

AMENDMENTS TO LB 158

Introduced by Flood, 19.

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 17-107, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 17-107 (1) A mayor of a city of the second class shall
6 be elected in the manner provided in the Election Act. The mayor
7 shall be a resident and registered voter of the city. If the
8 president of the council assumes the office of mayor for the
9 unexpired term, there shall be a vacancy on the council which
10 vacancy shall be filled as provided in section 32-568. The mayor,
11 with the consent of the council, may appoint such officers as
12 shall be required by ordinance or otherwise required by law. Such
13 officers may be removed from office by the mayor. The mayor,
14 by and with the consent of the council, shall appoint such a
15 number of regular police officers as may be necessary. All police
16 officers appointed by the mayor and council ~~shall be removable~~
17 may be removed, demoted, or suspended at any time by the mayor
18 as provided in subsection (2) of this section. A police officer,
19 including the chief of police, may appeal to the city council such
20 removal, demotion, or other disciplinary action or suspension with
21 or without pay. to the city council. After a hearing, the city
22 council may uphold, reverse, or modify the ~~removal or disciplinary~~
23 action.

1 (2) The city council shall by ordinance adopt rules and
2 regulations governing the removal, demotion, or suspension with
3 or without pay ~~or discipline~~ of any police officer, including
4 the chief of police. The ordinance shall include a procedure
5 for such removal, demotion, or suspension with or without pay
6 of any police officer, including the chief of police, upon the
7 written accusation of the police chief, mayor, or any citizen or
8 taxpayer. The city council shall establish by ordinance procedures
9 for acting upon such written accusation, including: (a) Provisions
10 for giving notice and a copy of the written accusation to the
11 police officer; (b) the police officer's right to have an attorney
12 or representative retained by the police officer present with
13 him or her at all hearings or proceedings regarding the written
14 accusation; (c) the right of the police officer or his or her
15 attorney or representative retained by the police officer to be
16 heard and present evidence; and (d) the right of the police officer
17 as well as the individual imposing the action or their respective
18 attorneys or representatives to record all hearings or proceedings
19 regarding the written accusation. The ordinance shall also include
20 a procedure for making application for an appeal, specifications
21 on the period of time within which such application shall be
22 made, and provisions on the manner in which the appeals hearing
23 shall be conducted. Both the police officer and the individual
24 imposing the ~~disciplinary~~ action or their respective attorneys or
25 representatives shall have the right at the hearing to be heard and
26 to present evidence to the city council for its consideration. Not
27 later than thirty days following the adjournment of the meeting at

1 which the hearing was held, the city council shall vote to uphold,
2 reverse, or modify the ~~removal or disciplinary~~ action. The failure
3 of the city council to act within thirty days or the failure
4 of a majority of the elected council members to vote to reverse
5 or modify the ~~removal or disciplinary~~ action shall be construed
6 as a vote to uphold the ~~removal or disciplinary~~ action. The
7 decision of the city council shall be based upon its determination
8 that, under the facts and evidence presented at the hearing,
9 the ~~challenged removal or disciplinary~~ action was necessary for
10 the proper management and the effective operation of the police
11 department in the performance of its duties under the statutes of
12 the State of Nebraska. Nothing in this section shall be construed
13 to prevent the preemptory suspension or immediate removal from duty
14 of an officer by the appropriate authority, pending the hearing
15 authorized by this section, in cases of gross misconduct, neglect
16 of duty, or disobedience of orders.

17 (3) This section does not apply to a police officer
18 during his or her probationary period.

19 Sec. 2. Section 17-208, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 17-208 ~~(1)~~ (1)(a) The village board of trustees may
22 appoint a village clerk, treasurer, attorney, overseer of the
23 streets, and marshal or chief of police. Pursuant to subsection
24 (2) of this section, the ~~The village marshal or chief of police,~~
25 or any other police officer, may ~~request a review by appeal~~
26 to the village board of his or her removal, demotion, or any
27 other disciplinary action or suspension with or without pay. taken

1 ~~against him or her.~~ After a hearing, the village board may uphold,
2 reverse, or modify the ~~removal or disciplinary~~ action.

