

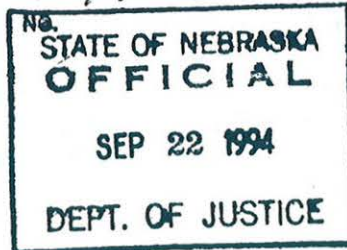


STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
 LINCOLN, NEBRASKA 68509-8920
 (402) 471-2682
 TDD (402) 471-2682
 CAPITOL FAX (402) 471-3297
 1235 K ST. FAX (402) 471-4725

DON STENBERG
 ATTORNEY GENERAL

#94075



L. STEVEN GRASZ
 SAM GRIMMINGER
 DEPUTY ATTORNEYS GENERAL

DATE: September 16, 1994

SUBJECT: Chairperson of the Police Standards Advisory Council as a Member of the Crime Commission

REQUESTED BY: Allen L. Curtis, Executive Director
 Nebraska Commission on Law Enforcement and Criminal Justice

WRITTEN BY: Don Stenberg, Attorney General
 Linda L. Willard, Assistant Attorney General

You have asked our opinion as to whether the Chairperson of the Police Standards Advisory Council (Council) needs to be specifically appointed to the Nebraska Commission on Law Enforcement and Criminal Justice (Commission) by the Governor in order to become a voting member of the Commission. It is our conclusion that the Chairperson need not be selected by and specifically appointed to the Commission by the Governor.

Neb. Rev. Stat. § 81-1417(3), as amended by LB 917, provides that, except for the Governor, the Attorney General, the Superintendent of Law Enforcement Public Safety, and the Director of Correctional Services, the members of the Commission shall be appointed by the Governor.

Neb. Rev. Stat. § 81-1417(1), as amended by LB 917 of the 1994 legislative session, provides that the Chairperson of the Council is to be a member of the Commission. Neb. Rev. Stat. § 81-1407(1), as amended by LB 917 of the 1994 legislative session, provides that members of the Police Standards Advisory Council shall be appointed by the Governor and, at subsection (2), that the Council shall select one of its members as Chairperson.

Since Neb. Rev. Stat. § 81-1417(3) provides that, with the exceptions noted in the statute, all members of the Commission must

David K. Arterburn
 L. Jay Bartel
 J. Kirk Brown
 David T. Bydalek
 Lisa L. Cabral
 Laurie Smith Camp
 Delores N. Coe-Barbee

Dale A. Comer
 James A. Elworth
 Lynne R. Fritz
 Royce N. Harper
 Mary L. Hewitt
 Lauren Lee Hill
 Jay C. Hinsley

Amy Hollenbeck
 William L. Howland
 Marilyn B. Hutchinson
 Kimberly A. Klein
 Donald A. Kohtz
 Joseph P. Loudon
 Charles E. Lowe

Lisa D. Martin-Price
 Lynn A. Melson
 Fredrick F. Neid
 Marie C. Pawol
 Kenneth W. Payne
 Paul N. Potadle
 James H. Spears

Mark D. Starr
 John R. Thompson
 Barry Waid
 Terri M. Weeks
 Alfonza Whitaker
 Melanie J. Whittamore-Mantzios
 Linda L. Willard

Allen L. Curtis
Page -2-
September 16, 1994

be appointed by the Governor, you question whether the Governor should appoint the Chairperson of the Council also.

When considering a series or collection of statutes pertaining to a certain subject matter which are in pari materia, they may be conjunctively considered and construed to determine the intent of the Legislature, so that different provisions of the act are consistent and sensible. See *AMISUB (St. Joseph Hospital), Inc. v. Board of County Commissioners of Douglas County*, 244 Neb. 657, 508 N.W.2d 827 (1993); *Arizona Motor Speedway, Inc. v. Hoppe*, 244 Neb. 316, 506 N.W.2d 699 (1993).


In the instant case, the statute provides that the Council shall select one of its members as Chairperson. The statute also provides that, except for certain named members of the Commission, all other members of the Commission shall be appointed by the Governor and that the Chairperson of the Council shall be a member of the Commission. By statute, all members of the Council are appointed by the Governor. Potentially any member of the Council, appointed by the Governor, could be selected by the Council as its Chairperson and subsequently serve on the Commission.

If the statutes involved are read in order to give affect to all parts, the Governor should appoint the members of the Council who then select their Chairperson. The Chairperson of the Council, having been appointed to the Council by the Governor and selected as Chairperson by members of the Council, would then serve on the Commission. Since the Governor appointed the members of the Council, the Chairperson selected by the Council who subsequently serves on the Commission would be an appointment of the Governor. It would create conflict within the law if the Governor were to select the Chairperson of the Council since Neb. Rev. Stat. § 81-1407(2) specifically provides that the gubernatorially selected members of the Council themselves are to select the Chairperson of the Council.

Therefore, it is our determination that the members of the Council shall select a Chairperson who would then serve on the Commission with all the duties and authority of a full Commission member.

Sincerely,

DON STENBERG
Attorney General


Linda L. Willard
Assistant Attorney General

28-17-14.op

Approved by:


Attorney General