

Utilities Section Newsletter

League of Nebraska Municipalities

May 2011

Legislative action affects utilities, public works departments

*By Lash Chaffin,
Utilities Section Director, LNM*

On May 26, 2011, the Legislature adjourned sine die. As always, the Legislature adopted, or failed to adopt, many measures that affect municipal utilities and public works departments.

The 2011 Legislature adopted three measures related to municipal streets and roads. The Legislature adopted **LB 98**, a bill that allows the Department of Roads (DOR) to enter into an agreement with a political subdivision to purchase the entity's federal-aid transportation funds. The funds may be purchased at a discounted rate at the discretion of DOR. Any funds purchased must be used for construction, reconstruction, maintenance, and repair of an entity's highways, streets, roads, or bridges and facilities, appurtenances, and structures. The exchange allows the local government to use its dollars on street and road projects in a more efficient and timely manner as it is free of additional federal requirements and red tape. Already, the department is working with its L200 recipients to implement this program in Cities of the First Class not in a Transportation Management Area.

Recipients of federal funds are extremely restricted in where the money can be spent and in how projects are engineered and managed. For instance, most funding can only be spent on federal aid routes, and only certain types of projects are eligible. Also, projects are subject to federal laws dealing with consultant procurement, right-of-way acquisition, and environmental impact. These requirements that go beyond state laws can add months or even years to a project that has no opposition.

A well-managed federal exchange program could expedite the delivery of many local projects. Such a program could save money that is currently being spent on paperwork and studies. Thus, if managed correctly, less money could result in more project delivery.

The Legislature also adopted **LB 84**, which earmarks $\frac{1}{4}$ of 1 cent of the current $5\frac{1}{2}$ cent state sales tax for roads starting in FY 2013 and continuing for 20 years. An earmark of $\frac{1}{4}$ cent would generate about \$60-\$65 million annually. Twenty-five percent of the

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funds generated would be dedicated to fund construction of the Expressway System and federally-designated, high priority projects. Municipalities and counties would each be allocated $7\frac{1}{2}$ percent of the road funding, generating about \$4.5-\$4.875 million per year.

Also, **LB 589** makes it clear that a county, city, or village may temporarily use a state highway, other than a freeway for special events if it meets certain conditions. The roadway has to be located within the official corporate limits or zoning jurisdiction of the county, city, or village. A county, city, or village making use of the state highway system for a special event has the legal duty to protect the highway property from any damage that may occur arising out of the special event. Any existing statutory or common law duty of the state to protect the public from damage, injury, or death shall become the duty of the county, city, or village making use of the state

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UTILITIES SECTION

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highway system for the special event.

The county, city, or village using the state highway system for a special event shall formally, by official governing body action, acknowledge that it accepts the duties set out above and, if a claim is made against the state, shall indemnify, defend, and hold harmless the state from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special

event.

If a county, city, or village meets these requirements for holding a special event and provides 30 days' advance written notice of the special event to the Department of Roads, the county, city, or village may proceed with its temporary use of the state highway system. The notice shall specify the date and time the county, city, or village will assume control of the state highway property and relinquish control of such state highway property to the state.

The liability of the city, county, or village using the highway for a special event is outlined in the bill. The Political Subdivisions Tort Claims Act applies to any claim arising during the time specified in a notice provided by a political subdivision.

Regrettably, the Legislature also adopted **LB 383**, which eliminates state aid to municipalities, counties and Natural Resources Districts. The municipal state aid elimination will begin in FY 2011-2012. The

municipal state aid program targeted by LB 383 is the general state aid that is distributed to all cities and villages on a per capita basis. LB 383 does not affect the Municipal Equalization Fund (MEF). The MEF is not funded with state general funds and, therefore, is not being reduced as part of the Legislature's budget cuts.

LB 230 will modify Section 84-712.05 of the Public Records Act to provide exceptions to allow the state's public utilities to withhold

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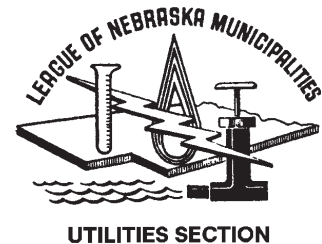
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information regarding utility infrastructure specifications, design drawings, and specific customer use data. LB 230 would allow public utilities to protect sensitive public utility information for security reasons from terrorists or others who would want to sabotage the system to cause damage or harm citizens. The bill provides that a public utility may withhold infrastructure specifications or design drawings if disclosure would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law. LB 230 also allows a public utility to withhold personally identified private citizen customer use information. LB 230 takes effect three calendar months after the Legislature

adjourns, which means the effective date is Aug. 27, 2011.

