

SUMMARY: Revises procedure for certification of applicants eligible for County employment and revises appeal procedure for certain persons separated from County employment.

BILL NO. 662

ORDINANCE NO. 491

AN ORDINANCE AMENDING "AN ORDINANCE ESTABLISHING A MERIT PERSONNEL SYSTEM FOR WASHOE COUNTY EMPLOYEES; PROVIDING FOR A CLASSIFICATION PLAN AND COMPENSATION PLAN; REQUIRING EXAMINATIONS OF PROSPECTIVE EMPLOYEES; PROVIDING FOR ELIGIBLE LISTS AND CERTIFICATION OF SUCH PROSPECTIVE EMPLOYEES; SPECIFYING APPOINTMENT PROCEDURES; PROVIDING FOR PROBATIONARY PERIODS AND MAINTENANCE OF PERSONNEL RECORDS; REGULATING ATTENDANCE AND LEAVES OF ABSENCE; PROVIDING FOR EMPLOYEE-MANAGEMENT RELATIONS; REQUIRING EVALUATION OF PERFORMANCE OF EMPLOYEES; PROVIDING FOR TRAINING; SPECIFYING PROCEDURES FOR DISCIPLINARY AND CORRECTIONAL ACTIONS, SEPARATIONS, AND APPEALS AND HEARINGS; PROVIDING PROHIBITIONS AND PENALTIES; AMENDING THE TITLES OF AND AMENDING WASHOE COUNTY ORDINANCE NUMBERS 117 AND 182, RELATING TO VACATION TIMES FOR COUNTY CLERK'S EMPLOYEES AND FOR EMPLOYEES IN THE OFFICE OF THE COMMISSIONER OF CIVIL MARRIAGES AND MARRIAGE LICENSE BUREAU TO CONFORM TO THE PROVISIONS OF THIS ORDINANCE; REPEALING COUNTY ORDINANCE NUMBERS 105 AND 127, RELATING TO COUNTY EMPLOYEES' BENEFITS, PAY PLAN AND POSITION CLASSIFICATION MANUAL; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO" BY REVISING THE PROCEDURE FOR CERTIFICATION OF APPLICANTS FOR COUNTY EMPLOYMENT AND REVISING THE APPEAL PROCEDURE FOR PERSONS SEPARATED FROM COUNTY EMPLOYMENT.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DO ORDAIN:

SECTION 1. Section 84 of Washoe County Ordinance No. 213 is hereby amended to read as follows:

SECTION 84. Certification of names.

1. In response to requests for certification from appointing authorities, the Personnel Department shall certify the names, if any, of eligibles from current eligible lists for the class or position to be filled. Certification shall be made in the order of standing on the lists. If there are fewer than ten names on a list, consideration may be given to certification from other appropriate lists as determined by the Personnel Department. Such names from other lists shall follow those certified (if any) from the original eligibility list for a total of ten names.
2. The appointing authority may request selective certification for a particular position if normal certification described in Subsection 1 does not provide candidates qualified to perform duties of the position satisfactorily. Where selective certification is necessary, the appointing authority shall furnish in writing those specialized requirements peculiar to the position and his reasons therefor. If the Personnel Department, after investigation,

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determines that the facts and reasons justify such selection, the Personnel Department may certify the highest ranking eligibles who possess the special qualifications. Determination of special qualifications may require circularization of eligibles before certification can be made. Certification of eligibles of only one sex shall not be made unless there is clear evidence that efficient performance of duties assigned could be performed only by the sex specified. Authorization for selective certification shall be made on an individual basis and subsequently reported to the Personnel Committee at its next regular meeting.

3. Upon receipt of an appointing authority's estimated unskilled and semiskilled labor requirements, the Personnel Department shall certify eligible applicants to meet employment requirements.
4. For each vacant position in a class, the Personnel Department shall certify the names of all eligibles whose scores rank them within the top three whole number scores for that class, provided that no less than five names may be certified for each vacancy regardless of score. For those examinations conducted on a County-wide, promotional-open competitive basis, in addition to the top three whole number scores being certified from the promotional lists, all open competitive candidates who achieved a higher score than the lowest promotional candidate certified shall also be certified for the vacancy.
5. If less than ten eligibles are available for appointment, the appointing authority may either make an appointment from among the remaining eligibles or make a provisional appointment upon approval by the Personnel Department.
6. The name of an eligible shall not be certified more than three times to the same appointing authority from the same eligible list, except at the request of the appointing authority. Certification to other than full-time permanent positions shall not be counted as one of such certifications.

