

Nebraska Association of County Officials Legislative Report



March 14, 2008

Amended Multiple-Use Ag Land Bill Moves to Second Round

A bill aimed at clarifying whether land should be considered agricultural or horticultural for purposes of special valuation advanced from General File on Tuesday with plans for further work on the bill before the second round of debate. **LB 777**, which was introduced and prioritized by Sen. Carol Hudkins, originally proposed the creation of a category of multiple-use parcels to eliminate the need for a determination of the primary use of the parcel. A Revenue Committee amendment replaced that language with an amendment to the section of law defining agricultural and horticultural land. The amendment, which was adopted before the bill advanced, would exclude farm home sites or farm sites from the definition of agricultural or horticultural land. The parcel, excluding those sites, would be examined as a whole to determine whether the primary use is agricultural or horticultural. An amendment was adopted to set the effective

date as January 1, 2009.

Debate focused on the criteria used by assessors to determine whether parcels, particularly acreages, are agricultural in nature. Among other factors, assessors examine whether the property has a federal Farm Service number, if the owner files a farm income tax return, and whether the parcel is used for recreational, hobby or commercial purposes. Several examples were cited of organic farms, greenhouses and other for-profit enterprises that may not take up the majority of the parcel but generate ag income.

More than 200 cases related to the primary use of parcels have been appealed to the Tax Equalization and Review Commission. Four of these cases have been appealed to the Court of Appeals but no opinion has been issued.

Budget Debate to Begin Next Week

Debate on the school state aid formula proposed in **LB 988** will be conducted separately from the main appropriations package when the budget is taken up on Monday afternoon. Other bills in the budget package include **LB 959**, **LB 960** and **LB 961**. Although most of the main budget issues in this two-year cycle were decided last year, senators must address a \$62 million budget gap. Senators will also debate a potential 1.2 cent-per-gallon fuel tax increase. A separate fuel tax bill, **LB 846**, that would establish a wholesale tax on gasoline, has been prioritized by Sen. Deb Fischer and awaits General File debate.

Although not part of the official budget package, **LB 587** was advanced from the Appropriations Committee last week. The bill, which has no fiscal impact, would eliminate the \$3.91 million cap on jail reimbursement for counties holding state prisoners. Sen. Ray Aguilar has prioritized the bill.

Monday is the 42nd day of this 60-day session. In addition to the budget, road funding and school finance, senators have not yet debated several bills with major public policy implications, including the state fair (**LB 1116**). Debate on the death penalty bill is scheduled to begin on March 25. Speaker Flood has announced that senators should expect to debate until 6:00 p.m. next week and until 8:30 p.m. or later on many of the subsequent days.

Thirty-eight priority bills are on General File. Several of the 16 priority bills on Select File are expected to take lengthy debate. Of the 20 priority bills held by committees, 17 are expected to go to General File this week.

The Legislature will be in recess next Friday, March 21 and Monday, March 24. If most of the week is spent debating the budget, no newsletter will be published.

Register On-Line for NACO's Budget Seminar

On May 29, NACO will present a budget seminar for county officials. Registration opens at 9:30 a.m. and the seminar starts at 10:00. The Deputy State Auditor of Public Account and numerous county officials will offer insight on budget forms, lid

computations, audits, cash flows, and other aspects of budget preparation. The seminar will be held at the Holiday Inn Hotel and Convention Center in Kearney.

Recall Bill Bracketed, Other Election Bills Advance

After several hours of General File debate, a bill to require recall petitions to allege malfeasance, misfeasance, nonfeasance by the elected official, **LB 878**, was bracketed until April 1. NACO opposed language in the original bill that would have required county clerks or election commissioners to estimate the cost of a recall election prior to the circulation of recall petitions. The requirement was removed by a committee amendment. Debate focused on the involvement of district court judges to determine whether the allegations of malfeasance, misfeasance or nonfeasance meet the definitions provided in the bill.

