611, and 48-662, Reissue Revised Statutes of Nebraska, 1943, and section 84-1301, Revised Statutes Supplement, 1983; to eliminate provisions relating to the Division of Employment of the Department of Labor; to change retirement provisions for certain employees of the department; 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. That section 48-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-605. There is hereby created in the Department of Labor a division to be known as the Division of Employment which shall be administered by a full-time salaried director who shall be subject to the supervision and direction of the Commissioner of Labor. The division shall be responsible for the discharge of its distinctive functions. The division shall be a separate administrative unit with respect to personnel, budget and duties, except insofar as the commissioner may find that separation is impracticable. The Governor, with the consent of the legislature, is authorized to appoint, fix the compensation of, and prescribe the duties of the director of this division; Provided, that such appointment shall be made on a nonpartisan merit basis in accordance with the requirements of section 48-669. The commissioner, for his or her services with respect to the administration of sections 48-601 to 48-669, shall receive the sum fixed by the Governor, payable monthly, to be paid from the Employment Security Administration Fund in addition to the salary of said the commissioner as set out in section 81-103.

Sec. 2. That section 48-606.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-606.01. The commissioner, with the written consent of the Department of Administrative Services, is authorized and empowered to use any funds available under the provisions of either subdivision (a) or (b) of section 48-621, for the purpose of acquiring suitable office space

within the corporate limits of the state capital city for the Division of Employment administration of sections 48-601 to 48-669 by purchase, contract, or in any other manner including the right to use such funds or any part thereof to assist in financing the construction of any building erected by the State of Nebraska or any of its agencies wherein available space will be provided for the division department under lease or contract between the commissioner and the State of Nebraska or such other agency whereby the division department will continue to occupy such space rent-free after the cost of financing such building has been liquidated. The commissioner, upon approval by the Department of Administrative Services, is authorized and empowered to use any such funds to acquire suitable office space for local employment offices anywhere in the State of Nebraska.

Sec. 3. That section 48-609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-609. Subject to other provisions of sections 48-601 to 48-669, the Commissioner of Labor is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of his or her duties under said such sections. The commissioner may delegate to any such person such power and authority as he or she deems reasonable and proper for the effective administration of said such sections. Employees handling money or signing warrants under such sections shall be bonded under the blanket surety bond required by section 11-201. The commissioner may pay the share of the premium for such bond from the unemployment compensation administration fund. The commissioner shall classify positions under said such sections and shall establish salary schedules and minimum personnel standards for the positions so classified. He or she shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified; and, except for temporary appointments of not to exceed six months in duration, such personnel shall be appointed on the basis of efficiency and fitness as determined in such examinations. No person who is an officer or committee member of any political party organization or who holds or is a candidate for any public office shall be appointed or employed under said such sections. The commissioner shall establish and enforce fair and reasonable regulations for appointments, promotions, and demotions based upon ratings of efficiency and fitness and for terminations for cause.

The commissioner may provide for a contributory retirement system for the employees of the division department employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources, or let a contract

for such purpose with an insurance company licensed in Nebraska, and pay the employer's share of such system or contract from the Employment Security Administration Fund as long as this fund is wholly financed from Title III of the ~~Federal~~ Social Security Act or from other federal sources. The employee's contribution to any such plan shall be deducted from his or her salary. Any person employed by the department after June 30, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources shall be enrolled in the State Employees Retirement System of the State of Nebraska when he or she becomes eligible.

Sec. 4. That section 48-611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-611. The Commissioner of Labor, with the advice and aid of advisory councils, and through the appropriate divisions, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

Sec. 5. That section 48-662, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-662. The state employment service is hereby established in the Division of Employment of the Department of Labor, State of Nebraska. The commissioner of such department, in the conduct of such service, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of sections 48-601 to 48-669 and for the purpose of performing such functions as are within the purview of the Act of Congress entitled An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes, approved June 6, 1933 (48 Stat. 113; U.S.C.A., title 29, sec. 49 (c)), as amended, herein referred to as the Wagner-Peyser Act. The provisions of the ~~said~~ Act of Congress are hereby accepted by this state; and the Department of Labor is hereby designated and constituted the agency of this state for the purposes of ~~said~~ such act. All money received by this state under the Act of Congress shall be paid into the Employment Security Administration Fund and shall be expended solely for the maintenance of the state system of public employment offices. There shall also be credited to the Employment Security Administration Fund for the same