SECTION 2. Article XIII of Washoe County Ordinance No. 213 is hereby amended to read as follows:

XIII. SEPARATIONS

SECTION 137. Resignation.

An employee may resign by notifying his appointing authority in writing of the reason therefore and the effective date thereof. Failure to give at least 2 weeks' notice constitutes cause for denial of future employment with the County. The appointing authority shall report the resignation on the prescribed action form. The written resignation of the employee shall be attached to the form or the employee shall sign

the action form stating the specific reason for resigning and certifying that the resignation is of his own free will. No updated resignation may be accepted.

SECTION 138. Contents of action form; review, recommendations, appeal.

1. The action form on which an employee resigns shall contain a statement of all appeal rights of a classified employee and the fact that the employee is relinquishing all appeal rights by resigning. The form shall also contain a statement that a classified employee may only appeal the resignation if he alleges that the resignation was obtained against his will. Such an appeal must be received by the Personnel Department within 5 working days of the date of the resignation.
2. After review of the facts presented by the classified employee and the employer, the Personnel Department may make its recommendation. If the employee is not satisfied with that recommendation, he may appeal the matter to the Employee-Management Committee and finally to the Personnel Committee if he is still not satisfied.

SECTION 139. Voluntary demotion.

An employee who becomes physically or mentally incapable of performing the duties of his position, or for personal reasons, may request demotion to a position in a lower class. Such demotion may be permitted upon approval of the appointing authority and after such investigation as the Personnel Department deems necessary.

SECTION 140. Layoff: Formula.

Whenever it becomes necessary for classified employees in a County department to be laid off because of lack of work or lack of funds, the following formula shall apply:

1. The department head shall determine in what division of his department the reduction shall occur. A division is defined as a clearly established first sub-unit of a department which has been determined to be a division by departmental management and the Personnel Department. Each division chief normally reports directly to the department head or his deputy. If there are no divisions in the department, the layoff formula for a division applies to the entire department.
2. The department head shall determine in what class series and at what level reductions in staff will have the least detrimental effect on department operations and shall specify layoff accordingly. A "class series," for purposes of layoff, is defined as a normal line of progression from trainee, entry or preparatory levels

to supervisory or administrative levels within a job specialty. The minimum qualifications, tests for fitness and the duties and responsibilities are similar but different in level. "Class series" includes all positions which an employee has previously held in county service, provided that such positions are reasonably related to his present position and the employee is still qualified to hold the former position.

3. Within the division and within the class series selected and at the specified level, all non-permanent employees of the division shall be laid off before any permanent employees and in the following order: Temporary, provisional and probationary. An employee who has attained permanent status but is serving a new probationary period because of a promotion is grouped with permanent employees for layoff purposes. If an employee has been employed in a class series for a period of time equivalent to the minimum time required to complete a probationary period, but because of promotions within that class series has never completed a probationary period, he shall, for layoff purposes, be considered a permanent employee.
4. If additional reductions are necessary, permanent employees shall be laid off based on the following procedures:
 - (a) A combination of performance evaluation and seniority shall be utilized.
 - (b) One point shall be allowed for each complete month of continuous County service in the class of the layoff or in unclassified positions that, on the computation date, have the same or a higher maximum salary.
 - (c) Three-fourths of one point shall be allowed for each complete month of full-time, continuous County service in all other classes below the layoff class.
 - (d) In addition, each employee's last three performance reports will be considered based on the following: Twelve points will be subtracted for each "below standard" report. Performance reports will only be considered up to 30 days prior to the notification of layoff, which is 60 days before the actual layoff.
 - (e) Employees with the lowest total points shall be laid off first, in numerical order from low to high.

SECTION 141. Layoff: Returnees from military service. Employees returning from a period of active military service are entitled to seniority points as if they had been continuously employed by the County. If such an employee had not completed his probationary period prior to entry into military service, he must complete it upon return before acquiring permanent status. Such an employee must be rehired to his

former position or a similar position if his former position has been abolished. There is no length of time specified as to the duration of the rehire; but he may not be rehired to a position that has already been designated as a layoff category. That is, he must not be rehired and immediately terminated. However, if at some time after rehire his position, in the normal course of events, is properly designated as a layoff class, he may be terminated. There is no specified time limit for which such an employee must be retained after his rehire, but in order for him to be terminated, his position must be properly designated as being in a layoff class at some point in time after his rehire.

