

Nebraska Association of County Officials Legislative Report



March 4, 2011

Mediation Amendment Offered to LB 62

County officials would not be able to file a lawsuit challenging their county board's budget decisions without first going to mediation under an amendment offered to [LB 62](#). The bill, which was on Final Reading today, would prohibit county boards from eliminating an office or unduly hindering a county officer in the conduct of his or her statutory duties. If a county officer challenges the board's decision in court, the official would have the burden of proving such elimination or hindrance by clear and convincing evidence. The bill does not amend statutes that provide for elimination of a county office by combining it with another county office or other types of inter- or intra-county combinations.

The amendment, which was offered by Senator Annette Dubas, would not permit a court challenge of a county budget unless the mediator concluded that further mediation would not result in resolution of the issue. Costs of the mediation would

be shared by the county board and the official.

During debate, senators noted the volume of emails and phone calls from county officials during the last week, particularly in comparison to the number of contacts earlier in the debate. Senators discussed historical aspects of county board authority for budget decisions and the impact of the *Wetovick v. County of Nance* Supreme Court decision last year. Senator Dubas was urged to introduce the mediation proposal as a separate bill next year so that the issue could be fully debated.

Debate on LB 62 will continue on Monday. In addition to the mediation amendment, a floor amendment to strike the bill's enacting clause is pending. This type of amendment is often offered to facilitate debate on a bill, then withdrawn. If an amendment to LB 62 is adopted, the bill must be laid over before another Final Reading vote can be taken.

Elimination of State Aid Sent to Governor

On a 36-9 Final Reading vote, the Legislature passed a bill to eliminate state aid to counties, municipalities and natural resources districts. [LB 383](#) would eliminate \$22 million in state aid to local governments as part of Governor Heineman's budget proposal. Several amendments were offered unsuccessfully during the first and second rounds of debate. The bill will take effect on July 1, 2011.

In addition to LB 383, the Legislature passed several other bills with an impact on counties. [LB 98](#) authorizes the Department of Roads to implement a program to buy back

federal-aid transportation funds from counties. NACO is drafting a sample resolution for counties to use to participate in the program. [LB 396](#) was introduced by Senator Rich Pahls at NACO's request to allow non-negotiable receipts issued to counties as pledged collateral for excess bank deposits to be held in the office of the county treasurer, rather than the county clerk. [LB 160](#) was introduced for NACO by Senator Kathy Campbell to eliminate an antiquated report of trusts owning agricultural land.

Register Now for Counties' Legislative Day at the Capitol

All county officials are invited to spend a day viewing the workings of the state legislature. On April 7, NACO will host a full day of activities, beginning with a welcome by Governor Dave Heineman at 9:15 a.m. and presentations by Speaker Mike Flood and other senators. County officials can observe the Legislature's floor debate, visit state agencies and senators' offices, tour the Capitol and Governor's Mansion, and visit the

NACO and MIPS offices.

Registration forms and an agenda are available on the NACO website. Please register in advance so that lunch reservations can be made at the Cornhusker Marriott Hotel. All participants must have an official name tag in order to participate in the day's activities.

Snapshots of County Issues

Hearings Held This Week

- Yesterday the Revenue Committee heard two bills addressing the valuation of agricultural and horticultural land. [LR 9CA](#) is a proposed constitutional amendment to allow subclasses of agland to constitute a separate class, such as pastureland. Much of the discussion focused on increasing prices for agland and using the income approach for valuation. Senator Ken Schilz asked the committee to hold the bill so that he could study it further over the summer. [LB 439](#) would reduce the valuation of agland for school district purposes from 75 percent to 65 percent. Agland would remain valued at 75 percent for other taxation purposes. The committee also heard [LB 441](#) which would give rural and suburban fire protection districts independent levy authority of 10.5 cents. Fire districts currently

receive funding through a levy allocation from the county board or, if no funding is available, by asking residents for levy authority through a townhall meeting or election. Proponents of the bill cited eight counties in which fire districts receive no levy allocation from the county.

