

Legislature - First Session - 2015

Introducer's Statement of Intent

LB66

Chairperson: Senator Les Seiler

Committee: Judiciary

Date of Hearing: January 21, 2015

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Nebraska's government debt is hidden in its subdivisions. Many significant subdivisions have significant debt and unfunded pension obligations. Recent federal bankruptcy cases suggest that bankruptcy courts will look to state law to determine the priority order of bondholders and pensioners wanting to access post bankruptcy income streams. Nebraska's law is not certain and efforts such as the original LB788 last year to grant bondholders clear priority met with stiff opposition from municipalities and public pension interests. Bond purchasers may well believe that they will enjoy the same payment priority in a bankruptcy that they usually enjoy.

Using virtually identical language to that in LB66, the Nebraska Securities Act already imposes liability on the issuer of bonds and its controlling persons for bondholder losses sustained because of material misleading statements or omissions in the offering of bonds. There is no exemption for that liability for subdivisions or their boards. The interests of subdivisions, who have been enticed by artificially low interest rates and a compulsive habit of promise now - pay later, are served by minimal or no disclosure. The mandatory disclosure required in LB66 clearly informs the potential bond purchaser of the risk of buying bonds that do not carry a clear priority under state law and protects governing boards from exposure they may not be aware of.

Subdivisions are under the supervision of the Legislature and inevitably will come to the Legislature for a bailout in the event they are unable to make bond or pension payments. LB66 puts light on uncomfortable realities and the need to place certainty of payment priorities into our law. If we choose not to do that, then bond purchasers deserve to be cautioned that they purchase at their peril.

Principal Introducer: _____

Senator Paul Schumacher