Ninety-Ninth Legislature - Second Session - 2006
Revised Committee Statement
LB 907

Hearing Date: January 17, 2006
Committee On: Urban Affairs

Introducer(s): (Price)
Title: Change provisions relating to outstanding obligations of annexed fire protection districts

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

7	Yes	Senators Friend, Connealy, Combs, Cornett, Janssen, Landis, Schimek
	No	
	Present, not voting	
	Absent	

Proponents:	**Representing:**
Ernest R. Peo III	City of Lincoln
Jerry Stilmock	NE State Volunteer Firefighters Association

Opponents:	**Representing:**
None	

Neutral:	**Representing:**
None	

Summary of purpose and/or changes: This legislation proposes to amend Sec. 35-514 (governing municipal annexation of fire protection district testimony) to change the liability and obligations of municipalities to fire protection districts following the annexation of a portion of the fire protection district. It is applicable to annexation by any class of city or village.

A version of this proposal first appeared in the 2004 legislative session as LB 1052 (also introduced by Sen. Price).

Current law provided then (as it does now) that an annexing municipality is responsible to pay the fire protection district (which is losing territory due to the annexation) that portion of "all outstanding obligations" of the district that would constitute an obligation of the area annexed.

The legislation in LB 1052 proposed to change that in several ways.

First, the completion of the annexation would not be contingent upon the payment: the obligation to pay remains, but the annexation proceeds according to law notwithstanding that the payment may not have been received.

Second, the payment by the municipality is restricted to its "pro rata share of the net bonded indebtedness" of the fire protection district. This is more restricted language than the current "obligations" which could include other long- or short-term contracts (lease agreements, service agreements, "pensions, " etc.).

Finally, language was added to make it clear that the responsibility for fire and rescue service to the annexed area devolves upon the municipality following the effective date of the annexation.

Following an Urban Affairs Committee hearing, the bill was advanced to general file with a committee amendment (AM3078). The committee amendments preserved the portions of the original bill which (a) made the annexation "complete" upon the date at which it would have otherwise been complete by general law notwithstanding that all obligations had not been paid and (b) which specified that the annexing city assumed the full responsibility for fire and rescue service following the effective date of the annexation.

However, those committee amendments struck the portion of the original bill which restricted the municipal obligation to the fire protection district to "it's pro rata share of the net bonded indebtedness." In place of that limited definition, the committee amendment expanded the financial obligation of the municipality to its proportionate share of the "assets, liabilities, maintenance, and other obligations of the district"as measured by the proportion of the valuation of the portion of the district annexed to the portion of the district remaining following the annexation.

Those committee amendments reflected a problem raised by the original bill which was not addressed by the new language: the internal reference in the unamended portion of section 35-514 (page 4, line 19) to section 31-766. This reference is problematic. The language indicates that the amended (and current) language governs, notwithstanding the provisions of section 31-766. Due to the potential conflict between the provisions of these statutes, it was deemed advisable to amend LB 1052 to harmonize the provisions of the two statutes (35-514 and 31-766). Thus the committee amendments reflected the intent of both statutes.

In other words, following the adoption of those committee amendment, the only substantive changes in law would be to make the annexation of the portion of the fire protection district effective and complete and establish the obligation of the annexing municipality to provide fire and rescue service as of the effective date of the annexation instead of at such time as the financial obligations of the city to the fire protection had been paid.

LB 907 proposes to enact a version of the committee amendments proposed to LB 1052. While this bill preserves the formulation (in essence) that provides the responsibility for the municipality to pay the proportionate share of the district's assets, liabilities, and obligations proportionate to the valuation of the area taken to the full district. Additionally, it removes language which would have delayed the effectiveness

of the annexation pending the payment of the obligations of the city to the first protection district.

However, LB 907 does not provide that upon annexation, the municipality is to immediately assume the responsibility for providing fire and rescue service in the annexed area.

Explanation of amendments, if any: The committee amendments basically delete the current provisions of the bill, substituting a revised version of the language adopted in 2004 by the Urban Affairs Committee when it advanced LB 1052 to general file (AM3078).

The amendment explicitly establishes that the municipality assumes responsibility on the effective date of the annexation for paying the portion of the outstanding obligations of the district attributable to the annexed area. This does not require immediate payment before the annexation is effective (this portion of the current statute (existing law) is stricken).

The amendment then requires the city and the district to undertake an accounting regarding a division of the assets, liabilities, maintenance, and other obligations of the district based upon the valuation of the portion of the district being annexed and the valuation of the portion of the district remaining after annexation. The city would be obligated to pay the district the difference between the value of the liabilities remaining after the division of the assets (if any balance owing remained). In essence, this is not "new" law. It merely incorporates into Sec. 35-514 the standard formula already existing and applicable to such situations as found in Sec. 31-766.

Additionally, the amendment requires that the district be provided with formal notice of a proposed annexation that would take district territory. Not less than ten days prior to the date of the public hearing on such an annexation ordinance, the clerk of the district shall receive notice of the hearing by certified mail.

Finally, the amendment makes it clear that the municipality assumes the responsibility for providing fire and rescue service to the annexed area as of the effective date of the annexation.

Explanation of amendments, if any:

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Senator Mike Friend, Chairperson