



NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

601 S. 12th St. Suite 201
Lincoln, NE 68508
Web: www.nrdnet.org
Email:
nard@nrdnet.org

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TO: NARD Board, NRD Managers and Conservation Partners
FROM: Dean E. Edson, NARD Executive Director
RE: January 19 NARD UPDATE

Bill Introductions End – Senators finished introducing new bills for the session on January 17th. This year, 705 bills and 10 constitutional amendments were introduced. More than a third of this year's bills - 243 - were introduced on the final day for bill introductions.

Hearings next week

LB 291 – Change membership on the Nebraska Environmental Trust Board, Hansen. The bill changes the requirements of appointing board members. The bill reduces the board from 9 to 8 and eliminates the requirement that 3 appointees shall be chosen from each of the three congressional districts. The eight regions would represent specific counties. Lancaster and Douglas County would each have 1 member.
Hearing 1/25 Natural Resources, 1:30 Room 1525

LB 313 – Engineering Requirements under the Livestock Waste Management Act, Natural Resources Committee. The bill clarifies that livestock operations required to obtain a National Pollutant Discharge Elimination System permit and large livestock operations as defined in federal requirements are subject to the requirements of the Engineers and Architects Regulation Act. Small and medium size operations not required to obtain a National Pollutant Discharge Elimination System permit would be exempt from the Engineers and Architects Regulation Act. **Hearing 1/24 Natural Resources, 1:30 Room 1525**

LB 333 – Private Onsite Wastewater System Contractors Certification and System Registration Act, Johnson. This bill makes a number of provisions, including clarification of the requirement of employing a certified professional for the abandonment of an onsite system and the issuance of permits and requirements necessary for operation and maintenance. It also authorizes NDEQ to adopt fee schedules for administration, enforcement, late fees, and special project, subdivision, and development area permit reviews. Finally, the bill provides that NDEQ may waive certification and examination fees for agency inspectors if that agency has adopted inspection and compliance programs that are at least as stringent as those in the Act. **Hearing 1/24 Natural Resources Committee 1:30 Room 1525**

Bills of Interest - The following are some bills of interest to natural resource districts.

LB 387 – Require Water Meters on new Construction, Langemeier. Beginning January 1, 2008, the bill would require all new residential construction equipped with plumbing shall have water meters and plumbing installed in such a way as to separate potable water used outside the residence from potable water used inside the residence. Beginning January 1, 2015, all new construction equipped with plumbing and all new water service changes shall have water meters and plumbing installed in such a way as to separate potable water used outside the building or residence from potable water used inside the building or residence. The costs of implementing this section shall be borne by the property owner, except that water meters shall be supplied and maintained by the water service provider.

LB 391 -- Copies of records and speaking at public meetings, Mines. The bill makes several changes to copy requests of public records and the open meetings act as follows:

- 1) If an individual requests copies of all public records within a certain time frame, the request would also require a request of the specific subject matter.
- 2) Authorizes a public body to allow a member of the public or any other witness other than a member of the public body to appear speak on agenda items by means of video or telecommunications equipment.
- 3) Clarifies that the presiding officer at a public meeting can limit public comment to agenda items at the meetings.
- 4) Requires that each public body shall have a form on which citizens may recommend subjects for discussion as possible agenda items at a future meeting. Copies of such form shall be made available at every meeting and at the principal office of the public body during normal business hours.
- 5) Within ten business days after receiving such form, the secretary or other designee of the public body shall, by first class mail, send the citizen a written statement regarding the status of the request.

LB 458 -- Integrated Management Plans and removing vegetation, Carlson, *et al.* The bill requires as part of an integrated management plan adopted pursuant to section 46-715, the plan shall include provisions to remove vegetation that has a negative impact on those river basins, subbasins, or reaches that have been declared fully appropriated or overappropriated. Any integrated management plan in existence on the effective date of this act shall be amended to include provisions pertaining to such vegetation. The amendment to the integrated management plan shall be commenced within six months after the effective date of this act. For purposes of this section, negative impact shall mean vegetation within the banks of the natural stream and any vegetation identified as a nonnative invasive species.

