



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 5 NARD UPDATE

Republican River Basin Water Bill Hearing -- The Natural Resources Committee hearing for AM872 on LB701, Senator Christensen's Priority Bill, took place Wednesday, April 4th. All four NRDs in the Republican River Basin, the Department of Natural Resources, Nebraska Farm Bureau and Nebraska Cattlement testified in support of the bill. Opponents included Nebraskan's First and the Nebraska Corn Growers Association. Water Claim testified neutral on the bill. Those in the committee voting for advancement to general file were Senator Loudon, Senator Hudkins, Senator Carlson, Senator Dubas and Senator Fisher. Senator Kopplin voted against the bill. Both Senator Wallman and Senator Christensen did not vote on the bill in committee.

The bill was advanced from committee under AM 938 with the four core components of the proposal intact. These include:

1. **Bonding Authority for NRDs** -- The bill 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 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 fee on irrigated acres.
2. **Vegetation Management Provision of LB 458** -- The amendment creates a 13-member Riparian Vegetation Task Force 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.
3. **Water Management Changes of LB 295** -- This bill was already on Select File 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 a 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.
4. **State Funding for Water Programs, LB 322** -- The provision is Governor Heineman's proposal to establish a Water Resources Cash Fund. 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 ½ cent/bushel check-off on corn will be imposed and directed to the Water Resources Cash Fund. Any district that would use these funds would be required to submit a report of its planned activities.

Changes to other provisions of the bill include:

1. **Water Availability** -- Several testifiers at the hearing mentioned opposition to one section of AM 872 that would have required DNR to do an annual determination in fully and over-appropriated basins, starting January 1, 2008, and every January 1 thereafter, of the maximum water that may be depleted from stream flow in the short-term and long-term in order to remain in compliance with compacts, decrees or other state agreements. This language was eliminated and replaced with language in AM 938 that the department, in consultation with the effected natural resources district, must make an annual estimate regarding the maximum amount of water that may be available from streamflow 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.
2. **Temporary Stays on New Water Use** -- Allow NRDs to impose a temporary well drilling moratorium without a notice or hearing, but requires a hearing within 180 days. This language remains and similar language was added to AM 938 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 bill will be up for General File debate when Senators return from the 4-day Easter Recess on Tuesday, April 10th.

Floor Action

LB564 - Recreational Liability Act – The Legislature debated LB 564 this week which provides some limited liability provisions for recreational facilities that was removed by the Supreme Court last fall. The Judiciary Committee amendment to the bill creates a liability exemption for state and political subdivisions when claims relate to recreational activities in certain situations when no fee is charged to enter and use the land. Those situations are:

- Claims resulting from the inherent risk of the activity;
- Claims arising out of a localized defect of the premises unless the defect is not corrected by the state or political subdivision within a reasonable time after actual or constructive notice of the defect.
- Claims arising out of the design of a skate park or BMX park that was constructed in according with generally recognized standards in existence at the time the facility was constructed.

After a filibuster by Senator Chambers, the committee amendment was adopted and the bill was advanced to Select File.

LB488 - Income Tax Credit for Perpetual Conservation Easement Donations – Senator's debated a bill to allow for conservation easement tax credits this week. Senator Wallman's priority bill, LB 488, originally would have provided a 50% income tax credit to all donated conservation easements so long as that credit did not exceed \$250,000. The Revenue Committee amendment to the bill would place a cap of \$5 million in credit. After some debate and failed amendments to the bill, Senator Langmeier filed a motion to indefinitely postpone. The bill was laid over at the request of Senator Wallman rather than taking up the IPP motion.

LB622 Open Meetings Act Training Sessions – Senator's failed to advance a bill on General File this week that would have required training courses for members of a public body, public officers, and public employees on the issue of public records and open meetings no later than one year after taking the oath of office or assuming his or her duties as a member of the public body or agency. Senator Pirsh introduced the bill, which was later declared a Speaker Priority Bill. A vote to advance the bill failed to garner the necessary 25 votes and thus, did not advance. It is unlikely the bill will come up again this year.