

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 742

Introduced by McCoy, 39.

Read first time January 06, 2010

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government; to provide requirements
2 for settlement agreements; to provide that
3 settlement agreements are public records; to prohibit
4 confidentiality and nondisclosure clauses and provisions;
5 and to define terms.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) (a) A public entity which enters into
2 or is otherwise a party to a settlement regarding any claim or
3 potential claim against it shall execute a settlement agreement
4 concerning the claim. The settlement agreement shall contain a
5 brief description of the claim.

6 (b) Except for settlement agreements involving the state,
7 any state agency, or any employee of the state or pursuant to
8 claims filed under the State Tort Claims Act, any settlement
9 agreement entered into by a public entity directed by a governing
10 body shall be included as an agenda item for the next regularly
11 scheduled public meeting of the governing body. Advance publicized
12 notice of the public meeting as required under section 84-1411
13 shall specifically designate the settlement agreement as an agenda
14 item.

15 (2) A settlement agreement entered into by a public
16 entity, or to which a public entity is otherwise a party, is a
17 public record as defined in section 84-712.01.

18 (3) A confidentiality or nondisclosure clause or
19 provision contained in or relating to a settlement agreement
20 entered into by a public entity, or to which a public entity
21 is otherwise a party, is void as against public policy and
22 unenforceable and shall not operate to prevent an officer or
23 employee of the public entity or any other party to the settlement
24 agreement from disclosing or commenting upon the substance of the
25 settlement agreement or other public record except as otherwise

1 provided by law.

2 (4) For purposes of this section:

3 (a) Confidentiality or nondisclosure clause or provision
4 means any covenant or stipulation adopted by parties to a
5 settlement agreement that designates as confidential, or in
6 any other way restricts public access to or the unconditional
7 dissemination of, material, knowledge, or information contained
8 in or relating to the settlement agreement except as otherwise
9 provided by law;

10 (b) Governing body means the village board of a village,
11 the city council of a city, the board of commissioners or board
12 of supervisors of a county, and any duly elected or appointed body
13 holding the power and authority to determine the appropriations and
14 expenditures of any other public entity;

15 (c) Public entity means: (i) The state and any county,
16 city, village, or political subdivision of the state; (ii) any
17 agency, branch, department, board, bureau, commission, council,
18 subunit, or committee of a body referred to in subdivision (i)
19 of this subdivision; (iii) any district, society, association, or
20 institution in this state with authority to levy a tax; and (iv)
21 any instrumentality exercising essentially a public function; and

22 (d) Settlement agreement means a contractual agreement
23 between parties to actual or potential litigation by which each
24 party agrees to a resolution of the underlying dispute.