LB 493 – Change requirements of the Water Policy Task Force, Langemeier. The bill reduces the minimum number of meeting times the Water Policy Task Force from 2 to 1 time annually. The bill also requires the task force to review of the research done at the University of Nebraska relating to implementation of Laws 2004, LB 962, and a recommendation with respect to necessary research for continued implementation of LB 962

LB 503 – Change NRD Board Vacancy Appointments, Mines. The bill eliminates the provision that appointments for vacancies of NRD directors fill the unexpired term. The new provisions would require:

- If a vacancy occurs on or after August 1 in an even-numbered year, the appointee shall serve for the remainder of the unexpired term.
- If the vacancy occurs at any other time, the appointee shall serve until the first Tuesday following the first Monday in January following the next regular general election and at the next regular general election a member of the board shall be elected to serve the unexpired term.

LB 530 – Change the allocation formula for the Storm Water Management Plan Program, Nantkes.

The bill adds a requirement that, for distributing grant funds to a county, the proportion shall be based on the county population, less the population of city applicants within that county.

LB 534 – Funding Storm Water Programs and Sewage, Schimek. The bill allows cities, villages and counties in urbanized areas to issue revenue bonds to pay for development of storm water programs, including any storm sewer systems. An urbanized area means a statistical geographic area defined by the United States Department of Commerce, Bureau of the Census, consisting of a central place or places and adjacent densely settled territory that together contain at least fifty thousand inhabitants and have an overall population density of at least one thousand inhabitants per square mile.

The programs would be paid for by development of charges for the use of a storm sewer system which would be proportionate to the storm water contribution of the premises served and based upon sound engineering

principles, as determined by the city or village, and may include allowances or adjustments for impervious land surfaces and land uses and credits for storm water quantity and quality best management practices.

Finally the bill requires a city or village that is implementing a program to establish a system of exemption from storm water charges for the property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose

LB 564 – Recreational Liability Act, Friend, *et al.* The bill is in response to a Nebraska Supreme Court decision that struck recreational liability protection for political subdivision and state-owned property. The bill adds the State of Nebraska, a state agency, a political subdivision, to the list of private landowners, tenants, lessee, occupant or other person in control of the premises who receive recreational liability protection if they do not charge the public for access.

LB 566 – Recreational Liability Act, Loudon, *et al.* The bill adopts the Public Recreation Liability Act which extends some recreational liability protection the land owners (defined as the state, a state agency, including the University of Nebraska and any state college or community college, or a political subdivision that is the title holder, tenant, lessee, occupant, or otherwise in control of the land). The liability protection would apply to the owner who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes. If there is no charge, the owner does not thereby (1) extend any assurance that the premises are safe for any purpose, (2) confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

The liability protection would not extend for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or for injury suffered in any case where the owner of land charges the person or persons who enter or go on the land.

LB 567 – Extend Recreational Liability Protection to Private landowners that charge access, Loudon, *et al.* The bill extends recreational liability protection to private landowner and private entities that charge for access. Current law provides this protection if they do not charge for access

LB 568 – Extend the Scrap Tire Grant Program, Natural Resources Committee. Extends the grant program for recycling tire under the Waste Reduction and Recycling Incentive Fund from June 30, 2007 to June 30, 2012.

LB 594 – Temporary suspension of new well permits and surface water rights for irrigation, Kopplin. The bill finds that it is in the best interest of the State of Nebraska to temporarily restrict the issuance of new surface water appropriations and water well permits for irrigation purposes. Applications for water well permits and surface water appropriations made on or after January 1, 2007, shall not be granted prior to January 1, 2009. Exceptions would include:

- 1) Domestic purposes;
- 2) Public water suppliers;
- 3) Test holes;
- 4) Dewatering wells with an intended use of one year or less;
- 5) Wells constructed pursuant to a ground water Protection Act;
- 6) Water wells designed and constructed to pump fifty gallons per minute or less, except two or more water wells that each pump fifty gallons per minute or less connected or otherwise combined to serve a single project such that the collective pumping exceeds fifty gallons;
- 7) Water wells for range livestock;
- 8) New surface water uses or water wells that are necessary to alleviate an emergency situation involving the provision of water for human consumption or public health and safety;

9) New surface water uses and water wells to which a right or permit is transferred in accordance with state law, but the consumptive use of any such new use can be no greater than the historic consumptive use of the surface water use or water well from which the right or permit is being transferred;

