

Nebraska Association of County Officials Legislative Report



May 8, 2009

State Aid Replacement Package Debated

Although debate was scheduled to continue after the publication deadline for this newsletter, it is anticipated that a proposal to combine three existing types of aid to counties will advance from General File today. Senators began debate on **LB 218** last night and adopted the committee amendment.

The bill would replace jail reimbursement, state aid to counties and county property tax relief with a single distribution formula. The new formula would allocate \$30,000 to each county and distribute the rest of the appropriation based upon valuation. The amount of the appropriation would be

based upon a percentage of the overall real and personal property valuation in the state. The Revenue Committee amendment would delay implementation of the bill until 2011. The delay would give the economy time to improve and allow counties that must reassume the assessment function to budget for those expenses.

Today's debate will begin with continued discussion of an amendment introduced by Sen. Bob Giese to remove jail reimbursement from the formula.

Use of Public Resources by Public Officials Debated

Telephone calls or emails to family members, teachers, or babysitters about unexpected schedule changes or other essential personal business could be made on county equipment by county officials or employees without fear of violating the law under **LB 626**. Such communications would have to be kept to a minimum and not interfere with the conduct of public business. State employees are already statutorily provided with this flexibility for limited personal uses of public property but the language does not appear within the Nebraska Political Accountability and Disclosure Act that applies to county officials. In addition, public officials or employees would not be prohibited from using their personal cell phone, handheld electronic device or computer to access a wireless network which is provided to the public by a governing body.

LB 626 is intended to address these incidental and de minimis uses of public resources, as well as define the role of a public official related to ballot questions. The bill distinguishes between two types of ballot questions and clarifies that

restrictions on the use of public resources to support or oppose a ballot question are not triggered until after the legislative body votes to place an issue on the ballot. Public officials or employees could identify themselves by their official title when dealing with ballot issues.

The bill also provides that personal use of a government-owned vehicle is not prohibited if it is provided as a part of compensation and the personal use is reported to the IRS.

The bill arose from a \$1,000 fine levied on a city manager by the Nebraska Accountability and Disclosure Commission for sending an email regarding funding to oppose a petition drive. In addition, in a case overturned by the Nebraska Supreme Court, a city council member was fined \$100 for taping a campaign advertisement in his city office.

Although much of the debate focused on a campaign finance proposal that had been heard by the Government, Military and Veterans Affairs Committee, the bill advanced to Select File on a 35-6 vote.

Budget Advances from Second Round

With almost no debate, senators advanced the FY09-10 and FY10-11 biennial budget as proposed by the Appropriations Committee. A handful of minor revisions were adopted as the package of bills advanced from Select File, but the overall \$6.92 billion, two-year budget remained intact. During first-round debate on May 5, much of the debate focused on the

needs of the Beatrice State Developmental Center. The package funds County Property Tax Relief, state aid to counties and jail reimbursement at last year's levels.

The budget package is comprised of **LB 311, LB 312, LB 313, LB 314, LB 315, LB 316, LB 318** and **LB 456**.

County Ordinance Authority Advanced to Final Round

Counties would have authority to adopt ordinances to regulate graffiti, false security alarms, public nudity, abandoned motor vehicles, and parking related to snow removal and access for emergency vehicles under **LB 532**. The bill was advanced from Select File on Thursday with an amendment clarifying many of the concerns that were raised during the first round of debate.

As advanced, LB 532 would allow counties to impose fines of up to \$500 for violation of ordinances. To enact an

ordinance, counties would publish two notices with the entire wording of the proposed ordinance and hold at least one public hearing. The ordinance would have to be read by title three times, unless waived by the county board, before it could be adopted. County ordinances would not be effective within the corporate boundaries of incorporated cities and villages and their extraterritorial zoning jurisdiction. The bill sets out procedures for counties and cities to communicate changes in boundaries and ordinances.

Bills Advanced from General File

- **Shooting Ranges:** Counties, cities and other political subdivisions would be allowed to regulate the location and construction of shooting ranges and limit their hours of operation of shooting ranges under **LB 503**. A grandfather clause would allow existing shooting ranges to continue operation. An amendment was offered but not adopted that would have excepted cities of the metropolitan class from the bill.
- **Seed Law:** Political subdivisions would be prohibited from

regulating the registration, labeling, or sale of seeds based upon the type, nature, or genetic makeup of the seeds if **LB 263** passes. The regulation of storage, transportation, planting and other uses of seeds would have to be in compliance with the Nebraska Seed Law. Similar restrictions would be placed upon the regulation of fertilizers and soil conditioners covered by the Nebraska Fertilizer and Soil Conditioner Act. Neither section is intended to preempt or otherwise limit the authority of a county or city to adopt and enforce zoning regulations.

Bills Advanced From Select File

- **County Coroners:** County attorneys or deputy county attorneys who act as coroners would be required to complete initial death investigation training within one year after election or appointment and receive annual continuing education under **LB 671** as advanced from Select File. The bill would add a forensic pathologist and county sheriff or chief of police to the County Attorney Standards Advisory Council and charge the group with developing uniform checklists of best practices of death investigations. The council would also be responsible for establishing a voluntary network of regional law enforcement officials, county coroners, and medical personnel to provide death investigation support services for any location in Nebraska.
- **Homestead Exemptions:** Homestead exemption recipients who purchase and move to a new residence but have not sold their prior homestead by August 15 would be allowed to transfer the exemption to the new property under **LB 302**. Persons with a medical condition that has impaired their ability to file a timely homestead exemption application would be given an extended deadline by **LB 94**.
- **County Building Levies:** Additional levy authority for bonds for certain building projects would be extended to 20 years by **LB 294**. Nebraska statute §23-120 authorizes counties to levy limited amounts for jails and courthouses without a vote of the people but limits those bonds to a 10-year period.
- **Real Estate Transfer Statements:** Real estate transfer statements (521's) would have to be available in register of

deeds offices under **LB 348**. Currently the statements are available in the office of the county assessor or Tax Commissioner.

- **Election Issues:** The ballot question of whether a county should change from a township form of government to a commissioner form of government would be reworded for clarity by **LB 434**. Ballots cast in sanitary and improvement district elections would have to be returned no later than 5 p.m. on the date set for the election under **LB 412**. Counties with less than 10,000 inhabitants could conduct elections by mail under **LB 501**. The bill also changes time frames for special elections for local option sales taxes and elections to exceed allowable growth percentages.
- **Motor Vehicle Registrations:** County treasurers could cancel a motor vehicle registration if an insufficient funds check or stop-payment is issued. **LB 129** requires written notice to the vehicle owner and provides for an administrative fee of up to \$25 for reinstatement. If the owner does not pay or return their license plates and registration to the county treasurer, the sheriff may recover the license plates.

Registration refunds for lost license plate charges would be eliminated if the vehicle has been reported stolen. No duplicate registration or plate fee will be charged if **LB 175** is adopted.
- **Admission to Veterans' Homes:** **LB 488** would allow all veterans who served on active duty in the armed forces of the United States, other than active duty for training, to be eligible for admission to a Nebraska veterans' home.