

LEGISLATIVE BILL 1

Approved by the Governor February 15, 1991

Introduced by Executive Board: Labeledz, 5, Chairperson

AN ACT relating to justice of the peace courts; to amend sections 16-729, 23-137, 25-2210, 33-145, 46-562, 76-230, and 77-1607, Reissue Revised Statutes of Nebraska, 1943; to eliminate and replace references to such courts; to change certain appeal provisions; to change provisions relating to court costs and fees; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 16-729, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-729. The clerk, upon such appeal being taken, and being paid the proper fees therefor, including fees for filing the same in the district court, shall make out a transcript of the proceedings of the council, mayor, and other officers as relate to the presentation and allowance or disallowance of such claim, and shall file the same it with the clerk of the district court within thirty days after the decision allowing or disallowing the claim and paying the proper commencement fees. Such appeal shall be entered on the docket of the court, tried, and determined ~~as appeals from justice courts~~, and costs shall be awarded thereon in ~~like the manner provided in sections 25-1901 to 25-1937~~. No appeal bond shall be required of the city by any court in the case of an appeal by the city, and judgment shall be stayed pending such appeal.

Sec. 2. That section 23-137, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-137. The clerk of the board, upon such appeal being taken, and being paid the proper fees therefor, shall make out a complete transcript of the proceedings of the board relating to the matter of ~~their~~ its decision ~~thereon~~, and shall deliver ~~the same it~~ to the clerk of the district court. ~~The~~ 7 and such appeal shall be entered, tried, and determined ~~the same as appeals from justice courts~~, and costs shall be awarded ~~thereon~~ in ~~like the~~ manner provided in sections 25-1901

to 25-1937.

Sec. 3. That section 25-2210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-2210. On the appearance docket, the clerk of the district court shall enter all actions in the order in which they were brought, the date of the summons, the time of the return thereof by the officer, and his or her return thereon, the time of filing the petition, and all subsequent pleadings. On the general index he or she shall enter the names of the parties to every suit, both direct and inverse, with the page and book where all proceedings in such action may be found. The judgment record shall contain the names of the judgment debtor and the judgment creditor, arranged alphabetically, the date of the judgment, the amount of the same judgment, and the amount of costs, with the page and the book where the same judgment may be found. Transcripts of judgments from justices of the peace, or county courts, filed in the district court, shall be entered upon said the judgment record. Whenever ; and whenever any judgment is paid and discharged, the clerk shall enter such fact upon the judgment record in a column provided for that purpose.

Sec. 4. That section 33-145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-145. In all actions, motions, and proceedings in the Supreme Court, district courts, or county or justice courts, the costs of the parties shall be taxed and entered on the record separately.

Sec. 5. That section 46-562, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-562. The owner or owners in fee of any lands constituting a portion of the district, which lands are not within the corporate limits of any city or village, may file with the board a petition praying that such lands be excluded and taken from said the district. It shall describe the lands which the petitioners desire to have excluded and set out that said the lands have not and cannot acquire any benefit from the water resources or other operations of said the district. Such petition must be acknowledged in the same manner and form as required in case of a conveyance of land and be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings. The secretary of the board shall cause a notice of filing of such petition to be published in the county in which said the

lands, or the major portion thereof, are located. The notice shall state the filing of such petition, the names of petitioners, descriptions of lands mentioned in said the petition, and the prayer of said the petitioners and notify all persons interested to appear at the office of said the board at the time named in said the notice, showing cause in writing, if any, they have; why said the petition should not be granted. The board at the time and place mentioned in the notice, or at the time or times to which the hearing of said the petition may be adjourned, shall proceed to hear the petition and all objections thereto presented in writing by any person showing cause as aforesaid; why the prayer of the petition should not be granted. The filing of such petition shall be deemed and taken as an assent by each and all such petitioners to the exclusion from the district of the lands mentioned in the petition; or any part thereof. The board, if the allegations of said the petition are found to be true, shall order that the lands mentioned in the petition or some portion thereof be excluded from a district and, if the board shall find finds that said the allegations are not true, shall order that said the petition be denied. In case a contract has been made between the district and the United States or any agency thereof, no change shall be made in the boundaries of the district unless the Secretary of the Interior shall assent thereto assents to the change in writing and such assent be is filed with the board. Upon such assent, any lands excluded from the district shall upon order of the board be discharged from all liens in favor of the United States under the contract with the United States or under bonds deposited with its agents. Appeal may be taken to the district court of the district in which the lands, or the major portion any part thereof, are located by filing a transcript of the proceedings thereon in the manner and form as provided by law regulating appeals from justice court to district court sections 25-1901 to 25-1937.

Sec. 6. That section 76-230, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-230. Every person who, being served with a subpoena; and having been tendered the fees of a witness who, in a justice's court, shall; without reasonable cause, refuse or neglect refuses or neglects to appear, or appearing, shall refuse refuses to answer upon oath touching the matters referred to in section 76-228, shall forfeit to the party injured one hundred dollars;

and may also be committed to prison by the officer who issued such subpoena, there to remain without bail until he or she shall submit to answer upon oath as aforesaid.

Sec. 7. That section 77-1607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1607. The appellant shall, within the time provided in section 25-1931, by law for filing petition in the case of appeals from the county court and justice of the peace, file his a petition in the district court setting forth the levy or levies appealed from and the amount or extent to which the appellant shall claim such claims the levy or levies are illegal or excessive, and to that extent and no further shall such levy or levies be affected by such appeal. At the time of filing such petition, the appellant shall also file a copy thereof with the county treasurer of the county, and shall file in the district court an affidavit to the effect that he or she has filed a copy of such petition with the county treasurer.

Sec. 8. That original sections 16-729, 23-137, 25-2210, 33-145, 46-562, 76-230, and 77-1607, Reissue Revised Statutes of Nebraska, 1943, are repealed.