

Sen. Judiciary & Law Enforc. - 1/2/76, Room 311

Senate File 1055
Judiciary and Law
Enforcement
Nielsen of Polk
Chair
Clark
Hennessy

FILED JAN 23 1976

SENATE FILE 1055

By COMMITTEE ON JUDICIARY

Passed Senate, Date 2-2-76 (7. 202) Passed House, Date 4-6-76 (1243)
Vote: Ayes 37 Nays 6 Vote: Ayes 79 Nays 3
Approved 4-19-76

A BILL FOR

1 An Act to legalize and validate the proceedings of the Board
2 of Supervisors of Jasper County, Iowa, in their appoint-
3 ment of Kenneth L. Whitehead, Jasper County Attorney, as
4 full-time Jasper County Attorney from part-time status,
5 on the 15th day of July, 1975, and raising his annual
6 salary from \$12,500.00 to \$22,500.00 effective the 1st day
7 of August, 1975, and declaring the validity of said actions
8 and authorizing the issuance and payment of said annual
9 salary of \$22,500.00 to said Jasper County Attorney com-
10 mencing on the 1st day of August, 1975, and declaring that
11 said contractual appointment of Kenneth L. Whitehead as
12 full-time Jasper County Attorney and the \$22,500.00 salary
13 commensurate with said change in status of the Jasper
14 County Attorney shall constitute a valid and binding
15 obligation upon Jasper County, Iowa.

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S-5045

1 Amend Senate File 1055 as follows:
2 1. Page 3, line 8, by inserting after the figure
3 "1975" the words ", shall, according to the provisions
4 of the Acts of the Sixty-sixth General Assembly,
5 1975 Session, chapter one hundred ninety-one (191),
6 become effective".

S-5045 FILED *Adopted 2-2-76*
JANUARY 30, 1976

BY GENE W. GLENN

1 WHEREAS, it appears from the records of the Jasper County
2 Board of Supervisors that on July 15, 1975, unanimous action
3 was taken to appoint the elected Jasper County Attorney,
4 Kenneth L. Whitehead, a full-time County Attorney from his
5 prior part-time status and to raise his annual salary from
6 \$12,500.00 to \$22,500.00; and

7 WHEREAS, it appears that on June 30, 1975, H.F. 802 was
8 approved and became law on July 1, 1975, without publication,
9 providing that no increase be made in certain elected county
10 officers' salaries including the County Attorneys', as they
11 existed on June 30, 1975, except for a maximum of \$1,500.00,
12 if said increase or any part thereof was approved by the Board
13 of Supervisors; and

14 WHEREAS, the Jasper County Board of Supervisors, on July
15 1, 1975, offered said full-time County Attorney position to
16 Kenneth L. Whitehead, and said Kenneth L. Whitehead, who
17 was a partner in the law firm of Salisbury, Fleck and
18 Whitehead, requested one week to consider said offer due to
19 its personal and professional implications; and

20 WHEREAS, the Jasper County Board of Supervisors unanimously
21 determined that a full-time County Attorney and County legal
22 advisor was necessary due to the amount of criminal and civil
23 cases pending in Jasper County, especially civil lawsuits
24 against Jasper County Officers and Jasper County itself, for
25 which private legal counsel would have to be retained due
26 to the part-time status of the Jasper County Attorney; and

27 WHEREAS, the Jasper County Attorney agreed to give up the
28 private practice of law as of August 1, 1975, withdraw from
29 the aforementioned law firm, and devote his full energies
30 and abilities in the representation of Jasper County, Iowa,
31 and has done so, provided he be paid, as of August 1, 1975,
32 based on an annual salary of \$22,500.00, and that the County
33 of Jasper has so paid the Jasper County Attorney based on
34 the aforementioned contractual agreement; and

35 WHEREAS, said H.F. 802 was not published but because

1 effective on July 1, 1975, and said Jasper County Board of
2 Supervisors and Jasper County Attorney had no knowledge of
3 the effect of this law until long after said contract was
4 in effect; and

