

Water Utility Council

by Jerry Obrist, Lincoln Water System, and Mari Matulka, M.U.D.

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The Nebraska 102nd Legislature adjourned May 26. The Nebraska Section AWWA followed the proposals listed below. To see the entire bill proposal, go to the Unicameral's website: <http://nebraskalegislature.gov>.

Bills held in committee will be considered in the 102nd Legislature, Second Session, which begins January 4, 2012.

LB 189 — (Council) Prohibits public employers from asking about a criminal record in a job application. A criminal record could not be an automatic bar to employment. The bill allows the employer to consider a criminal record when an applicant is a finalist for a position.

A public employer may refuse to hire an applicant:

1. If the applicant's record involves a misdemeanor involving moral turpitude or a felony if either conviction "directly relates to the particular employment"; or
2. If the applicant's criminal record is involves a misdemeanor involving moral turpitude or a felony not directly related to the particular employment and the employer determines after investigation that the applicant has not been sufficiently rehabilitated to warrant public trust.

Completion of all aspects of a sentence would be regarded as a presumption that the applicant is rehabilitated. *Held in Business & Labor Committee.*

LB 230 — (Sullivan) Exempts certain utility maps, records and drawings from the Freedom of Information Act. *Approved by the Governor, 4.14.*

LB 266 — (Sullivan) Amends the Open Meetings Act to allow a closed session to evaluate the job performance of a nonelected official or employee. The amendment removes the requirement that the purpose of the closed session is to "prevent needless injury to the reputation" of the person. *Held in Government, Military & Veterans Affairs Committee.*

LB 444 (Avery) — Amends the Open Meetings Act to allow public bodies the option to provide notice of meetings by posting on the public body's website. *Held in Government, Military & Veterans Affairs Committee.*

LB 484 (Hadley) — Excludes certain soil sampling from the One-Call Notification Act. *Held in Transportation and Telecommunications Committee.*

LB 564 (Fulton)— Amends the Industrial Relations Act to provide that a public entity and labor organization can establish a procedure for the settlement of industrial disputes.

If a procedure is not established, the amendment establishes a procedure that requires a mediator. An attempt to reach an agreement on a procedure is required to establish a finding of a duty to bargain in good faith, which is a prerequisite to proceeding to the Commission of Industrial Relations (CIR). *Killed 5.4.*

LB 674 (Harr)—Regulates the use of electronic monitoring of employees by employers. In the bill, "electronic monitoring" refers to the monitoring of employees' activities or communications by any means other than direct observation.

An employer engaged in electronic monitoring must provide prior written and signed notice to employees.

An employer need not give notice when monitoring an employee engaged in a violation of law, a violation of legal rights of the employer or another employee, creating a hostile work environment or a criminal investigation. *Held in Business & Labor Committee.*

LB 682 (Mello)— Creates the Major Gas, Water and Sewer Infrastructure Improvement and Replacement Assistance Act.

Under the Act, beginning July 1, 2012, the sales tax levied upon all increases in the amounts that a gas or water utility operated by a political subdivision charges for water or gas infrastructure programs will be placed in a separate state fund which will be available to such gas and water utilities for the funding of infrastructure replacement programs.

The bill provides a similar benefit relating to sewer use fees for the City of Omaha. *Senator Mello's priority bill bracketed on Select File until 1.4.12.*

LB 683 (Mello)— Creates the Storm Water Management Commission. The Commission is required to study various aspects of storm water regulation including the adequacy of storm water regulation, financing of storm water management and options for user-charge revenue mechanisms. *Held in Natural Resources Committee.*

Washington DC Fly-In

The 10th annual DC Fly-In resulted in more than 400 meetings on the Hill. More than 170 water professionals representing 49 states plus Puerto Rico attended.

Jerry Obrist, Lincoln Water System; **Milo Rust**, City of Chadron, and **Jim Shields**, Metropolitan Utilities District, represented the Nebraska Section AWWA. They visited all Nebraska congressional offices. Issues included:

- Water infrastructure finance and innovation authority;
- Chemical facility security;
- Legislating standards; and
- Improving clean water requirements.