

ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017
COMMITTEE STATEMENT
LB204

Hearing Date: Wednesday February 15, 2017
Committee On: Judiciary
Introducer: Hilgers
One Liner: Change provisions relating to appeals to the Supreme Court, service on employees of the state, and summary judgment

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Baker, Chambers, Ebke, Halloran, Hansen, Krist, Morfeld,
Pansing Brooks
Nay:
Absent:
Present Not Voting:

Verbal Testimony:

Proponents: Senator Mike Hilgers Ryan Post	Representing: Introducer Attorney General's Office
Opponents:	Representing:
Neutral: Nathan Leach	Representing: self

Summary of purpose and/or changes:

Section 1 of LB 204 adjusts the statute regarding cases to be taken up by the Nebraska Supreme Court. It adds to the list of items to be considered by the Court in taking a case and includes the consideration of whether the matter involves a question of qualified immunity for state actors in a case involving a civil action pursuant to 42 U.S.C. Sec. 1983. The intended effect of this provision would be to allow cases involving Section 1983 claims an avenue to bypass the Nebraska Court of Appeals and receive a more quick and final determination from the Nebraska Supreme Court.

Section 2 would adjust service requirements for state employees who are subject to a lawsuit for an act or omission occurring in connection with duties performed on behalf of the state. In such instances, LB 204 would require service on the individual pursuant to Neb. Rev. Stat. Sec. 25-508.01 and service on the state or political subdivision pursuant to Neb. Rev. Stat. Sec. 25-510.02.

Section 3 would amend Neb. Rev. Stat. Sec. 25-1332 and adjust the requirements of pleadings related to a motion for summary judgment. LB 204 would add to statute the language from the federal rule of civil procedure regarding a motion for summary judgment. The added language would require a party making a motion to cite to particular facts in the record demonstrating their position or require a party disputing a motion for summary judgment to show that the facts offered do not establish the presence or absence of a genuine dispute of fact.

Explanation of amendments:

The Committee Amendment becomes the bill. The changes made in the amended version are limited to minor adjustments in language to better reflect current language in the law related to summary judgments and service. Specifically, the amendment changes the word "may" to "shall" in Section 2 of the bill to reflect Court interpretation of service statutes to mean that the person bringing suit must serve the defendant in a certain way. In Section 3, Neb. Rev. Stat. Sec. 25-1332 is amended in subsection (1) to refer to a genuine "dispute" of material fact, rather than "issue", to better reflect current language regarding the summary judgment standard

Laura Ebke, Chairperson