



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: March 30 NARD UPDATE

Republican River Basin Water Bill Introduced – State Senators, representatives of the Governor’s office, Republican Basin NRDs and other interested parties reached an agreement on a major water bill that would provide financing for water programs in the Republican River Basin. The Natural Resources Committee advanced the agreement in an amendment (AM 872) to LB 701, Senator Christensen’s Priority Bill. Because this amendment has new matter before the Legislature (NRD Bonding), the Natural Resources Committee will hold a hearing on April 4th. The bill includes several legislative proposals and new ideas as follows:

- 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. Here are some key provisions of this section of AM872:
 - The provisions and authorities would only apply to the a natural resources district with jurisdiction that includes a river subject to an interstate compact among three or more states and that also includes one or more irrigation districts within the compact river basin.
 - Allows the local NRDs, irrigation districts, local irrigators and other local entities to be involved in negotiation and development of a solution to the issues at hand.
 - Qualified projects that could be financed would include any one or any combination of the following:
 - (1) The acquisition, ownership and management of water rights, including storage rights, with respect to a river or any of its tributaries.
 - (2) The acquisition by purchase or lease, or the administration and management, pursuant to mutual agreement, of canals and other works, including reservoirs, constructed for irrigation from a river or any of its tributaries.
 - (3) Vegetation management, including, but not limited to the removal of invasive species in or near a river or any of its tributaries.
 - (4) Augmentation of river flows.
 - Allows a qualified natural resources district to issue bonds and refunding bonds of the district, with terms determined appropriate by the board of directors, payable from one or more permitted payment sources:
 - (1) Funds granted to a qualified natural resources district by the state or federal government for one or more qualified projects.
 - (2) An occupation tax of up to \$10 per irrigated acre.
 - (3) Additional property tax levy authority of up to 10-cents.

- Allows for qualified districts to form joint entities or agencies for the qualified projects and project financing

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.

The task force is to consult with appropriate federal agencies and develop and prioritize vegetation management goals and plans to accomplish them. The primary focus of the task force shall be in river basins that are fully appropriated or over-appropriated. Intent language is included to appropriate \$2 million dollars annually to the Noxious Weed and Invasive Plant Species Assistance Fund for the management of vegetation within the banks of a natural stream or within one hundred feet of the banks of the channel of any natural stream. These funds are to be used only for activities and equipment as part of a vegetation program to improve stream flow.

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:

- Adds U.S. Bureau of Reclamation on the list of entities which may have appropriations terminated for nonuse.
- 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.
- 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 nonconsumptive 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 of Water Resources Cash Fund. The provisions of the bill appppropriates \$2.7 million per year to the Water Resources Cash Fund. After October 1, 2012 and until October1, 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.

5) Additional Department of Natural Resources Requests – Apparently at the request of the Department of Natural Resources, additional language was included in the amendment to do the following:

- Allow NRDs to impose a temporary well drilling moratorium without a notice or hearing.
- Require DNR to do an annual determination in fully and over-appropriated basins, starting January 1, 2008, and every January 1 thereafter, 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.

The hearing on the bill is scheduled for April 4 in the Natural Resources Committee Hearing Room (#1525) beginning at noon.

LB564 - Recreational Liability Act – The Judiciary Committee advanced LB 564 this week with pending Amendment 879. The committee amendment 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 spot or 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 accordance with generally recognized standards in existence at the time the facility was constructed.

The amendment goes on to define a fee, stating the participant must pay to participate in or be a spectator at a recreational activity, and includes fees paid to a third party only to the extent that the state or political subdivision retains control of the premises or activity. Fee does not include a charge for parking or vehicle entry. Lastly, the committee amendment provides that claims arising out of the failure to inspect or the negligent inspection of property used for recreational activities shall be handled under the new exemption created by this bill rather than the existing sections relating to inspection claims in the respective State and Political Subdivision Tort Claims Acts.

NRCS and FSA Proposed Office Closings - On March 27, 2007, the NRCS and the FSA announced their plan to close consolidate offices throughout the state. The NRCS county offices proposed to be consolidated include: Banner, Deuel, Dundy, Hayes, and Sherman. The FSA county offices proposed to be consolidated include: Banner, Boyd, Deuel, Dixon, Dundy, Frontier, Garfield, Greeley, Hayes, Sarpy, Sherman, and Thomas. The proposed consolidations are to help both the NRCS and the FSA with budget and staffing constraints. The consolidation sites were recommended based on point system that represented work load. The offices with the smallest work load were then recommended for consolidation. There is a 30 day comment period before the decision will be made final. Public meetings will be held where a consolidation is proposed for both NRCS and FSA offices. Contact your local NRCS or FSA office to find out when these meetings are.

Committee Action

LB 272 – NRD Bonding Authority Indefinitely Postponed. The Revenue Committee indefinitely postponed LB 272 this week. The bill, introduced by Senator Kopplin for the Papio-Missouri River NRD, would have allowed the board of directors of a natural resources district encompassing a city of the metropolitan class to issue negotiable bonds and refunding bonds of the district, entitled flood control dam and reservoir bonds, with terms determined appropriate by the board of directors, payable from an annual special flood control dam and reservoir levy upon the taxable value of all taxable property in the district. The action of the committee on this bonding bill does not impact the bonding proposal included in AM872 for LB 701.

Appropriations Committee Discussion – The Appropriations Committee recently discussed the idea of raising the cigarette tax 6 cents to help aid in expensive water programs. This would raise the state tax on a pack of cigarettes to 70 cents. The funds would be divided into three sections; three cents (about 3 million) of the tax would be put into the water resources cash fund, two cents (about 2 million) would go into the storm water cash fund, and one cent would go into an agricultural and natural resources research fund for research grants. This idea has not been included in any legislation but has caught the attention of many politicians, including the governor.