



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: April 19 NARD UPDATE

Republican River Basin Water Bill Advances to Final – State Senators advanced LB 701 to Final Reading on a unanimous voice vote this morning after less than 2 hours of debate. Senators also advance the related appropriations bill, LB 701A, on a unanimous voice vote. Senators adjourned for a 3-day weekend shortly after taking action on the bill.

The bill was advanced after four clarifying floor amendments, offered by Senator Chambers, and one major amendment (AM 1073), offered by Speaker Flood, were adapted to the bill. Speaker Flood coordinated the request of about 14 state senators to come up with the compromise language in AM 1073. The four core components of the proposal remain intact. These include (followed by amendments to that component):

1. **Bonding Authority for NRDs** – This component includes the authority for NRDs in the Republican Basin to lease or acquire surface and ground water rights in the basin and divert the water from irrigation to enhance stream flows. The NRDs, either on their own and/or through an interlocal agreement, would have the authority to issue bonds to pay for the projects. Funding sources for repayment of the bonds could come from up to a 10-cent property tax and up to \$10/acre occupation tax on irrigated acres. This component also included extension of the 3 cent levy authority for NRDs in fully and over-appropriated areas from 2008 to 2012. The bonding authority for new projects would sunset in 15 years.

The portions of AM 1073 dealing with this component includes language to: 1) Clarify that only qualified NRDs could form interlocal agreements to issue the bonds; 2) Clarify the 15 year sunset provision; 3) Within 45 days of a request from the Natural Resource Committee, a report would be required by the qualified NRDs issuing such bonds of existing and planned activities to the committee; 4) Beginning April 1, 2008, a district that uses bonds to purchase surface water shall restrict the use of groundwater from water wells used on acres certified for both groundwater and surface water use to no greater than the total groundwater allocation granted less the surface water purchased; 5) Clarify that groundwater can be leased or purchased with the bonds; 6) Clarify that river enhancement projects authorized under the bond are consistent with the all authorities granted in Chapter 2, Article 32; and 7) Clarify that the occupation tax becomes delinquent at the same time as general property taxes.

2. **State Funding for Water Programs, LB 322** – This component is Governor Heineman's proposal in LB 322 to establish a Water Resources Cash Fund to be administered by DNR to comply with interstate water compacts and conserve water in fully and overappropriated basins. The provision of the bill appropriates \$2.7 million per year to the Water Resources Cash Fund. After October 1, 2012 and until October 1, 2019, a 3/5 cent/bushel check-off on corn will be imposed and directed to the Water Resources Cash Fund. NRDs could access money from the fund with a 40 percent match requirement. This division also included \$3 million for the current fiscal year to be appropriated to the state Department of Natural Resources to negotiate leases on surface water rights in the Bostwick Irrigation District.

The portion of AM 1073 dealing with this component included language to: 1) Make it clear in a statement of intent that the provisions included in this bill does not establish a precedent that the Legislature must or should purchase water or provide compensation for any economic impacts resulting from necessary water regulation; 2) Increase the grain sorghum check-off from ½ cent to 6/10ths of a cent starting in 2012 to match the corn check-off; and 3) Dropped the reporting requirements of the NRDs that use the funds and created a requirement for the Department of Natural Resources to develop rules and regulations for use of the funds. These components would require a) how planned activities of the district would assist in compliance with an interstate compact or decree or a formal state contract or agreement as required by 46-715 and b) a schedule of implementation of the activity or its components. Any NRD that fails to implement and enforce controls, rules and regulations as required under 46-715 would not be eligible for funding from the Water Cash Fund. The department would be required to submit an annual report to the Legislature by October 1 each year on the use of the funds.

3. **Water Management Changes of LB 295** – This component was already on Select File in LB 295 and makes a number of changes at the request of the Nebraska Department of Natural Resources, including 1) Adds U.S. Bureau of Reclamation on the list of entities which may have appropriations terminated for nonuse. 2) Clarifies that no person shall use a water well for purposes other than its registered purpose until the water well registration has been changed to the intended new use. 3) Provides an exception so that a person may use water well registered for purposes other than its intended purpose for a de minimis use for livestock, monitoring, observation, or any other non-consumptive use approved by the applicable natural resources district.

This component also included language that will require DNR, in consultation with the effected natural resources district, to do an annual determination in fully and over-appropriated basins, starting January 1, 2008, and every January 1 thereafter, to estimate the maximum amount of water that may be available from stream flow for a beneficial purpose in the short and long-term. The language would not be an "order" by the department, rather only a forecast developed by DNR and the affected NRDs.

Finally, this component allows NRDs to impose a temporary well drilling moratorium without a notice or hearing, but requires a hearing within 180 days. Similar language is included allowing DNR to impose a temporary 180-day stay on new surface water natural-flow appropriations in areas where a natural resources district has imposed a temporary 180-day stay on new well construction and the addition of new irrigated acres.

The portion of AM 1073 dealing with this component included language to: 1) Clarify that the department is only making a forecast of available water each year, not an order or determination; and 2) Add language similar to LB 1226 last year that water wells of public water suppliers are exempt from temporary moratoriums.

4. **Vegetation Management Provision of LB 458** – This component creates a 13-member Riparian Vegetation Task Force, as proposed in LB 458, consisting of the Governor, state agencies, NRDs and a riparian landowner from each of the state's congressional districts. The task force would sunset on June 30, 2009. One amendment was adopted to add a representative from the Nebraska Environmental Trust Fund to the task force.

The portion of AM 1073 dealing with this component included language to: 1) Add that the task force analyze the cost effectiveness of available vegetation treatment; 2) Any plan developed by the task force shall utilize the principles of integrated vegetation management and sound science; 3) Clarify the new member added on General File is from the Nebraska Environmental Trust not the Nebraska Trust Fund; and 4) Clarify that for administrative and budget purposes, the task force shall be housed with the Department of Agriculture.