3 ~~(2)~~ (b) The village board of trustees shall by ordinance
4 adopt rules and regulations governing the removal, demotion, or
5 suspension with or without pay or discipline of any police officer,
6 including the village marshal or chief of police. The ordinance
7 shall include a procedure for such removal, demotion, or suspension
8 with or without pay of any police officer, including the village
9 marshal or chief of police, upon the written accusation of the
10 village marshal or chief of police, chairperson, or any citizen
11 or taxpayer. The village board of trustees shall establish by
12 ordinance procedures for acting upon such written accusation,
13 including: (a) Provisions for giving notice and a copy of the
14 written accusation to the police officer; (b) the police officer's
15 right to have an attorney or representative retained by the police
16 officer present with him or her at all hearings or proceedings
17 regarding the written accusation; (c) the right of the police
18 officer or his or her attorney or representative retained by the
19 police officer to be heard and present evidence; and (d) the
20 right of the police officer as well as the individual imposing the
21 action or their respective attorneys or representatives to record
22 all hearings or proceedings regarding the written accusation. The
23 ordinance shall also include a procedure for making application
24 for an appeal, specifications on the period of time within which
25 such application shall be made, and provisions on the manner in
26 which the appeals hearing shall be conducted. Both the police
27 officer and the individual imposing the disciplinary action or

1 their respective attorneys or representatives shall have the right
2 at the hearing to be heard and to present evidence to the village
3 board for its consideration. Not later than thirty days following
4 the adjournment of the meeting at which the hearing was held,
5 the village board shall vote to uphold, reverse, or modify the
6 ~~removal or disciplinary~~ action. The failure of the village board
7 to act within thirty days or the failure of a majority of the
8 elected board members to vote to reverse or modify the ~~removal~~
9 ~~or disciplinary~~ action shall be construed as a vote to uphold
10 the ~~removal or disciplinary~~ action. The decision of the village
11 board shall be based upon its determination that, under the facts
12 and evidence presented at the hearing, the ~~challenged removal~~
13 ~~or disciplinary~~ action was necessary for the proper management
14 and the effective operation of the police department in the
15 performance of its duties under the statutes of the State of
16 Nebraska. Nothing in this section shall be construed to prevent the
17 preemptory suspension or immediate removal from duty of an officer
18 by the appropriate authority, pending the hearing authorized by
19 this section, in cases of gross misconduct, neglect of duty, or
20 disobedience of orders.

21 (c) This subsection does not apply to a police officer
22 during his or her probationary period.

23 ~~(3)~~ (2) The village board of trustees shall also appoint
24 a board of health consisting of three members: The chairperson of
25 the village board, who shall be chairperson, and two other members.
26 One member shall be a physician or health care provider, if one
27 can be found who is willing to serve. Such physician or health

1 care provider, if appointed, shall be the board's medical advisor.
2 If the village board of trustees has appointed a marshal or chief
3 of police, the marshal or chief of police may be appointed to the
4 board and serve as secretary and quarantine officer. A majority of
5 the board of health shall constitute a quorum and shall enact rules
6 and regulations, which shall have the force and effect of law,
7 to safeguard the health of the people of such village and prevent
8 nuisances and unsanitary conditions. The board of health shall
9 enforce the same and provide fines and punishments for violations.
10 The appointees shall hold office for one year unless removed by the
11 chairperson of the village board with the advice and consent of the
12 trustees.

13 Sec. 3. Section 23-1734, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 23-1734 ~~(1)~~ (1)(a) Any deputy sheriff may be removed,
16 suspended with or without pay, or reduced in either rank or
17 grade or both rank and grade by the sheriff, after appointment or
18 promotion is complete, by an order in writing, stating specifically
19 the reasons therefor. Such order shall be filed with the sheriff's
20 office merit commission and a copy thereof shall be furnished
21 to the person so removed, suspended, or reduced. Any person so
22 removed, suspended with or without pay, or reduced in either
23 rank or grade or both rank and grade may, within ten days after
24 presentation to him or her of the order of removal, suspension
25 with or without pay, or reduction, appeal to the commission from
26 such order. The commission shall, within two weeks ~~from~~ after the
27 filing of such appeal, hold a hearing thereon, and thereupon fully

1 hear and determine the matter, and either affirm, modify, or revoke
2 such order. The appellant shall be entitled to appear personally,
3 produce evidence, and have counsel or other representation and
4 a public hearing. The finding and decision of the commission
5 shall be certified to the sheriff and shall forthwith be enforced
6 and followed, but under no condition shall the employee who has
7 appealed to the commission be permanently removed, suspended with
8 or without pay, or reduced in rank until such finding and decision
9 of the commission is so certified to the sheriff.