5 WHEREAS, the intent of the General Assembly in passing
6 H.F. 802 was to return to the counties the power to set the
7 salaries of their elected officials and the aforementioned
8 action by the Jasper County Board of Supervisors was consistent
9 with the law prior to the passage of H.F. 802 and an exercise
10 of a local body realizing the needs of the political
11 subdivision and responding to said needs; and

12 WHEREAS, the Jasper County Compensation Board met pursuant
13 to H.F. 802 and as a result of said meeting and deliberations,
14 recommended in its proposed salary schedule for fiscal year
15 1976-1977, that the salary of the Jasper County Attorney be
16 increased from \$22,500.00 to \$23,000.00, beginning July 1,
17 1976, and the Board of Supervisors unanimously approved said
18 recommendations, after public hearing on December 3, 1975,
19 by resolution on December 16, 1975; and

20 WHEREAS, doubts have arisen concerning the validity and
21 legal sufficiency of the acts and proceedings of such Board
22 of Supervisors in appointing Kenneth L. Whitehead as full-
23 time County Attorney and commensurately raising the County
24 Attorney's salary, as of August 1, 1975, from \$12,500.00 to
25 \$22,500.00, and authorizing the issuance of County payroll
26 warrants from August 1, 1975, forward to pay said increased
27 salary, and it is deemed advisable to put such doubts and
28 all other that might arise concerning same forever at rest,
29 NOW THEREFORE,

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

31 Section 1. That all proceedings and actions heretofore
32 taken by the Board of Supervisors of Jasper County, Iowa,
33 preliminarily to and in connection with the appointment of
34 Kenneth L. Whitehead, Jasper County Attorney, from a part-
35 time status to a full-time status as of August 1, 1975, with

1 a salary of \$22,500.00 from and after said date, by resolution
2 adopted on the 15th day of July, 1975, are hereby legalized,
3 validated and confirmed and the aforesaid contractual
4 appointment shall constitute a valid and binding obligation
5 of Jasper County, Iowa, according to its terms, until July
6 1, 1976, when the salary recommended by the Jasper County
7 Compensation Board and approved by the Jasper County Board
8 of Supervisors on the 16th day of December, 1975.

9 Sec. 2. This Act, being deemed of immediate importance,
10 shall take effect and be in force from and after its publica-
11 tion in The Newton Daily News, a newspaper published in Newton,
12 Iowa, and in the Waterloo Daily Courier, a newspaper published
13 in Waterloo, Iowa, without expense to the State.

14 EXPLANATION

15 This Act is necessary to put to rest doubts which have
16 been raised concerning the validity of the contractual
17 appointment of Kenneth L. Whitehead as full-time Jasper County
18 Attorney with a commensurate salary increase, raised because
19 the effective date of the appointment, August 1, 1975, was
20 after the effective date of H.F. 802.

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*Proof of Publication 1/27/76 (p. 145)
Praxis City Iowa 1/7/76*

Certification of Publication 5/27/76 (p. 2580)

LSB 3462
sg/rh/31

SENATE FILE 1055

AN ACT

TO LEGALIZE AND VALIDATE THE PROCEEDINGS OF THE BOARD OF SUPERVISORS OF JASPER COUNTY, IOWA, IN THEIR APPOINTMENT OF KENNETH L. WHITEHEAD, JASPER COUNTY ATTORNEY, AS FULL-TIME JASPER COUNTY ATTORNEY FROM PART-TIME STATUS, ON THE 15TH DAY OF JULY, 1975, AND RAISING HIS ANNUAL SALARY FROM \$12,500.00 TO \$22,500.00 EFFECTIVE THE 1ST DAY OF AUGUST, 1975, AND DECLARING THE VALIDITY OF SAID ACTIONS AND AUTHORIZING THE ISSUANCE AND PAYMENT OF SAID ANNUAL SALARY OF \$22,500.00 TO SAID JASPER COUNTY ATTORNEY COMMENCING ON THE 1ST DAY OF AUGUST, 1975, AND DECLARING THAT SAID CONTRACTUAL APPOINTMENT OF KENNETH L. WHITEHEAD AS FULL-TIME JASPER COUNTY ATTORNEY AND THE \$22,500.00 SALARY COMMENSURATE WITH SAID CHANGE IN STATUS OF THE JASPER COUNTY ATTORNEY SHALL CONSTITUTE A VALID AND BINDING OBLIGATION UPON JASPER COUNTY, IOWA.