purpose, any sums appropriated by the Legislature from the General Fund of the state for the purposes of maintaining public employment offices or of matching funds granted under the provisions of ~~said~~ the Wagner-Peyser Act. For the purpose of establishing and maintaining free public employment offices, and promoting the use of their facilities, the commissioner is authorized to enter into agreements with the Railroad Retirement Board, ~~or~~ any other agency of the United States, or of this or any other state, charged with the administration of any law whose purposes are reasonably related to the purposes of ~~said~~ such sections, ~~or with~~ any political subdivision of this state, or any private nonprofit organization, and as a part of such agreements may accept money, services, or quarters as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed. All money received for such purposes shall be paid into the Employment Security Administration Fund.

Sec. 6. That section 84-1301, Revised Statutes Supplement, 1983, be amended to read as follows:

84-1301. As used in sections 84-1301 to 84-1331, unless the context otherwise requires:

(1) Employee shall mean any employee of the State Board of Agriculture who is a member of the state retirement plan on July 1, 1982, and any person or officer employed by the State of Nebraska whose compensation is paid out of state funds or funds controlled or administered by a state department through any of its executive or administrative officers when acting exclusively in their respective official, executive, or administrative capacities; but shall not include judges, except associate county judges appointed after August 26, 1983, members of the Nebraska State Patrol, employees of the University of Nebraska, employees of the state colleges, employees of technical community colleges, employees of the Division of Employment of the Department of Labor employed prior to July 1, 1984, and paid from funds provided pursuant to Title III of the Social Security Act or funds from other federal sources, the Commissioner of Labor employed prior to July 1, 1984, employees of the State Board of Agriculture who are not members of the state retirement plan on July 1, 1982, the Nebraska National Guard air and army technicians, or persons eligible for membership under the School Retirement System of the State of Nebraska who have not elected to become members of the system pursuant to subsection (1) of section 79-1565 or been made members of the system pursuant to subsection (3) of section 79-1565, except that those persons so eligible and who as of September 2, 1973, are contributing to the State Employees Retirement System shall continue as members of such system. Any individual appointed by the Governor may elect not to become a member of such retirement system;

(2) Part-time employee shall mean an employee

who works less than one half of the regularly scheduled hours;

(3) Retirement shall mean qualifying for and accepting a retirement allowance granted under the provisions of sections 84-1301 to 84-1331;

(4) Retirement board or board shall mean the Public Employees Retirement Board;

(5) Retirement system shall mean the State Employees Retirement System of the State of Nebraska;

(6) Required contribution shall mean the deduction to be made from the salary of employees, as provided in sections 84-1301 to 84-1331;

(7) Service shall mean the actual total length of employment as an employee and shall include leave of absence because of disability or military service when properly authorized by the retirement board, but shall not include any period of disability for which disability retirement benefits are received under the provisions of section 84-1317;

(8) Straight life annuity shall mean an ordinary annuity, payable for the life of the primary annuitant only, and terminating at his or her death without refund or death benefit of any kind;

(9) Prior service shall mean service before January 1, 1964;

(10) Group annuity contract shall mean the contract or contracts issued by one or more life insurance companies to the retirement system in order to provide the benefits described in sections 84-1301 to 84-1331;

(11) Primary carrier shall mean the life insurance company or trust company designated as the administrator of the group annuity contract;

(12) State department shall mean any department, bureau, commission, or other division of state government, not otherwise specifically defined or exempted in sections 84-1301 to 84-1331, whose employees and officers are not already covered by a retirement plan;

(13) Disability shall mean an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration;

(14) Date of disability shall mean the date on which a member is determined to be disabled by the board; and

(15) Regular interest shall mean the rate of interest earned each calendar year commencing January 1, 1975, as determined by the retirement board in conformity with actual and expected earnings on its investments.

Sec. 7. This act shall become operative on July 1, 1984.

Sec. 8. That original sections 48-605, 48-606.01, 48-609, 48-611, and 48-662, Reissue Revised

Statutes of Nebraska, 1943, and section 84-1301, Revised Statutes Supplement, 1983, are repealed.

Sec. 9. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.