

LEGISLATIVE BILL 72

Approved by the Governor May 23, 2017

Introduced by Schumacher, 22.

A BILL FOR AN ACT relating to political subdivisions; to amend section 13-402, Reissue Revised Statutes of Nebraska; to change provisions relating to cities and villages filing for bankruptcy; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

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

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

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

(b) Within ninety days prior to taking action authorizing the filing of such petition, the governing body of any city or village that has a defined benefit retirement plan shall conduct an actuarial valuation to determine the funded ratio of such defined benefit retirement plan. Such determination shall be prima facie evidence in establishing the authority of the city or village to exercise authority under this section.

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

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

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

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