WHEREAS, it appears from the records of the Jasper County Board of Supervisors that on July 15, 1975, unanimous action was taken to appoint the elected Jasper County Attorney, Kenneth L. Whitehead, a full-time County Attorney from his prior part-time status and to raise his annual salary from \$12,500.00 to \$22,500.00; and

WHEREAS, it appears that on June 30, 1975, H.F. 802 was approved and became law on July 1, 1975, without publication, providing that no increase be made in certain elected county officers' salaries including the County Attorneys', as they existed on June 30, 1975, except for a maximum of \$1,500.00, if said increase or any part thereof was approved by the Board of Supervisors; and

WHEREAS, the Jasper County Board of Supervisors, on July 1, 1975, offered said full-time County Attorney position to Kenneth L. Whitehead, and said Kenneth L. Whitehead, who was a partner in the law firm of Salisbury, Fleck and Whitehead,

requested one week to consider said offer due to its personal and professional implications; and

WHEREAS, the Jasper County Board of Supervisors unanimously determined that a full-time County Attorney and County legal advisor was necessary due to the amount of criminal and civil cases pending in Jasper County, especially civil lawsuits against Jasper County Officers and Jasper County itself, for which private legal counsel would have to be retained due to the part-time status of the Jasper County Attorney; and

WHEREAS, the Jasper County Attorney agreed to give up the private practice of law as of August 1, 1975, withdraw from the aforementioned law firm, and devote his full energies and abilities in the representation of Jasper County, Iowa, and has done so, provided he be paid, as of August 1, 1975, based on an annual salary of \$22,500.00, and that the County of Jasper has so paid the Jasper County Attorney based on the aforementioned contractual agreement; and

WHEREAS, said H.F. 802 was not published but became effective on July 1, 1975, and said Jasper County Board of Supervisors and Jasper County Attorney had no knowledge of the effect of this law until long after said contract was in effect; and

WHEREAS, the intent of the General Assembly in passing H.F. 802 was to return to the counties the power to set the salaries of their elected officials and the aforementioned action by the Jasper County Board of Supervisors was consistent with the law prior to the passage of H.F. 802 and an exercise of a local body realizing the needs of the political subdivision and responding to said needs; and

WHEREAS, the Jasper County Compensation Board met pursuant to H.F. 802 and as a result of said meeting and deliberations, recommended in its proposed salary schedule for fiscal year 1976-1977, that the salary of the Jasper County Attorney be increased from \$22,500.00 to \$23,000.00, beginning July 1, 1976, and the Board of Supervisors unanimously approved said

recommendations, after public hearing on December 3, 1975, by resolution on December 16, 1975; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of the acts and proceedings of such Board of Supervisors in appointing Kenneth L. Whitehead as full-time County Attorney and commensurately raising the County Attorney's salary, as of August 1, 1975, from \$12,500.00 to \$22,500.00, and authorizing the issuance of County payroll warrants from August 1, 1975, forward to pay said increased salary, and it is deemed advisable to put such doubts and all other that might arise concerning same forever at rest, NOW THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. That all proceedings and actions heretofore taken by the Board of Supervisors of Jasper County, Iowa, preliminarily to and in connection with the appointment of Kenneth L. Whitehead, Jasper County Attorney, from a part-time status to a full-time status as of August 1, 1975, with a salary of \$22,500.00 from and after said date, by resolution adopted on the 15th day of July, 1975, are hereby legalized, validated and confirmed and the aforesaid contractual appointment shall constitute a valid and binding obligation of Jasper County, Iowa, according to its terms, until July 1, 1976, when the salary recommended by the Jasper County Compensation Board and approved by the Jasper County Board of Supervisors on the 16th day of December, 1975, shall, according to the provisions of the Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred ninety-one (191), become effective.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Newton Daily News, a newspaper published in Newton,

Iowa, and in the Waterloo Daily Courier, a newspaper published in Waterloo, Iowa, without expense to the state.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 1055, Sixty-sixth General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved April 19, 1976

ROBERT D. RAY
Governor