

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 72**

FINAL READING

Introduced by Schumacher, 22.

Read first time January 05, 2017

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to political subdivisions; to amend section
- 2 13-402, Reissue Revised Statutes of Nebraska; to change provisions
- 3 relating to cities and villages filing for bankruptcy; to harmonize
- 4 provisions; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-402, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 13-402 (1) Any county, city, village, school district, agency of  
4 the state government, drainage district, sanitary and improvement  
5 district, or other political subdivision of the State of Nebraska is  
6 hereby permitted, authorized, and given the power to file a petition in  
7 the United States Bankruptcy Court under 11 U.S.C. chapter 9 and any acts  
8 amendatory thereto and supplementary thereof and to incur and pay the  
9 expenses incident to the consummation of a plan of adjustment of debts as  
10 contemplated by such petition.

11 (2)(a) The authority and power to file a petition provided for in  
12 subsection (1) of this section shall not apply to any city or village  
13 that, at the time of its governing body authorizing the filing of such  
14 petition, has its defined benefit retirement plan, if any, with a funded  
15 ratio of the actuarial value of assets less than fifty-one and sixty-five  
16 hundredths percent for any such petition to be filed during the period  
17 between January 1, 2020, and January 1, 2023; fifty-four and forty-one  
18 hundredths percent for any such petition to be filed during the period  
19 between January 1, 2023, and January 1, 2026; fifty-eight and twenty-one  
20 hundredths percent for any such petition to be filed during the period  
21 between January 1, 2026, and January 1, 2029; sixty-three and forty-one  
22 hundredths percent for any such petition to be filed during the period  
23 between January 1, 2029, and January 1, 2032; seventy and seventy-one  
24 hundredths percent for any such petition to be filed during the period  
25 between January 1, 2032, and January 1, 2035; eighty and sixty-one  
26 hundredths percent for any such petition to be filed during the period  
27 between January 1, 2035, and January 1, 2038; and ninety percent  
28 thereafter.

29 (b) Within ninety days prior to taking action authorizing the filing  
30 of such petition, the governing body of any city or village that has a  
31 defined benefit retirement plan shall conduct an actuarial valuation to

1 determine the funded ratio of such defined benefit retirement plan. Such  
2 determination shall be prima facie evidence in establishing the authority  
3 of the city or village to exercise authority under this section.

4 (c)(i) A city or village that does not have a defined benefit  
5 retirement plan may by ordinance declare and affirm that its general  
6 obligation bonds, whether existing before, after, or at the time of such  
7 ordinance, shall, unless otherwise provided in the related authorizing  
8 measure, be equally and ratably secured by a statutory lien on all ad  
9 valorem taxes levied and to be levied from year to year by such city or  
10 village and on all proceeds derived therefrom. The statutory lien  
11 authorized hereunder shall be deemed to attach and be continuously  
12 perfected from the time the bonds are issued without further action or  
13 authorization by the city or village. The statutory lien is valid and  
14 binding from the time the bonds are issued without any physical delivery  
15 thereof or further act required. No filing need be made under the Uniform  
16 Commercial Code or otherwise to perfect the statutory lien on any ad  
17 valorem taxes or proceeds derived therefrom in favor of any general  
18 obligation bonds. Bonds so secured shall have a first priority lien on  
19 such ad valorem taxes so levied and on all proceeds derived therefrom and  
20 shall have priority against all parties having claims of contract or tort  
21 or otherwise against the city or village, whether or not the parties have  
22 notice thereof. The absence of such declaration or affirmation shall not  
23 reduce or degrade the priority or secured status of such bonds otherwise  
24 existing under law.

25 (ii) For purposes of this subdivision, statutory lien shall have the  
26 meaning given to that term under 11 U.S.C 101(53) of the federal  
27 Bankruptcy Reform Act of 1994, as it existed on the effective date of  
28 this act.

29 (d) An actuary performing actuarial valuations pursuant to this  
30 subsection shall be a member of the American Academy of Actuaries and  
31 shall meet the academy's qualification standards to render a statement of

1 actuarial opinion.

2           Sec. 2.   Original section 13-402, Reissue Revised Statutes of  
3 Nebraska, is repealed.