10) Water wells for which permits have been approved by the Department of Natural Resources pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act prior to January 1, 2007;

11) Increases in ground water irrigated acres as described in subdivision (3) (k) of section 46-714; Here is that language --- *(k) subject to any conditions imposed by the applicable natural resources district, to the extent permitted by the applicable natural resources district, increases in ground water irrigated acres that result from the use of water wells that were permitted prior to the effective date of the determination made in subsection...)*

12) Surface water uses for which temporary permits are issued pursuant to subsection (8) of section 46-233. This section requires that under no circumstances shall such date be longer than one calendar year after the date the temporary permit was granted. Temporary permits shall be administered during times of shortage based on priority.

LB 622 – Open Meetings Act Training Sessions, Pirsch. The bill requires any public officer, public records coordinator, or public employee to complete a training course regarding the powers and duties of a public body and its members under the Open Meetings Act no later than one year after the day the member (a) takes the oath of office, or (b) assumes his or her duties as a member of a public body.

The Department of Justice may provide the training course and shall approve any training course offered by a governmental agency or any other entity. The Attorney General shall make at least one approved training course available on a widely available medium at no cost. An approved training course may be provided on the Internet.

The training course shall include instruction in: (a) The legal requirements for open meetings; (b) The applicability of the Open Meetings Act to public bodies; (c) Procedures for conducting open meetings and closed sessions under the act; and (d) Penalties for failure to comply with the Act.

LB 652 – Mandatory Energy Audits, White. The bill would require every agency, department, commission and every political subdivision of the State of Nebraska to conduct an audit of its energy usage. Such audit shall examine the following: (1) Methods of reducing energy usage by such agency, subdivision; (2) The costs of implementing such energy efficiency measures; (3) The projected benefits, including long-term cost reductions, from such energy efficiencies; and (4) Whether there are alternative energy resources that may be used in combination with energy efficiencies to provide further benefits.

A report of each audit conducted this act shall be provided to the Clerk of the Legislature on or before December 31, 2007. Entities required to conduct such an audit are authorized to seek technical assistance from public utilities, the Nebraska Energy Office, the University of Nebraska, and other available resources.

LB 701 – Create a Basin-wide Management Authority and Committee, Christensen. The bill creates a basin-wide management authority and committee for any river basin which as of July 1, 2007, is subject to the interstate compact. Water users in the basin shall be subject to regulation by a basin administration committee. The basin administration committee would be made up of the following members:

(1) One representative from each eligible Natural Resources District in the river basin which has at least fifty thousand irrigated acres within the basin, appointed by the board of directors of the Natural Resources District;

(2) The Director of Natural Resources;

(3) A representative of surface irrigation districts, chosen by caucus, within the river basin who is either a landowner with at least two hundred acres irrigated by surface water or an employee of an irrigation district within the river basin; and

(4) A representative of municipalities, chosen by caucus, within the river basin having a population of at least one thousand five hundred inhabitants who is either an employee of one of such municipalities or an employee of an economic development organization of which one of such municipalities is a member.

The bill sets out intent language that the State of Nebraska should take fiscal responsibility for consumptive uses which are greater than the allocation allowed by the Final Settlement Stipulations of the Republican River Basin Settlement Agreement with the State of Kansas prior to December 31, 2012. On and after January 1, 2013, four-fifths of the costs of basin administration committee programs associated with keeping the river basin in compliance with the interstate compact shall be paid by the State of Nebraska and one-fifth of such costs shall be paid by the basin administration committee.

In order to accomplish that intent, the Republican River basin will be managed by a basin-wide authority. The basin-wide authority shall have the power to quantify responsibility and assign responsibility to regulatory entities, to conduct basin-wide activities such as vegetation management, water supply augmentation, and irrigation acreage retirement programs to responsibly use both surface water and ground water irrigation.

The basin administration committee would be required to:

- 1) Formulate a balanced water budget and perform activities that result in basin-wide compliance with the interstate compact;
- (2) Formulate and manage a financial budget that will result in basin-wide compliance with the interstate compact. The Basin administration committee shall provide notice to the eligible Natural Resources Districts of required funding by October 31 of each year.

