

Nebraska Association of County Officials Legislative Report



April 10, 2009

County Ordinance Bill Survives First Round of Debate

After proponents agreed to work through opposition or not proceed to the second round of debate, a bill to give ordinance authority to counties was advanced from General File on April 1. **LB 532** was introduced and prioritized by Sen. Scott Price to address public safety issues that have arisen in Sarpy County and elsewhere in the state. An adopted committee amendment narrows the original version of the bill to a list of five areas that could be regulated: parking as it pertains to snow removal and access by emergency vehicles; abandoned motor vehicles; graffiti; false alarms caused by an emergency alarm system; and public indecency. County ordinance authority would not

apply to areas within incorporated municipalities or villages or their extra-territorial zoning jurisdiction.

Several senators spoke in favor of the concept but questioned implementation of specific aspects of the bill. Senators Kathy Campbell and John Wightman recounted the difficulties experienced by the county boards in Lancaster and Dawson counties in attempting to regulate public nudity. Opponents of LB 532 argued that the bill is convoluted and unnecessary. A motion to indefinitely postpone the bill was initially filed on General File and has been re-filed for Select File, if needed.

NACO supports the bill.

Return of State Assessment Sent to Final Reading

Personal property, except motor vehicles, used by the Department of Revenue in state-assessed counties would be transferred to the counties when the assessment function is returned to counties under a Select File amendment to **LB 121**. State employees would be paid cash for their accrued leave but would retain credit for years of service for purposes of transferring into county vacation and sick leave schedules. Transferred employees with health insurance through a state-sponsored program would be allowed to transfer without a waiting period or exclusion for pre-existing conditions.

Dakota, Dodge, Garfield, Greeley, Harlan, Hitchcock, Keith, Saunders and Sherman counties have transferred the

assessment function to the state. Several other counties have considered or requested state assessment, but a lack of state funding for the program limited the transfer to those nine counties. Under the bill as amended, the nine transferred counties would begin to partially reimburse the state for these services beginning on July 1, 2010. After four years, counties would bear the full cost unless they choose to reassume the county assessment function sooner. A county assessor would be appointed until the office could be filled at the next election.

The bill, which was prioritized by Sen. John Wightman, was advanced to Final Reading on a voice vote.

De Minimis Use of Public Resources Clarification Advanced

After much negotiation, a bill to help define when public employees can use office telephones, cars, and other equipment for essential personal business was reported as advanced by the Government, Military and Veterans Affairs Committee this week. **LB 626** stems from a case in which a city manager was fined by the Accountability and Disclosure Commission for using his personal laptop computer to send an email related to a ballot question. The email was unintentionally routed through a city server.

The bill copies existing language about de minimis uses of

public equipment that currently applies to state officials and employees. Such incidental or de minimis uses would not constitute violations of the Nebraska Accountability and Disclosure Act. The bill would require reimbursement if charges are incurred by such use and would allow a governing body to establish procedures for reimbursement.

The bill would also clarify the authority of public officials and employees to address ballot issues.

LB 626 has been designated as a Speaker priority.

Snapshots of County Issues

- **Motor Vehicle Titles and License Plates:** Motor vehicle dealers could apply for a certificate of title in any county under an adopted amendment to **LB 202**. The bill, which provides for electronic titles for motor vehicles or motorboats if a lien has been filed, was advanced to Final Reading on April 6.

A bill creating a standardized process for the development of additional types of specialty license plates for nonprofit organizations, **LB 110**, was signed by Governor Heineman on April 8. At least 500 prepaid applications must be filed with the Department of Motor Vehicles before the new plate types are issued. Fees for personalized message plates are increased from \$30 to \$40 with 25 percent of the fee credited to the Highway Trust Fund.

LB 211, which would have authorized the surviving spouse of a veteran to continue to be eligible for military plates, was killed.

- **Electronic Voting Boards:** County boards and other governing bodies could use an electronic voting device to record roll call or voice votes under **LB 361**, which advanced to the final round of debate this week. Existing law allows city councils or village boards to use the devices. Other sections of the bill address meeting by conference call for certain risk management pools and other entities.

- **Peace Officer Discipline Act:** County sheriffs and first class cities would have to adopt rules and regulations governing the removal, demotion, or suspension of peace officers under the terms of **LB 158**. The bill was advanced from Select File to Final Reading on April 6. The bill lists items which must be addressed, including the right to have a written copy of the accusation, the right to representation, and procedures for making an appeal, among other things. The new provisions would not apply to a deputy sheriff during a probationary period or if otherwise provided in a collective bargaining agreement. The bill will be pulled back from Final Reading for an amendment to harmonize terminology and clarify that certain provisions do not apply to counties or municipalities accredited through the Commission on Accreditation for Law Enforcement Agencies.

- **Road Funding:** NACO has been working with Sen. Deb Fischer to advance **LB 264** from the Revenue Committee. Last year the Legislature adopted LB 846, which contained a wholesale fuel tax formula aimed at providing increased funding for roads. It was estimated that the average wholesale fuel price would be \$2.44, but decreasing gas prices have reduced that rate to approximately \$1.94 per gallon. If the rate is not revised, counties and cities could lose \$10 million. An amendment was approved by the Revenue Committee to specify the exact dates of the six-month period used to calculate

the wholesale fuel tax, but the committee has not been able to reach agreement to send LB 264 to the floor.

- **Tort Claim Filing Deadline:** The deadline for a complainant to file a tort claim against a county would be extended from one year to two years by **LB 304**. The bill was sent to the floor by the Judiciary Committee on a 7-1 vote. The Political Subdivisions Tort Claims Act requires claims to be filed with the governing body in writing within one year after the occurrence of the alleged tort. If the political subdivision does not make final disposition of the claim within six months, a lawsuit may be filed. LB 304 would extend the one year period to two years, which is the same time frame for filing claims against the state.

The committee also advanced **LB 347**, which provides immunity in certain situations for governmental agencies for injuries caused by a dog used for a military or law enforcement purposes. Although the bill was not prioritized, it could be amended onto **LB 494**, a speaker priority bill. LB 494 would change penalties for owners of dangerous dogs that inflict injuries on human beings. The bill specifies that police animals cannot be considered dangerous dogs.

- **Retirement:** County employees would be given a longer window to apply for vesting credit from other retirement plans under a clean up bill introduced at the request of the Nebraska Public Employees Retirement System (NPERS). During General File debate **LB 81** was amended onto **LB 188** to address an \$800,000 shortfall in the State Patrol retirement system. By increasing the employee contribution rate from 13 percent to 15 percent and maintaining the state's contribution at 15 percent of salary, more than \$500,000 would be offset. LB 188 is a Nebraska Retirement Systems Committee priority bill.

The committee has not reported action on **LB 427**, a county law enforcement retirement bill, and **LB 426**, a city law enforcement retirement bill.

- **Riparian Management:** Grant funding for noxious weed control in river basins would be extended for four years under **LB 98**. The bill was advanced from General File on April 6. Amendments were offered that would have required landowners to help pay for vegetation control programs. The bill was introduced and prioritized by Sen. Tom Carlson.

- **Revenue Projections:** The state's forecasting board will meet on April 23 to develop revenue projections before the state's budget is finalized. By some predictions, the gap between revenues and proposed expenditures could grow from approximately \$190 million to nearly \$300 million.

NACO Legislative Day on April 16

It's not too late to register for NACO's Counties Legislative Day. See www.nacone.org for details.