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 Original section 13-402, Reissue Revised Statutes of Nebraska, is repealed.