The Natural Resources District would be authorized to levy a tax up to ten cents per one hundred dollars of taxable valuation of property subject to the levy within such district and transferred to the basin administration committee up receipt.

Revenue raised by such levy shall be matched by funds from the state's General Fund at a rate of four General Fund dollars for each dollar generated by such tax levy, up to a maximum of nine million General Fund dollars in 2007 adjusted dollars. Such General Fund matching funds shall be appropriated to the basin administration committee for management. In addition to the matching funds, the Legislature shall for FY2008-09 appropriate ten million dollars to the basin administration committee to implement activities required or permitted

The basin administration committee would be permitted to do the following:

- 1) Assign water allowances to each regulatory agency within the river basin.
- 2) Supplement and augment river basin water supplies;
- 3) Manage vegetation;
- 4) Implement irrigation acreage retirement programs only after the basin administration committee conducts and publishes an economic impact study showing the cost to each county in which irrigation retirement would occur;
- 5) Provide incentives to responsibly manage surface water and ground water irrigation;
- 6) Purchase surface water rights, on either an annual or a permanent basis;
- 7) Apply for and hold water permits;
- 8) Develop and manage a basin-wide water bank;
- 9) Contract with private entities or individuals for services; and
- 10) Spend not more than three percent annually of the funds available from the property tax funds from the natural resources districts.

Other provisions of the act allow for:

- 1) Transfers of groundwater and surface water from other river basins.
- 2) For each calendar year in which the Elwood Reservoir is above seventy-five percent of capacity for at least six months of such year, the Legislature shall appropriate to the Central Nebraska Public Power and Irrigation District forty thousand dollars when the reservoir is at least thirty-three percent full and an additional fifty dollars per acre-foot in excess of thirty-three percent capacity.
- 3) Any program involving a state agency which is designed to reduce or offset beneficial consumptive uses shall estimate the ten-year economic impact of the program on the community where the program is planned and the community shall be compensated for any negative economic change.
- 4) Any program involving a state agency which is designed to reduce or offset beneficial consumptive uses shall estimate the ten-year economic impact of the program on property owners in the location in where the program is planned and shall compensate such property owners for any negative economic impact.
- 5) The Governor, in cooperation with the Attorney General, shall seek financial compensation from the federal government for the effects of conservation programs on streamflow.
- 6) The Department of Natural Resources and the State of Nebraska would be required to include a representative of the basin administration committee in negotiations, planning, and recreation of future interstate compacts and agreements, as well as meetings and negotiations regarding the interstate compact.

LB704 – Adopt the Fishable and Swimmable Waters Act, Preister. This bill attempts to ensure that all Nebraska streams, lakes, and public reservoirs meet state and federal standards by January 1, 2027. It requires the Nebraska Department of Environmental Quality to develop, publish, and put in place a plan by January 1, 2008, that will ensure that:

1. The Department will complete, on or before January 1, 2011, total maximum daily loads (TMDLs) for all waterbodies that have failed to meet existing state standards as of January 1, 2007;
2. The Department will complete, on or before January 1, 2017, assessments of every waterbody in Nebraska;
3. The Department will complete, on or before January 1, 2019, TMDLs for all waterbodies determined on or after January 1, 2007, to not meet state or federal standards; and
4. The Department will implement each TMDL completed according to the above within three years of its completion, and in no case later than January 1, 2022, with the highest priority given to streams that supply water for public water systems.

The bill further directs that the Department ensure that implementation measures are adequate to bring waterbodies into compliance with state and federal standards by January 1, 2027. It also creates the Surface Water Quality Cash fund for TMDL assessments, load allocations, and for incentives, and allows the Governor to appoint a 14-member Surface Water Quality Blue Ribbon Task Force to review the plan and funding and to report to the Governor and Legislature on its findings. Finally, the bill expresses the intent to appropriate \$5 million in FY2007-08 and \$10 million in FY2008-09 to carry out the Act.

LR 11CA -- Reduce Funding to the NETF and create a new Crime Fund, Flood. A constitutional amendment to reduce the distribution of state lottery proceeds to the Nebraska Environmental Trust from 44.5% to 41.5% and established that 3% of the money remaining be transferred to a new fund for funding grants on the basis of local matching funds for local law enforcement efforts to enforce laws that deal with drug offenses, violent crime, and serious offenders