



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

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TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: February 20 NARD Update

Hearings this week

LB 98 – Extend the termination date for the Riparian Vegetation Management Task Force, Carlson. Extends the termination date for the Riparian Vegetation Management Task Force from 2009 to 2011. The bill also outlines legislative intent to appropriate \$2 million annually for the next two fiscal years. Finally, the bill makes fully appropriated river basins subject to compacts and decrees the priority for programs rather than just the initial priority when the programs started in 2007.

Mike Clements, Lower Republican NRD Manager, testified in support of the bill on behalf of NARD. The committee has not taken action on the bill.

LB 643 -- Change and provide notice requirements of road construction near electric lines, Schilz. The bill requires natural resources districts to provide 180-day notice to owners of power lines before the district begins altering a road structure or grading or moving earth for a flood control, recreation, or other project if the performance of any work is within ten feet of any electric transmission or electric distribution line, poles, or anchors. The bill was introduced on behalf of the Nebraska Rural Electric Association.

John Miyoshi, Manager of the Lower Platte North NRD, testified in a neutral capacity on the bill but raised questions on the correct number of days for a notice requirement. The Nebraska Association of County Officials and Nebraska Association of General Contractors raised similar concerns also in a neutral capacity.

Senator Schilz requested that no action be taken on the bill while the counties, natural resources districts, rural electric organizations and other interested parties review the existing law over the interim and bring back an amendment for the bill next year.

LB 535 -- Change membership of the Nebraska Natural Resources Commission and provisions relating to natural resources districts, Stuthman. The bill increases from 3 to 15 members appointed by the Governor to the Natural Resources Commission. The additional 12 appointments would be representatives of the business community. The bill also requires that all programs and projects of natural resources districts shall first be shown to be wanted by a majority of the residents of the watershed. If the residents approve, then surveys may be used for general programs or projects to determine potential utilization of the program or project. The bill would also require a vote of the people in the entire watershed if a bond was issued under the improvement project statutes. The bill was introduced on behalf of a constituent who testified in support of the bill.

Opposition to the bill was presented on behalf of NARD by Stan Stabb, Lower Elkhorn NRD Manager. Additional opposition testimony was submitted by Papio Missouri River NRD, City of Omaha, and the Sierra Club.

Open Meetings Act Legislation – The Government and Military Affairs Committee accepted testimony on three bills relating to open meetings act this week. The summary of the bills and related actions follows.

- **LB 361 -- Change roll call provisions under the Open Meetings Act, Avery.** Current law requires that the vote on any question or motion moved and seconded to be on a roll call vote in an open session. There is a provision to allow a municipality to satisfy this requirement by voice vote if an electronic voting device is used and can be viewed by the public. The bill proposes to add a joint entity created pursuant to the Interlocal Cooperation Act, a joint public agency created pursuant to the Joint Public Agency Act, or an agency formed under the Municipal Cooperative Financing Act to the list that can utilize an electronic voting device.

The bill was introduced on behalf of the Nebraska Municipal Power Pool Energy . The Nebraska Association of County Officials told the committee that they would support the bill if they included counties in the language. No one testified in opposition and no action was taken on this bill.

- **LB 639 -- Change provisions relating to telephone conferencing for public meetings, Karpisek.** Makes a change to allow advisory committees of a risk management pool organized under the Intergovernmental Risk Management Act to hold more than half of their meetings by telephone conference call if the governing body’s quarterly meetings are not held by telephone conference call or videoconferencing. This bill was supported by the Nebraska League of Municipalities. No one testified in opposition and no action was taken by the committee on this bill.
- **LB 678 -- Change provisions relating to minutes of public meetings, Haar.** The bill allows minutes of meetings subject to the Open Meetings Act to be written or in an electronic recording, including audio or video recording of the meeting.

An amendment to this bill was offered at the hearing to require meeting administrators to provide written minutes to any person who requests them within 10 business days of the request, if the request is made prior to the next regularly scheduled meeting of the group. Administrators will be allowed to assess a reasonable charge for this service. Current law requires written minutes to be provided upon request within four business days of the request. Alternatively, electronic minutes will also be provided to anyone upon request.

Supporters included the Nebraska Association of County Officials and the City of Lincoln. The Nebraska League of Municipalities presented neutral testimony and noted that this bill would not affect any municipality less than 100,000 in population or any other governmental organization that is by law required to publish minutes of their meetings. Media of Nebraska testified in opposition to the bill. No action has been taken by the committee on the bill.

Committee Action

LB 54 – Integrated Water Management Procedures. Senator Fischer. The bill creates a process for the NRDs and DNR to use in fully and over-appropriated basins for procedures to track depletions and gains to stream flows from new, retired or other changes to uses within the river basin.

An amendment is under consideration by the natural resources committee to allow offsets for new uses as long as there is no more than a de minimus affect on existing users. A second part of the amendment would require consultation and an opportunity for public comment from all water users. At a meeting involving state senators this week, the Nebraska Association of Resources Districts, Nebraska Water Resources Association, Nebraska Farm Bureau Federation and the Nebraska State Irrigation Association

agreed to the amendment. However, there appears to be opposition from a few large irrigation and power districts to the amendment because it no longer has a “zero tolerance” standard for offsets and does not mandate collaboration.

No final committee action has been taken.

Hearings next week

Wednesday, February 25, 2009 -- Natural Resources Committee, Room 1524, 1:30 PM.

LB 666 – Changes to the Niobrara Scenic River Council, Langemeier. The bill removes the requirement that the Niobrara Scenic River Council has to approve of zoning requirements imposed by cities, villages and counties in the area covered by the designation. The change places the appointed council in an advisory role to local elected officials rather than an oversight role.

The bill redefines the mission of the council to provide local representation to the National Park Service and report to the county boards of Brown, Cherry, Keya Paha, and Rock counties. The bill changes the membership requirements of the council for three representatives on the council so that they must reside in a county that includes land in the Niobrara Scenic River corridor. These representatives include: 1) the recreational business representative; 2) the timber industry representative; and 3) the recognized, nonprofit, environmental, conservation, or wildlife organization representative.

The bill further encourages the use and enjoyment of the Niobrara River for recreational, fish and wildlife, geological, historical, cultural, or other assets, and encourage continuance of existing agricultural, horticultural, forestry, and open space land and water uses.

Finally, the bill strikes the authority of the council to hold titles to real estate, accept gifts of real estate, or obtain conservation easements in the name of the council.

Thursday, February 26, 2009 - Natural Resources Committee, Room 1524, 1:30 PM.

LB 651 – Create Water Resources Revolving Loan Fund Act, Christensen. (NARD Bill) The bill creates the Water Resources Revolving Fund to provide low interest loans to natural resources districts or any joint entity with a joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts for the purposes of developing and protecting water resources in the state. The Natural Resources Commission would have oversight over the program and an administrative fee would be allowed to pay for operational cost of the program.

The loans under the program would be for activities related to financing or refinancing the costs of eligible projects including , but not limited to, river augmentation, vegetation management, acquisition of water rights, and to furnish water for domestic purposes.

The initial funding source for the program would come from the repayment of the loan provided by the State of Nebraska to the natural resources districts in the Republican River Basin last year under LB 1094.

Friday, February 27, 2009 - Natural Resources Committee, Room 1524, 1:30 PM.

LB 504 - Authorize permits and provide penalties relating to discharge of dredged or fill material into the waters of the state, Langemeier. Authorizes the Nebraska Department of Environmental Quality to take over the 404 permit process from the U.S. Army Corps of Engineers.