

**GOVERNOR SIGNS INTO LAW
NEW REQUIREMENTS FOR SETTLEMENT
AGREEMENTS INVOLVING POLITICAL SUBDIVISIONS**

*David J. A. Bargaen, Esq.
Rembolt Ludtke LLP*

If there was ever any question before about the extent to which legal settlement agreements between political subdivisions and other parties were public information, that question has been removed by the Governor's signing into law of LB 742.

LB 742 adds requirements that political subdivisions, including counties, cities, villages, or other tax supported districts, or commissions, councils, or committees thereof, must adhere to in settling claims against such public entities.

First, the new law requires that a public entity, or a public agency providing coverage to a public entity, public official, or public employee, maintain a public record of all settled claims filed against the public entity. For claims that are \$50,000 or more, or one percent of the total annual budget of the public entity, whichever is less, such record of the claim must also include a written and executed settlement agreement. The law also sets minimum standards for the content of such settlement agreements, including that it must contain a "brief description of the claim, the party or parties released under the settlement, and the amount of the financial compensation, if any, paid by or to the public entity or on its behalf."

Second, the law provides that any claim or settlement agreement involving a public entity "shall be a public record," with certain portions excludable from the public as allowed by public records statutes.

Third, with the exception of settlement agreements involving the State of Nebraska, state agencies, or any state employee, or for claims filed under the State Tort Claims Act, any settlement agreement with a \$50,000 settlement amount or more, or one percent of the total annual budget of the public entity, whichever is less, "shall be included . . . as an agenda

**Municipal Law
Practice Group**

David J. A. Bargaen
dbargaen@remboltludtke.com

Mark A. Fahleson
mfahleson@remboltludtke.com

Timothy L. Moll
tmoll@remboltludtke.com

**Rembolt Ludtke LLP
Attorneys at Law**

MAIN OFFICE

**1201 Lincoln Mall, Suite 102
Lincoln, NE 68508
Fax: 402 / 475-5087
402 / 475-5100**

BRANCH OFFICES

**125 South 6th Street
Seward, NE 68434
Fax: 402 / 643-3969
402 / 643-4770**

**3280 Woodridge Boulevard
Suite 160
Grand Island, NE 68801
308 / 384-6888**

www.remboltludtke.com

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item on the next regularly scheduled public meeting of the public body for informational purposes or for approval if required."

Finally, the law provides that a confidentiality or nondisclosure clause contained in or relating to a settlement agreement involving a political subdivision "shall neither cause nor permit a settlement agreement or the claim or any other public record to be withheld from the public." By the same token, the new law states that nothing in it "shall require a public official or public employee or any party to the settlement agreement to comment on the settlement agreement."

Municipalities and other political subdivisions are routinely faced with decisions regarding whether, when, and/or how to meet in closed session; whether, when, and/or how to disclose or not disclose documents or information to the public; and other decisions where the public's right to know must be balanced with decisions about protecting the public's interests. The myriad of situations that can arise combined with the statutory requirements that must be met can pose a challenge, with the possibility of litigation ever present. LB 742 may answer some of these questions, but may give rise to others. What is clear is that sound legal advice is the best bet to get it right when it comes to public disclosure matters.

David Barga is an associate with the Lincoln-based law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or dbarga@remboltludtke.com. This article is provided for general information purposes only and should not be construed as legal advice. Those requiring legal advice are encouraged to consult with their attorney.