- Voters could sign recall, initiative, and referendum petitions electronically under [LB 566](#). Senator Paul Schumacher introduced the bill to make use of electronic signature mechanisms that are used for other government or commerce functions. He suggested that the Government, Military and Veterans Affairs Committee consider [LB 566](#) along with election day registration bills and develop integrated legislation next year.

General File

- Counties have been involved in discussion on several bills dealing with special assessments. [LB 309](#) was advanced to General File by the Urban Affairs Committee this week. The bill would establish a procedure to reapportion special assessments when the property against which they have been levied is subdivided. A committee amendment has been offered at NACO's request that would prohibit such reapportionment when a tax sales certificate has been issued on a parcel and require notice to be given to the county treasurer. [LB 423](#), which was advanced by the Revenue Committee today, would ensure that a sanitary and improvement district special assessment tax lien survives a tax foreclosure sale. NACO continues to work on amendments to [LB 519](#), which would place certain municipal special assessment in parity with liens for general property taxes.
- County treasurers would no longer be able to issue a treasurer's tax deed to holders of tax sales certificates under [LB](#)

[370](#). Existing law provides for a treasurer's deed or a foreclosure process when property taxes are delinquent. The bill was heard by the Revenue Committee and advanced to General File.

- The Transportation and Telecommunications Committee advanced [LB 35](#) with an amendment that would extend the number of days oversize permits for vehicles transporting sugar beets could be renewed. [LB 573](#), a bill to allow storm spotters to use rotating or flashing amber lights on motor vehicle, was advanced with a committee amendment expanding that authority to certain emergency management workers and requiring users to be within 500 feet of his or her location point.

- The Revenue Committee advanced [LB 360](#), which addresses credits for property taxes previously paid on wind energy generation facilities. Last year legislation was enacted to tax such facilities on a nameplate capacity basis.

Select File

- Fifteen bills appeared on Monday's Select File agenda. Among the bills advanced to Final Reading are [LB 278](#), which would grant specific authority to county boards to make payments, including payroll, by direct deposit, and [LB 556](#), which would statutorily define the boundary between Hamilton and Merrick Counties. [LB 368](#) would limit when political

parties can nominate a candidate if the party did not nominate a candidate in the primary election. [LB 164](#) would require notification to local authorities and electric utilities when an oversized building or object is moved on a county or township road. [LB 210](#) is the Department of Revenue's annual clean-up bill.

Selected Committee Hearing Schedule

The following is a list of some of the bills with county impact that have been scheduled for public hearing in the coming weeks. Hearings will conclude on March 17 and full days of debate will begin on March 22. Please check the Legislature's website for a full listing.

Monday, March 7

Transportation and Telecommunications Committee

Room 1113 1:30 p.m.

- [LB 182](#) and [LB 185](#) - Change provisions relating to the

issuance of one license plate

- [LB 216](#) - Provide for special interest motor vehicle plates

- [LB 661](#) - Change specialty license plate fees

Selected Committee Hearing Schedule, continued

Tuesday, March 8

Transportation and Telecommunications Committee

Room 1113 1:30 p.m.

- LB 87 - Change provisions relating to mowing weeds in ditches
- LB 589 - Allow for encroachments on state highways for special events as prescribed

Wednesday, March 9

Government, Military and Veterans Affairs Committee

Room 1507 1:30 p.m.

- LB 277 - Change the Nebraska Visitors Development Act to provide for the advice of a visitors committee to a county board
- LB 685 - Change provisions of the Nebraska Visitors Development Act relating to the use of funds and the members of committees
- LB 523 - Require identification for petition circulators

Thursday, March 10

Government, Military and Veterans Affairs Committee

Room 1507 1:30 p.m.

- LB 643 - Provide additional public records that may be withheld

Wednesday, March 16

Judiciary Committee

Room 1113 1:30 p.m.

- LB 609 - Adopt the Correctional Facility Reimbursement Act
- LB 545 - Establish a copay for medical services provided at a correctional facility
- LB 671 - Prohibit a sex offender from changing his or her name
- LB 508 - Authorize certain residency restrictions near parks for sexual predators
- LB 460 - Change the Sex Offender Registration Act