

LEGISLATIVE BILL 52

Approved by the Governor February 18, 1983

Introduced by Marsh, 29

AN ACT relating to cities of the primary class; to amend sections 15-841, 15-1202, 15-1203, and 15-1204, Reissue Revised Statutes of Nebraska, 1943, and section 15-840, Revised Statutes Supplement, 1982; to change provisions relating to claims against a city of the primary class; to provide for procedures to perfect an appeal to the district court; to provide duties for the city clerk; to provide time for filing the petition on appeal; to repeal the original sections, and also section 15-842, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 15-840, Revised Statutes Supplement, 1982, be amended to read as follows:

15-840. All liquidated and unliquidated claims and accounts payable against the city shall: (1) Be presented in writing; (2) state the name of the claimant and the amount of the claim; and (3) shall fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim. The finance director shall be responsible for the preauditing and approval of all claims and accounts payable, and no warrant in payment of any claim or account payable shall be drawn or paid without such approval. In order to maintain an action for a claim, other than a tort claim as defined in section 23-2402, it shall be necessary, as a condition precedent, that the claimant file such claim within one year of the accrual thereof, in the office of the city clerk, or other official whose duty it is to maintain the official records of a primary class city.

Sec. 2. That section 15-841, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-841. Any taxpayer of the city, after the allowance in whole or in part of any liquidated or unliquidated claim, required to be published, or the claimant, after the disallowance in whole or in part of any such claim, may appeal therefrom to the district court of

the county in which the city is situated in accordance with the procedures set forth in sections 15-1201 to 15-1205, by giving notice of such appeal to the city clerk within three days after such allowance or disallowance and filing with the city clerk within ten days after such decision; a bond in favor of the city, with good and sufficient sureties to be approved by such clerk, conditioned that the appellant shall prosecute such appeal to effect without unnecessary delay and pay all costs that may be adjudged against appellant. In an appeal by a taxpayer in case the claimant finally recovers judgment for as great a sum exclusive of interest as was allowed by the council, such appellant shall pay all costs of such appeal. In an appeal by a claimant in case claimant fails to recover as great a sum exclusive of interest as was allowed by the council, said such claimant shall pay all costs. The procedure shall follow the procedure of appeals from the county board to the district court. No warrant shall issue for the payment of any such claim until the appeal is finally determined. No appeal bond shall be required of the city by any court in case of appeal by the city, and judgment shall be stayed pending such appeal.

Sec. 3. That section 15-1202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1202. (1) The party appealing shall within thirty days from the date of the order or decision complained of:

(a) File file a notice of appeal with the city clerk specifying the parties taking the appeal and the order or decision appealed from, and shall serve a copy of the notice upon the city attorney; The party appealing shall also, at the time of filing notice of appeal, execute in the sum of two hundred dollars a bond with at least one good and sufficient surety, to be approved by the city clerk, conditioned that the appellant will prosecute such appeal to effect without unnecessary delays, and that if judgment be rendered against appellant on appeal the appellant will pay the costs thereof.

(b) Deposit with the city clerk a docket fee in the amount of the filing fee in district court for cases originally commenced in district court;

(c) Deposit with the city clerk a cash bond or undertaking with at least one good and sufficient surety approved by the city clerk, in the amount of two hundred dollars, on condition that the appellant will satisfy any judgment and costs that may be adjudged against him or her; and

(d) Deposit with the city clerk the fees for the preparation of a certified and complete transcript of the proceedings of the city relating to the order or decision appealed.

(2) Satisfaction of the requirements of subdivision (1)(a) of this section shall perfect the

appeal and give the district court jurisdiction of the matter appealed.

Sec. 4. That section 15-1203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1203. ~~It shall be the duty of~~ Upon perfection of the appeal, the city clerk, on payment to him or her of the costs of the transcript and the docket fee, to prepare shall transmit within fifteen days to the clerk of the district court the docket fee and a certified and complete transcript of the proceedings of the city relating to the order or decision appealed, which transcript shall be prepared within thirty days after the filing of the notice of appeal whereupon the clerk of the district court shall docket the appeal.

Sec. 5. That section 15-1204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-1204. The party appealing shall file a petition, ~~with the certified transcript,~~ within fifty thirty days from the order or decision appealed date the appeal is perfected.

Sec. 6. That original sections 15-841, 15-1202, 15-1203, and 15-1204, Reissue Revised Statutes of Nebraska, 1943, and section 15-840, Revised Statutes Supplement, 1982, and also section 15-842, Reissue Revised Statutes of Nebraska, 1943, are repealed.