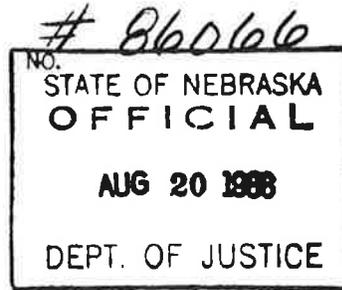


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: August 19, 1986

SUBJECT: Residence Requirements for County Attorneys

REQUESTED BY: John F. Hanson
Hayes County Attorney

WRITTEN BY: Robert M. Spire, Attorney General
William L. Howland, Assistant Attorney General

This is in response to your request concerning LB 812, approved by the Governor on April 18, 1986. You asked if, under that law, a candidate for county attorney in the November, 1986 election must be a resident of that county when the candidate files for the election. You also asked if a county attorney-elect, elected in November, 1986 is required to be a county resident at the time of taking office.

Before the passage of LB 812, no residency requirement existed for county attorneys. The only qualification, found in Neb.Rev.Stat. §23-1201.02 (Reissue 1983), was that one must have practiced law for at least two years prior to seeking the office of county attorney. The statement of intent and floor debate on the bill make clear that the purpose of LB 812 is to require residency of county attorneys. See Floor Debate (LB 812, March 6, 1986).

Residence was not a prerequisite to holding the office of county attorney prior to the passage of LB 812.

In addition, the bill does not become effective until after November, 1986 elections. Therefore, in answer to your questions, neither residence requirement applies to the seeking election to the office of county attorney in November, 1986. Such an individual would not be required to reside in the county in which he desired to hold office, either before or after the election.

L. Jay Bartel
John M. Boehm
Dale D. Brodkey
Martel J. Bundy
Janie C. Castaneda

Dale A. Comer
Laura L. Freppel
Lynne R. Fritz
Ruth Anne Evans
Yvonne E. Gates

Jill Gradwohl
Royce N. Harper
William L. Howland
Marilyn B. Hutchinson
Mel Kammerlohr

Sharon M. Lindgren
Charles E. Lowe
Steven J. Moeller
Harold I. Mosher
Bernard L. Packett

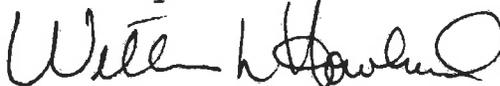
LeRoy W. Sievers
James H. Spears
Mark D. Starr
John R. Thompson
Susan M. Ugal
Linda L. Willard

John F. Hanson
Page -2-
August 19, 1986

After the November, 1986 elections, however, anyone elected to the office of county attorney must live in the county of the election or move into the county before taking office. This residence requirement will still be subject to exception if no qualified attorneys are willing to reside in the county.

Sincerely,

ROBERT M. SPIRE
Attorney General

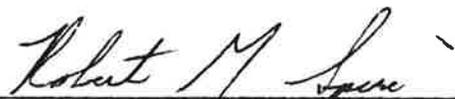


William L. Howland
Assistant Attorney General

WLH:GB:jem

1/14

APPROVED:



Attorney General