Two election bills advanced to Select File through a consent calendar process. **LB 838** was introduced by Sen. Russ Karpisek at NACO's request to eliminate requirements for a secrecy envelope for elections conducted by mail. A secrecy envelope has not been required for absentee ballots returned by mail since 1999. **LB 1067** would set minimum amounts for

counties to be reimbursed for conducting elections for other political subdivisions. Under the current formula based on the amount of ballot space used, some entities have paid as little as \$10 for their share of election costs. The bill proposes a \$50 minimum.

Several election bills were signed by Governor Heineman on March 10. **LB 268** changes county board elections in Lancaster County from a district process in the primary and an at-large process in the general election to a district election at both times. **LB 750** designates the Secretary of State's office as a voter registration agency in order to comply with federal requirements. **LB 856** provides a process for elections in the event of multiple vacancies in the House of Representatives. **LB 857** changes the date for national political parties to certify their candidates for President and Vice President to the Secretary of State.

Snapshots of County Issues

- A county board or other public body could not require the names of members of the public who wish to speak on **agenda items** to be placed on the agenda prior to the meeting under **LB 962**, which passed on Thursday.
- Certain **emergency responders** who are absent or late for work because they are responding to an emergency could not be terminated or subject to disciplinary action under an amendment to **LB 1096**. Employers could deduct the time absent from the employee's pay and could request written verification of service. Career firefighters or law enforcement officers who volunteer as emergency responders would not be eligible for job protection. These provisions would only apply to employers with ten or more employees. The concept was originally introduced as **LB 948**. **LB 1096** addresses the hiring of a fire chief in cities of the first class.
- County treasurers could dispose of paper copies of **motor vehicle registration records** after three years, rather than six years, under **LB 756**, which passed on Thursday. The idea was originally introduced as **LB 827**. Electronic versions of the records would be maintained by the Department of Motor Vehicles. Concepts from other bills, including **LB 834**, were also amended into the bill. **LB 834** would clarify that loan documents would not need to be provided when titles from other states are presented. The lien notation could carry over to the Nebraska title as it appears on the existing title. **LB 712** exempts vehicles designed with daytime running lights from penalties for driving with parking lights on.
- Counties, cities, villages, community colleges and state colleges could use a design-build or construction management at risk process, rather than the traditional **design-bid-build** process, for public building projects under **LB 889**. The bill was advanced from the first round of debate on Wednesday. Committee amendments would prohibit using these methods for road, water, utility and other public works projects.
- The Legislature would continue to fill **vacant judgeships** in

an amended version of **LB 1014** that awaits the final round of debate. The original bill would have authorized the Supreme Court to determine which judicial vacancies should be filled. The proposed new language was removed on Select File in response to concerns from rural senators that judges in less sparsely populated areas might have to cover a larger geographical district. Other amendments adopt language from **LB 774** to specify that county attorneys and other authorized attorneys are not responsible for reviewing or filing child support modifications for incarcerated persons.

- **Deputy clerks of the district court** would not have to be county residents under **LB 775**, which was advanced to Select File through a consent calendar process.
- Governor Heineman signed two dozen bills on Monday. Among the bills of interest to counties is **LB 747**, which allows counties and other political subdivisions to enter into energy financing contracts for up to 30 years. Such contracts are currently limited to 15 years. **LB 624** changes the penalties for fleeing to avoid arrest to reflect the danger caused by the pursuit.
- All counties would be required to designate an animal control authority to deal with dangerous dogs under **LB 1055**, which was advanced to Select File
- The Revenue Committee has killed several bills that would have exempted certain kinds of income from taxes or counting toward **homestead exemptions: LB 1140, LB 714, LB 770 and LB 169**.
- The Revenue Committee also killed bills to change **levy and budget authority**. **LB 1098** would have given fire districts independent levy authority, rather than funding them through allocations from the county board. **LB 1118** would have required taxing entities to show the amount that would be raised based on the prior year's valuation. **LB 1007** would have placed certain capital improvements outside of budget and levy limits.
- Several interim study resolutions have been introduced. **LR 276** would examine the county coroner process.