

LEGISLATIVE BILL 1162

Approved by the Governor April 1, 1996

Introduced by Maurstad, 30

AN ACT relating to cities and villages; to amend section 17-121, Revised Statutes Supplement, 1994, and section 17-208, Revised Statutes Supplement, 1995; to change membership on the board of health in cities of the second class and villages; and to repeal the original sections.

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

Section 1. Section 17-121, Revised Statutes Supplement, 1994, is amended to read:

17-121. (1) A city of the second class shall have power to make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the city, to make quarantine laws for that purpose, and to enforce the same.

(2) In cities with a commission form of government as provided in Chapter 19, article 4, and cities with a city manager plan of government as provided in Chapter 19, article 6, a board of health shall be created consisting of five members: The mayor, who shall be chairperson, a physician, who shall be medical adviser, the marshal of such city, who shall be secretary and quarantine officer, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the city manager has appointed a chief of police, the chief of police shall serve on the board as secretary and quarantine officer.

(3) In all other cities, a board of health shall be created consisting of four members: The mayor, who shall be chairperson, a physician, who shall be medical adviser, the president of the city council, and the marshal of such city, who shall be secretary and quarantine officer two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the mayor has appointed a chief of police, the chief of police shall serve on the board as secretary and quarantine officer.

(4) A majority of such board shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such city, may enforce them, and may provide fines and punishments for the violation thereof. The board of health shall have power to and shall make all needful rules and regulations relating to matters of sanitation of such city, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, waterclosets, cesspools, stables, and all buildings and places not specified where filth, nuisances, or offensive matter is kept or is liable to or does accumulate. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to the same or to matters of sanitation of such city. The board shall also have control of hospitals, dispensaries, places for treatment of sick, and matters relating to the same under such restrictions and provisions as may be provided by ordinance of such city.

Sec. 2. Section 17-208, Revised Statutes Supplement, 1995, is amended to read:

17-208. (1) The village board of trustees may appoint a village clerk, treasurer, attorney, overseer of the streets, and marshal. The village marshal, or any other police officer, may request a review by the village board of his or her removal or any other disciplinary action taken against him or her. After a hearing, the village board may uphold, reverse, or modify the removal or disciplinary action.

(2) The village board of trustees shall by ordinance adopt rules and regulations governing the removal or discipline of any police officer, including the village marshal. The ordinance shall include a procedure for making application for an appeal, specifications on the period of time within which such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. Both the police officer and the individual imposing the disciplinary action shall have the right at the hearing to be heard and to present evidence to the village board for its

consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the village board shall vote to uphold, reverse, or modify the removal or disciplinary action. The failure of the village board to act within thirty days or the failure of a majority of the elected board members to vote to reverse or modify the removal or disciplinary action shall be construed as a vote to uphold the removal or disciplinary action. The decision of the village board shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and the effective operation of the police department in the performance of its duties under the statutes of the State of Nebraska. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(3) The village board of trustees shall also appoint a board of health consisting of three members: The chairperson of the village board, who shall be chairperson, ~~and two other members. One member shall be the marshal, who shall be secretary and quarantine officer, and one other member. The third member shall be a physician, when a physician is residing permanently in the village, or such other person as the village board may select, or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the village board of trustees has appointed a marshal, the marshal may be appointed to the board and serve as secretary and quarantine officer.~~ A majority of the board of health shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such village and prevent nuisances and unsanitary conditions. The board of health shall enforce the same and provide fines and punishments for violations. The appointees shall hold office for one year unless removed by the chairperson of the village board with the advice and consent of the trustees.

Sec. 3. Original section 17-121, Revised Statutes Supplement, 1994, and section 17-208, Revised Statutes Supplement, 1995, are repealed.