LB 329 updates the Nebraska Energy Code by adopting the 2009 International Energy Conservation Code. The 2009 version of the Code will replace the 2003 version in current law. The new energy code applies to all new buildings, or renovations of or additions to existing buildings, on which construction is initiated on or after the effective date of the bill. If a city, village, or county adopts an energy code, it must be the 2009 IECC or its equivalent. Current law allows local officials to adopt amendments to the energy code based on local conditions. The amendments are to be reviewed by the State Energy Office for recommendations, but the ultimate decision on the amend-

ment lies with local officials. That procedure is preserved in the bill, as amended.

LB 546, as amended, changes the state building code in Neb. Statute Section 71-6403 to adopt the 2009 version of the International Building Code (IBC) and the International Residential Code (IRC), except section R313, which mandates that new homes have fire sprinklers. The bill also eliminates the automatic adoption of future editions of the codes. The bill provides that state agencies and political subdivisions can amend their building codes by adopting section R313.

Municipalities are not required to adopt building codes, but if they do, they are required to adopt the state building code.

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2011 Fall/Winter Water Workshops scheduled

The spring water workshop sites included Lexington, Seward, Blair, Geneva Beatrice, Gering, Ogallala, McCook and Stuart.

Participants of the Water Operator Training Workshops receive 5 hours toward their grade 1-4 water license along with possible credit hours for wastewater and engineering.

These workshops are co-sponsored by the Utilities Section and the Nebraska Section-American Water Works Association.

Workshop dates and locations are:

July 6 – Lexington, Service Center

July 7 – North Platte, Mid-Plains Community College

Oct. 4 – St. Paul, Fire Hall

Oct. 5 – David City, Library

Oct. 6 – Norfolk, Fire Training Center

Nov. 29 – Bridgeport, Community Center

Dec. 1 – Fairbury, Wally's

Dec. 13 – South Sioux City, Fire Hall

Dec. 14 – Fremont, Christensen Field

Dec. 15 – Lincoln, Water De-



partment Facility

All operators must get their required training hours before the end of the year. Water licenses are due then, too. After 2011, all water operators (grades 1-4 & 6) will be on a two-year renewal and will need 10 hours of recertification training for that time period.

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Municipalities can amend the codes to adopt a different standard from the state building code to reduce unnecessary costs of construction, increase safety, durability, or efficiency, or address special local conditions within their jurisdiction, so long as it conforms generally with the state building code.

Current law provides that the state building code is automatically updated when a new version of the code is promulgated. LB 546 removes the automatic update provision, because of the Attorney General's concern that this is an unlawful delegation of legislative authority. Future updates would have to be adopted by the Legislature. The bill provides that local governments with building codes must update their codes within two years from when the state building code is updated. Under the bill, a political subdivision can adopt a new edition of a code even if the state code is not updated.

The intent of **LB 335** adopted

by the Legislature is to clarify the possible conflict between bidding requirements in state law and requirements in federal programs. With LB 335 enacted, the question will be resolved for future federal programs. Questions were raised recently when municipalities became eligible to apply for federal stimulus grants under the American Recovery and Reinvestment Act program. A requirement of the grant was to "Buy American." There was concern that this requirement could conflict with a "lowest responsible bidder" requirement.

LB 308 provides for terms of office for appointed officials in cities of the second class and clarifies the term of office in villages. The bill was introduced by the Urban Affairs Committee, at the request of the League. For cities of the second class, LB 308 clarifies when the term of a mayor begins and provides that the terms of office for officers appointed by the mayor and confirmed by the council are to be established by the city council by ordinance. The ordinance is to provide that either (a) the officers hold the office to which they have been appointed until the end of the mayor's term of office or (b) the officers shall hold office for one year unless removed

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sooner.

Under current law, the term of office for appointed officials in cities of the first class (population between 5,001 and 100,000) coincides with the term of the mayor. In villages (population under 800), the term of office for appointed officials has traditionally been one year. There is no statutory term for cities of the second class. LB 308 also amends Section 17-208 to clarify that the term of office for villages is one year. Section 17-208 at one time provided that the term of office for appointed officials in a village is one year. Because of amendments to the section over the years, it is not clear to whom the term language applies. LB 308 will become effective Aug. 27, 2011.

Also, the Legislature adopted major reform of the Nebraska Commission on Industrial Relations with **LB 397**.

Watch League publications for more important details on these new laws.

If you would like to receive your *Utilities Section Newsletter* by email rather than regular mail, please contact Brenda at brendae@lonm.org.

Thank you!

If your municipal system or employees receive recognition, promotions, awards, etc., contact the League office so we can recognize them in our publications.

Nebraska utilities history

The Utilities Section Newsletter will continue to feature histories of both utilities and associate members. Any historical data and/or photos of your utilities, a specific facility, or articles already written are welcome, along with permission to print. If you have questions, contact Rob at 402-476-2829 or robp@lonm.org.

