

LEGISLATIVE BILL 258

Approved by the Governor May 12, 1987

Introduced by Hannibal, 4

AN ACT relating to the Political Subdivisions Tort Claims Act; to amend section 23-2402, Reissue Revised Statutes of Nebraska, 1943, and section 23-2420, Revised Statutes Supplement, 1986; to provide procedures for suits against employees of political subdivisions; to provide time limitations on such suits; to provide maximum amounts of recovery; to redefine a term; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. (1) No suit shall be commenced against any employee of a political subdivision for money on account of damage to or loss of property or personal injury to or the death of any person caused by any negligent or wrongful act or omission of the employee while acting in the scope of his or her office or employment occurring after the effective date of this act unless a claim has been submitted in writing to the governing body of the political subdivision within one year after such claim accrued in accordance with section 23-2404.

(2) No suit shall be permitted on a claim filed pursuant to this section unless the governing body of the political subdivision has made final disposition of the claim, except that if the governing body does not make final disposition of the claim within six months after the claim is filed, the claimant may, by notice in writing, withdraw the claim from consideration of the governing body and begin suit.

(3) Except as provided in section 23-2416, any suit commenced on any claim filed pursuant to this section shall be forever barred unless begun within two years after the claim accrued. The time to begin suit under this section shall be extended for a period of six months (a) from the date of mailing of notice to the claimant by the governing body as to the final disposition of the claim or (b) from the date of withdrawal of the claim from the governing body under this section, if the time to begin suit would otherwise

expire before the end of such period.

Sec. 2. After January 1, 1988, all suits against any employee of a political subdivision for money on account of damage to or loss of property or personal injury to or the death of any person caused by any negligent or wrongful act or omission of the employee while acting within the scope of his or her office or employment and occurring prior to the effective date of this act shall be forever barred unless the party seeking recovery had, within one year after such claim accrued, submitted a claim in writing to the governing body of the political subdivision in accordance with section 23-2404.

Sec. 3. The total amount recoverable against any employee for claims filed pursuant to section 1 or 2 of this act arising out of an occurrence after the effective date of this act shall be limited to: (1) One million dollars for any person for any number of claims arising out of a single occurrence; and (2) five million dollars for all claims arising out of a single occurrence.

Sec. 4. That section 23-2402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2402. As used in this act, unless the context otherwise requires:

(1) Political subdivision shall include villages, cities of all classes, counties, school districts, public power districts, and all other units of local government. Political subdivision shall not be construed to include any contractor with a political subdivision;

(2) Governing body shall mean the village board of a village, the city council of a city, the board of commissioners or board of supervisors of a county, the board of directors of a public power district, and any duly elected or appointed body holding the power and authority to determine the appropriations and expenditures of any other unit of local government;

(3) Employee of a political subdivision shall mean any one or more officers or employees of the political subdivision or any agency of the subdivision; and shall include members of the governing body, and duly appointed members of boards or commissions when they are acting in their official capacity, volunteer firefighters, and volunteer rescue squad personnel. Employee shall not be construed to include any contractor with a political subdivision; and

(4) Tort claim shall mean any claim against a

political subdivision for money only on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the political subdivision, while acting within the scope of his or her office or employment, under circumstances where in which the political subdivision, if a private person, would be liable to the claimant for such damage, loss, injury, or death, but shall not include any claim accruing before January 1, 1970.

Sec. 5. That section 23-2420, Revised Statutes Supplement, 1986, be amended to read as follows:

23-2420. Sections 23-2401 to 23-2420 and sections 1 to 3 of this act shall be known and may be cited as the Political Subdivisions Tort Claims Act.

Sec. 6. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 7. That original section 23-2402, Reissue Revised Statutes of Nebraska, 1943, and section 23-2420, Revised Statutes Supplement, 1986, are repealed.

Sec. 8. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.