SECTION 142. (Repealed by Bill No. 438, Ordinance No. 275, Item 75-1420, effective July 31, 1975)

SECTION 143. Layoff: Demotions; transfers.

1. In lieu of being laid off, an employee may elect temporary demotion to any class with a lower maximum salary within the same class series in which the layoff is occurring within the division.
2. Those employees laid off shall have employment rights at a lower level within the same class series within the division, determined by the point totals. The person being bumped reestablishes the layoff class for the purpose of points toward continued employment.
3. A department may transfer employees to fill vacancies rather than use a reemployment list provided that the transfer is to a position within the same series or if the transfer does not adversely affect other employees. If, for example, a person in a layoff class is qualified for a totally unrelated position in another division, he may be transferred there in lieu of termination but only if such transfer does not result in other employees being bumped. If such a transfer adversely affects other employees, the employee must be terminated, placed on a reemployment list and rehired if a position is available.

SECTION 144. Layoff: Written notice. All career employees to be laid off shall be given written notice of the layoff at least 30 calendar days before the effective date thereof. A copy of the layoff computations as well as a copy of the notice of layoff to the employee shall be sent to the Personnel Department for approval.

SECTION 145. Layoff: Rehire; preference for employees electing temporary demotion; status; dispositions of accrued sick leave.

1. The names of permanent employees who have elected temporary demotion pursuant to the provisions of section 143 shall be placed first upon the rehire list for the class of position involved, in chronological order of temporary demotion, within the department wherein the

employees elected temporary demotion. Those employees shall be given preference in rehiring. Each person on such a list shall retain unlimited eligibility for appointment therefrom.

2. The names of permanent employees laid off shall be placed upon the rehire list within the department from which laid off, for the class of position involved in the layoff, in reverse order of termination after the names of permanent employees who have elected temporary demotion. Each person on such a list shall retain eligibility for appointment therefrom for a period of 1 year from the date his name was placed on the list. A permanent employee who had been laid off and is being rehired in the same division shall have permanent status restored.
3. Employees who are rehired by the County within 1 calendar year after they are laid off are entitled to reinstatement of accrued and unused sick leave remaining to their credit at the time of their layoff.

SECTION 3. Article XIV of Washoe County Ordinance No. 213 is hereby amended to read as follows:

XIV. DISCIPLINARY AND CORRECTIONAL ACTIONS

SECTION 146. Warning and reprimand. Whenever an employee's performance falls below standard or, for other just cause, there is a lapse in his performance, the employee's supervisor shall inform the employee promptly and specifically of such lapse. If appropriate and justified, and following a discussion of the matter, a reasonable period of time for improvement or correction may be allowed before initiating disciplinary action. In situations where an oral warning has not resulted in a correction of the condition or where more severe initial action is warranted, a written reprimand shall be sent to the employee and a copy placed in the employee's personnel folder in the department and in the Personnel Department.

SECTION 147. Suspension. If the written reprimand is not effective, or in those cases where the seriousness of the offense or condition warrants it, an employee may be suspended without pay by his appointing authority for a period of not to exceed 30 calendar days for just cause.

SECTION 148. Demotion and dismissal. When other forms of disciplinary or correctional action have proved ineffective or when the seriousness of the offense or condition warrants it, the appointing authority may demote or dismiss the employee for just cause.

SECTION 149. (Repealed by Bill No. 553, Ordinance No. 385, Item 78-1096, effective June 21, 1978)

SECTION 4. Article XV of Washoe County Ordinance No. 213 is hereby amended to read as follows:

XV. APPEALS AND HEARINGS

SECTION 150. Procedures for suspension and demotion.

An order by an appointing authority to suspend or demote a permanent, classified employee shall (1) be in writing, (2) state specifically the action to be taken, (3) state specifically the cause or causes for the action to be taken, (4) state the effective date of such action, (5) state that the employee has (7) calendar days within which to appeal the action, (6) be served on the employee, either personally or by posting by certified mail no later than 24 hours after the effective date of the action and (7) be filed with the Personnel Director.

SECTION 151. Discharge - Notice of Proposed Action.

Before taking action to discharge an employee having permanent status in the classified service, the appointing authority shall serve on the employee, either personally or by posting by certified mail, a Notice of Proposed Action which shall contain the following:

1. A statement of the action proposed to be taken.
2. A statement of the charges upon which the action is based.
3. A statement that the employee has 7 calendar days to respond to the appointing authority either orally or in writing.

