

Nebraska Association of County Officials Legislative Report



April 2, 2010

District Court Judge Rules on Republican River Property Tax Refunds

A legislative remedy is necessary for certain property owners in the Republican River valley to receive a refund of property taxes paid under a levy that was later found unconstitutional, according to a district court ruling issued March 19. Natural resources districts (NRDs) had asked the court to find that they had authority to refund the taxes authorized by LB 701 (2007). The 2009 Supreme Court ruling on the constitutionality of the tax did not provide a mechanism for refunding the taxes. Several bills, including **LB 893**, have been introduced to create a refund process, but were not advanced due to the pending legal

proceedings.

LB 701 (2007) also created an occupation tax that could be imposed by Republican River NRDs to service river flow enhancement bonds. **LB 862**, which would expand the occupation tax to other areas of the state, has been advanced from Select File. **LB 1057**, which creates the Republican River Basin Water Sustainability Task Force, passed on March 30. One representative from each county in the basin would serve on the task force.

Changed TERC Standard Fails to Advance

LB 1079, a bill that would have changed the level of evidence counties must present during valuation appeals to the Tax Equalization and Review Commission, failed to advance after five hours of General File debate on March 23. The rules of the Legislature provide that any bill failing to receive 25 votes to be advanced after three attempts will be indefinitely postponed. Although the bill could be placed on the agenda again, it is highly unlikely due to the dwindling number of days and the issues remaining. An interim study, **LR 506**, will examine the issues presented in LB 1079. Many thanks to all county officials who contacted senators to help fight advancement of this bill.

Several others bills have failed to advance after General File debate. **LB 925** would have required the employment of Nebraska laborers for public works projects during periods of high unemployment in the state. A Business and Labor Committee amendment would have extended the definition of Nebraska laborer to include individuals who reside within 50

miles of a Nebraska border for 30 days.

A review of the costs to county attorneys, public defenders, and courts related to death penalty cases failed to advance from General File on March 25. Debate on **LB 1105** questioned the merits of a study and the use of Commission on Public Advocacy funds for a study. NACO provided senators with copies of county records retention schedules to help determine whether the requested documentation would be available after 25 years as proposed by the bill.

Further Select File consideration of a bill to require additional bidding requirements related to life-cycle costs for state agencies purchasing heavy equipment was bracketed until April 14. Senator Bill Avery, the introducer of **LB 948**, asked for the bill to be delayed, effectively killing the measure for this year. An amendment was pending that would have applied the same bidding requirements to counties.

Session Nears Adjournment

With seven days left in the 2010 legislative session, senators have been debating into to night to complete their work. Bills dealing with abortion (**LB 1103**, **LB 594**) and wagering on historic horseraces (**LB 1102**) have been the subject of extended debate. NACO is keeping a close watch on all debate because amendments are frequently offered without advance notice at this

point of the session.

The Legislature will be in recess on April 2 and 5 and is scheduled to adjourn sine die on April 14. Unless the Legislature takes actions with significant impact to counties, no further *Legislative Reports* will be issued until a summary of adopted bills and interim studies is published in late April.

Consent Calendar Moves Write-In Bill from First Round

On Wednesday, senators used a consent calendar process to advance nearly 30 non-controversial bills from General File to Select File. One of the advanced bills, **LB 852** would provide for write-in space for certain races, including county weed district boards, natural resources district directors, educational service unit board members, and others.

LB 993 would expand the list of documents used for proof of ownership to obtain title to a mobile home or manufactured home that has already been affixed to real estate.

LB 844 is intended to eliminate provisions that would require political subdivisions that send students to the law enforcement

training center to begin paying tuition on Jan. 1, 2011. The costs of training are subsidized by a Law Enforcement Improvement fund (LEIF) fee that is added to court costs.

LB 884, as advanced, would require employers to provide itemized pay stubs to employees upon written request of the employee.

LB 997 would require cities and counties to include an energy element developing or updating comprehensive plans.

LB 732 would allow forced sales of real estate, such as sheriff's sales, to be postponed for 45 days after the original sale date.

Jury Pool, Mistreated Animal Bills Amended into Judiciary Committee Priority Bill

Several bills requested by counties were included in a Judiciary Committee amendment to **LB 712** and advanced from the first round of debate this week. Provisions from **LB 824** would decrease the frequency of preparing a master jury list. Counties under 3,000 would have to refresh the jury pool every five years and counties of 3,000-7,000 would do so every two years. **LB 1045** would eliminate a requirement for the clerk of the district court to act as jury commissioner in counties of 150,000 to 200,000. **LB 915** would require drivers' license and state identification card numbers to be provided to jury commissioners by the Department of Motor Vehicles. **LB 1026** would create procedures to transfer civil actions from a district court in one county to a district court in another county.

Some of the other measures included in the Judiciary Committee amendment include **LB 988**, which would increase

the amount of credit for imprisonment for nonpayment of fines. As introduced, the daily rate would be increased from \$60 to \$80. As advanced, the rate would increase to \$90.

An amendment has been offered for Select File debate that would change the rate for accumulating "good time" during incarceration. The issue was originally introduced in **LB 990**.

An amendment taken from **LB 1084** was adopted during General File debate to provide a court procedure to allow counties to obtain financial support for the care of mistreated animals while a case is pending against the owner. **LB 1084** is intended to address recent situations in Fillmore, Dixon and Morrill counties, among others, in which counties incurred sizeable costs for the care of a large number of mistreated animals until the owner was found guilty and ordered to help pay for expenses.

Bills on Final Reading

- Only county assessors, the Tax Commissioner, and the Property Tax Administrator could appeal a county board's grant of an exemption under **LB 877** as amended and advanced to Final Reading. The property owner would be made a party to the appeal to the Tax Equalization and Review Commission. Copies of final decisions by county boards of equalization would have to be transmitted electronically to the Tax Commissioner and Property Tax Administrator within seven days after the board's decision.

- Counties would not need to hire a special prosecutor to examine the death of an apprehended or detained person pursuant to **LB 842**, which was advanced to Select File on Wednesday.

- **LB 1010** would require natural resource districts to consider factors such as proposed modes of transportation, adjacent areas, and the status of real property ownership before establishing a trail. A Select File amendment would require NRDs to provide reasonable access to isolated parcels when a trail divides private real property.

- **LB 800** would bring together law enforcement, courts, schools, and parents to help provide intervention for troubled youth. During Select File debate, **LB 258** was amended into the bill to make penalties for minor in possession of marijuana consistent with those of minor in possession of alcohol.

Governor Signs Budget Bills

Governor Heineman signed 2 percent budget reductions into law on April 1. In combination with cuts made during the 2009 special session, **LB 925**, **LB 317** and **LB 1106** would bring total reductions to 7 percent for many agencies and programs. In preparation for at least \$650 million in cuts in the next biennium, Senator Lavon Heidemann, Chair of the Appropriations

Committee, has introduced a resolution (**LR 542**) that would allow the Speaker to convene an ad hoc committee of consisting of standing committee chairs to identify potential cuts and draft related legislation. Governor Heineman would be asked to do the same. The Executive Board will hold a hearing on the proposal on April 8 at 12:00 p.m. in Room 2102.