10 (b) This subsection does not apply to a deputy sheriff
11 during his or her probationary period.

12 (2) Any deputy sheriff may grieve a violation of an
13 employment contract, a personnel rule, a state or local law, or
14 a written departmental policy or procedure to the commission.
15 The commission shall hear the grievance at the next regularly
16 scheduled meeting, or the commission may, at its discretion, set
17 a special meeting to hear the grievance. If the deputy sheriff
18 is subject to a labor agreement, all applicable procedures in the
19 agreement shall be followed prior to the matter being heard by the
20 commission. In all other cases, the matter shall be grieved, in
21 writing, to the commission within fifteen calendar days after the
22 date the deputy sheriff became aware of the occurrence giving rise
23 to the grievance. After hearing or reviewing the grievance, the
24 commission shall issue a written order either affirming or denying
25 the grievance. Such order shall be delivered to the parties to
26 the grievance or their counsel or other representative within seven
27 calendar days after the date of the hearing or the submission of

1 the written grievance.

2 Sec. 4. After an applicant is hired by any municipality
3 or county as a peace officer, no employer may require the peace
4 officer to produce or disclose the peace officer's personal
5 financial records, except pursuant to a valid search warrant
6 or subpoena.

7 Sec. 5. No employing or investigating agency or any
8 governmental unit of any municipality or county shall publicly
9 release a photograph of a peace officer who is the subject of an
10 investigation without the written permission of the peace officer,
11 except that the agency or unit may display a photograph of a peace
12 officer to a prospective witness as part of an investigation and
13 the agency or unit may provide a photograph of a peace officer to
14 the investigating individual to display to a prospective witness as
15 part of the investigation.

16 Sec. 6. No disciplinary action by any municipality or
17 county may be included in a peace officer's personnel record
18 unless such disciplinary action has been reduced to writing and
19 the peace officer has been given a copy, and no correspondence may
20 be included in a peace officer's personnel record unless the peace
21 officer has been given a copy of the correspondence. The peace
22 officer shall sign a written acknowledgement of receipt for any
23 copy of a disciplinary action.

24 Sec. 7. No peace officer of any municipality or county
25 may be discharged, subject to disciplinary action, or threatened
26 with discharge or disciplinary action as retaliation for or solely
27 by reason of the peace officer's exercise of his or her rights

1 provided in section 17-107, 17-208, or 23-1734 or sections 4 to 8
2 of this act.

3 Sec. 8. (1) Except as otherwise provided in a collective
4 bargaining agreement, Chapter 19, article 18, or Chapter 23,
5 article 17, any city of the first class and all county sheriffs
6 shall adopt rules and regulations governing the removal, demotion,
7 or suspension with or without pay of any peace officer, including
8 the chief of police. Such rules and regulations shall include: (a)
9 Provisions for giving notice and a copy of the written accusation
10 to the peace officer; (b) the peace officer's right to have an
11 attorney or representative retained by the peace officer present
12 with him or her at all hearings or proceedings regarding the
13 written accusation; (c) the right of the peace officer or his
14 or her attorney or representative retained by the peace officer
15 to be heard and present evidence; (d) the right of the peace
16 officer as well as the individual imposing the action or their
17 respective attorneys or representatives to record all hearings or
18 proceedings regarding the written accusation; and (e) a procedure
19 for making application for an appeal. Nothing in this section shall
20 be construed to prevent the preemptory suspension or immediate
21 removal from duty of an officer by the appropriate authority,
22 pending the hearing authorized by this section, in cases of gross
23 misconduct, neglect of duty, or disobedience of orders.

24 (2) This section does not apply to a peace officer during
25 his or her probationary period.

26 Sec. 9. Original sections 17-107, 17-208, and 23-1734,
27 Reissue Revised Statutes of Nebraska, are repealed.