SECTION 152. Immediate suspension pending discharge.

1. An appointing authority may immediately suspend an employee without pay, pending discharge, for:
 - (a) Conduct which gives rise to a clear and present danger to public health and safety; or
 - (b) Gross misconduct which is seriously and substantially disruptive of department or County operations in relation to established policies, fellow employees or supervisors.
2. Notice of immediate suspension pending discharge shall comply with the provisions of Section 151 and be served on the employee either personally or by posting by certified mail within 24 hours of the effective time of suspension.

SECTION 153. Suspensions due to pending criminal charges.

An appointing authority, upon giving notice as provided in Section 151, may immediately suspend an em-

ployee against whom there is pending a criminal charge and which charge adversely and directly affects the County service or conflicts with continued employment, or is seriously and substantially disruptive of department or County operations. Pending criminal charges exist when an employee has been named a defendant in a criminal complaint or indictment filed in any court.

SECTION 154. Procedure for discharge.

In any action to discharge an employee having permanent status in a position in the classified service, after having complied with the applicable requirements set forth in Sections 151 or 152, the appointing authority may order the discharge of the employee. Such order shall (1) be in writing, (2) state specifically the cause or causes for the action, (3) state the effective date of such action which shall be no less than 7 calendar days from the date of issuance of the Notice of Proposed Action under Section 151, (4) state that the employee has 7 calendar days within which to appeal the action, (5) be served on the employee, either personally or by posting by certified mail, prior to the effective date of such discharge, and (6) be filed with the Personnel Director.

SECTION 155. Response to Notice of Proposed Action.

An employee who is served with a Notice of Proposed Action involving either an intent to discharge, an immediate suspension pending discharge or an immediate suspension resulting from a pending criminal charge has 7 calendar days from receipt of the notice to respond to the Appointing Authority either orally or in writing to refute the charges and/or to dissuade the Appointing Authority from taking the action.

SECTION 156. Appeal from discipline - selection of an arbitrator.

1. A permanent, classified employee who has been demoted, suspended or discharged may, within 7 calendar days of the effective date of the discipline imposed, appeal the action. The appeal shall be in writing and shall be filed with the Personnel Director.
2. Upon receipt of the appeal, the Personnel Director or his designee shall meet with the employee and the Appointing Authority in an attempt to select a mutually acceptable arbitrator. For cases involving demotion and suspension, the "Rules for Expedited Arbitration" of the American Arbitration Association apply. For cases involving discharge, the Personnel Director shall determine, based upon the complexity of the case, whether the "Rules for Expedited Arbitration" or the regular "Voluntary Labor Arbitration Rules" of the American Arbitration Association apply.

- 3. If an arbitrator cannot be agreed upon, and if the "Voluntary Labor Arbitration Rules" are to be followed, the Personnel Director shall submit a request to the American Arbitration Association for a list of arbitrators. Upon receipt of the list an arbitrator shall be selected by the Appointing Authority and the employee by alternately striking names, the employee striking first.

SECTION 157. Arbitration hearing, costs, decision.

The arbitration proceedings shall be governed by the applicable rules of the American Arbitration Association. The cost of the proceedings in cases of suspension of 10 working days or less shall be borne equally by the County and the employee. The cost of the proceedings in cases of suspensions in excess of 10 working days or demotions or discharges shall be borne by the County.

The arbitrator may determine whether the action taken was for just cause and, if not, what remedy would be appropriate under the circumstances. The arbitrator's decision shall be limited to either sustaining the discipline imposed, modifying the discipline imposed or restoring the employee to his status prior to the imposition of discipline including full restoration of all wages and benefits with no loss of rights. The arbitrator's decision shall be final and binding on the parties.

Appeals under this Article are limited to non-probationary, classified employees who are not otherwise covered by an appeal procedure under a collective bargaining agreement adopted pursuant to Chapter 288 of NRS.

Proposed on the 9th day of June, 1981.
 Proposed by Commissioner Ferrari
 Passed on the 16th day of June, 1981.

Vote:

Ayes: Commissioners: Farr, Ferrari, Brown, Underwood & Williams
 Nays: Commissioners: None
 Absent: Commissioners: None

Bill Farr
 Chairman of the Board

ATTEST:

Judi Bailey
 Clerk

This Ordinance shall be in force and effect from and after the 1st day of July, 1981.