

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 935

Introduced by Bosn, 25.

Read first time January 09, 2026

Committee: Judiciary

1 A BILL FOR AN ACT relating to civil actions; to amend sections 25-824,
2 25-1802, and 25-1804, Reissue Revised Statutes of Nebraska; to
3 provide for awards of costs and attorney's fees in certain actions
4 involving political subdivisions; to define and redefine terms; to
5 transfer and harmonize provisions; and to repeal the original
6 sections.

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

1 **Section 1.** Section 25-824, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-824 (1) A pleading shall not be used against a party in any
4 criminal prosecution or action or proceeding for a penalty or forfeiture
5 as proof of a fact admitted or alleged in such pleading. If a pleading is
6 frivolous or made in bad faith, it may be stricken. The signature of a
7 party or of an attorney on a pleading constitutes a certificate by him or
8 her that he or she has read the pleading; that to the best of his or her
9 knowledge, information, and belief there is good ground for the filing of
10 the pleading; and that it is not interposed for delay.

11 (2) Except as provided in subsections (6) ~~(5)~~ and (7) ~~(6)~~ of this
12 section, in any civil action commenced or appealed in any court of record
13 in this state, the court shall award as part of its judgment and in
14 addition to any other costs otherwise assessed reasonable attorney's fees
15 and court costs against any attorney or party who has brought or defended
16 a civil action that alleges a claim or defense which a court determines
17 is frivolous or made in bad faith.

18 ~~(3) When a court determines reasonable attorney's fees or costs~~
19 ~~should be assessed, it shall allocate the payment of such fees or costs~~
20 ~~among the offending attorneys and parties as it determines most just and~~
21 ~~may charge such amount or portion thereof to any offending attorney or~~
22 ~~party.~~

23 (3) ~~(4)~~ The court shall assess attorney's fees and costs if, upon
24 the motion of any party or the court itself, the court finds that an
25 attorney or party brought or defended an action or any part of an action
26 that was frivolous or that the action or any part of the action was
27 interposed solely for delay or harassment. If the court finds that an
28 attorney or party unnecessarily expanded the proceedings by other
29 improper conduct, including, but not limited to, abuses of civil
30 discovery procedures, the court shall assess attorney's fees and costs.

31 (4)(a) For purposes of this subsection:

1 (i) Claim includes a claim, cross-claim, or counter-claim; and

2 (ii) Political subdivision means any village, city, county, school
3 district, public power district, community college, natural resources
4 district, or other unit of local government.

5 (b) It is the policy of the state to deter frivolous or harassing
6 litigation, especially when it involves frivolous claims or defenses
7 against a political subdivision that necessitate the wasteful expenditure
8 of scarce taxpayer resources.

9 (c) A political subdivision may request an award of costs and
10 attorney's fees as provided in this subsection if:

11 (i) The political subdivision is defendant against a claim that is
12 frivolous or intended primarily to harass the political subdivision or
13 its public officials; or

14 (ii) Another party asserts a defense against a claim of the
15 political subdivision and such defense is frivolous or intended primarily
16 to harass the political subdivision or its public officials.

17 (d) The political subdivision may make such request as a claim or a
18 motion. When a court has determined that judgment will be entered denying
19 a claim or defense against a political subdivision and the political
20 subdivision has filed a claim or motion under this subsection, the court
21 shall conduct a separate hearing as provided in subdivision (4)(e) of
22 this section. Such hearing shall be conducted before entering any order
23 of dismissal or other resolution.

24 (e) At such hearing the court shall determine whether the other
25 party's claim or defense was frivolous or intended primarily to harass
26 the political subdivision or its public officials. If the court
27 determines that a claim or defense was frivolous or intended primarily to
28 harass the political subdivision or its public officials, the party
29 asserting such claim or defense shall have the burden to rebut that
30 finding or show the claim was otherwise excused under subsection (6) or
31 (7) of this section. If such party fails to meet its burden, the court

1 shall award reasonable attorney's fees and other expenses to the
2 political subdivision. A court may award fees and expenses pursuant to
3 this subsection in addition to any compensation awarded in a judgment.

4 (5) When a court determines reasonable attorney's fees or costs
5 should be assessed, it shall allocate the payment of such fees or costs
6 among the offending attorneys and parties as the court determines most
7 just and may charge such amount or portion thereof to any offending
8 attorney or party.

9 (6) (5) No attorney's fees or costs shall be assessed if a claim or
10 defense was asserted by an attorney or party in a good faith attempt to
11 establish a new theory of law in this state or if, after filing suit, a
12 voluntary dismissal is filed as to any claim or action within a
13 reasonable time after the attorney or party filing the dismissal knew or
14 reasonably should have known that he or she would not prevail on such
15 claim or action.

16 (7) (6) No party who is appearing without an attorney shall be
17 assessed attorney's fees unless the court finds that the party clearly
18 knew or reasonably should have known that his or her action or defense or
19 any part of such action or defense was frivolous or made in bad faith,
20 except that this subsection shall not apply to any situation in which an
21 attorney licensed to practice law in the state is appearing without an
22 attorney, in which case he or she shall be held to the standards for
23 attorneys prescribed in this section.

24 **Sec. 2.** Section 25-1802, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 25-1802 For purposes of sections 25-1802 to 25-1807, unless the
27 context otherwise requires:

28 (1) Fees and other expenses means ~~shall mean~~ reasonable attorney's
29 fees and the reasonable expense of expert witnesses plus court costs, but
30 shall not include any portion of an attorney's fee or salary paid by a
31 unit of ~~local~~, state, or federal government in the case;

1 (2) Political subdivision means any village, city, county, school
2 district, public power district, community college, natural resources
3 district, or other unit of local government;

4 (3) ~~(2)~~ State means ~~shall mean~~ the State of Nebraska, a state
5 agency, or any official of the state acting in his or her official
6 capacity; and

7 (4) ~~(3)~~ State agency means ~~shall mean~~ any state constitutional
8 office, any state administrative department, or any state board or
9 commission established by an act of the Legislature.

10 **Sec. 3.** Section 25-1804, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 25-1804 (1) A party seeking an award for fees and other expenses
13 pursuant to sections 25-1802 to 25-1807 shall, not later than thirty days
14 after the entry of the final judgment in the action, submit to the court
15 an application which provides evidence of eligibility for an award
16 pursuant to such sections and which specifies the amount sought. If the
17 amount sought includes an attorney's fee or the fee for an expert
18 witness, the application shall include an itemized statement for each
19 such fee indicating the actual time expended in service to the applicant
20 and the rate at which the fees were computed.

21 (2) Notwithstanding any other provision of such sections, fees and
22 other expenses shall be awarded as provided in such sections only to
23 those prevailing parties who are:

24 (a) Natural persons; ~~or~~

25 (b) Political subdivisions; or

26 (c) ~~(b)~~ A sole proprietorship, partnership, limited liability
27 company, corporation, association, or public or private organization:

28 (i) That had an average daily employment of fifty persons or less
29 for the twelve months preceding the filing of such action; and

30 (ii) Whose gross receipts for the twelve-month period preceding the
31 filing of the action was two million dollars or less or whose average

1 gross receipts for the three twelve-month periods preceding the filing of
2 such appeal pursuant to the Administrative Procedure Act was two million
3 dollars or less, whichever amount is greater.

4 **Sec. 4.** Original sections 25-824, 25-1802, and 25-1804, Reissue
5 Revised Statutes of Nebraska, are repealed.