By Rob Pierce,
Utilities Field Representative,
LNM

Lodgepole, located in Cheyenne County, was founded July 7, 1867, when the Union Pacific Railroad established a work station known then as "Lodge Pole." Prior to 1867, the closest thing to a settlement had been the Pole Creek #2 Pony Express station, which was located a few miles east of the present settlement. On Jan. 20, 1876, a post office was established as Lodge Pole. Also that year, a dry goods store was established and a general store was built the following year. In 1879, a school was established with the first school district formed in 1881. By 1884, a plat was filed, a newspaper was established and by 1887, the railroad erected a depot. By 1891, the community had two banks (Bank of Nebraska and Peoples National Bank) a Lodge Pole House hotel,

a carpet weaver, implement dealer, shoemaker, stone quarry, brick manufacturer, barber, blacksmith, wagon maker, grocery, telegraph, railroad depot, and general stores. A stone Methodist Church was built in 1893 and in 1895, the post office's name was changed to one word "Lodgepole." In 1899, the first telephones were installed.

In 1901, cement sidewalks replaced many of the boardwalks and that same year, the community was incorporated as a village. By 1908, the village had a Union Pacific Park with a bandstand, and the United Telephone Company took over the exchange. In 1911, the water works was installed at a cost of about \$11,000 with rates at \$0.25 per 1,000 gallons. About the same time, a power plant was installed at a cost of \$2,500 with rates at \$0.15 per kilowatt hour (KWH). (Note: One source listed the electric system as being established in 1915.) By 1910, the population had steadily increased,



Lodgepole water tower, 2001
Photo.

an Opera house was built in 1911-12, and a two-story brick First State Bank was built in 1916. In 1913, the power plant was operat-

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Nebraska utilities history

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ed by Robert Kidney from 5 p.m. to 11 p.m. and lights were blinked at 10:45 p.m., 15 minutes before the plant shut down for the night. In 1920, a brick United Methodist Church was built on the site of the former stone church built in 1893.

The electric system was operated by Lodgepole Light Company with Glenn Ward Wise as manager from 1931-37. Electric light rates in 1933 were: first 15 kilowatt hours (KWH) @ \$0.10

per KWH, all over 15 KWH @ \$0.08/KWH, minimum bill \$1.50 per month. Home service rates were: first 37 KWH @ \$0.08 per KWH and all over 35 KWH @ \$0.04 per KWH with a minimum bill at \$3. Power Rates were: first 100 KWH @ \$0.07 per KWH, next 200 KWH @ \$0.06 per KWH and all over 300 KWH @ \$0.05 per KWH, with a minimum monthly bill of \$1. Heat Rates were: first 100 KWH @ \$0.05 per KWH and all over 100 KWH @

\$0.045 per KWH and a minimum monthly rate of \$3. Water rates in 1933 were: first 10,000 gallons @ \$1.50, next 10,000 gallons @ \$0.10 per 1,000 gallons and all over 20,000 gallons @ \$0.08 per 1,000 gallons with a minimum monthly bill of \$1.50.

By 1934, Lodgepole was a member of the League of Nebraska Municipalities and the main highway through town was oiled. By 1936, the power plant

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had a capacity of 168 kilowatts (kW) with internal combustion as the power generation source. In 1937-38, a 0.1 megawatt engine was installed at the power plant. In 1949-50, another engine was installed in the power plant with a capacity of 0.2 megawatts.

In the 1950s, the natural gas system was operated and supplied by the Kansas-Nebraska Natural Gas Company. Natural gas rates in 1956 were: 1,000 cubic feet (cuft) @ \$0.20 per ccf, next 4,000 cuft @ \$0.10 per ccf, next 45,000 cuft @ \$0.065 per ccf, next 50,000 cuft @ \$0.06 and all additional @ \$0.055 per ccf, minimum of \$2.

In 1956, the water plant was owned by the village and the 180 meters in service were owned by the consumers. Water rates were a monthly flat fee of \$2.50. The cost of current for pumping water amounted to \$0.02 per kilowatt. In 1956, the electric distribution system and power plant were owned by the village and the 205 meters were owned by the consumers. Meter deposits were \$15 and cost of street lighting was at a rate of \$0.02 per kilowatt.

Rates were – Commercial Rates: first 75 kilowatt hours (KWH) @ \$3.25, next 125 KWH @ \$0.04 excess @ \$0.02; Residential rates: first 20 KWH @ \$1.75, excess at \$0.08, min. \$1.75. A new sanitary sewer system was installed in 1956. By 1958, the municipal-owned sewer system had sewer charges of \$1 per resident and \$1.50 per commercial customer. By 1958, the electric power plant was used as standby power with a capacity of 175 KWH with current purchased from Wheatbelt Public Power District at a wholesale cost of \$0.015 per kilowatt. The electric system consisted of 260 meters with meter deposits of \$15.

By 1962, the fire department had 20 volunteers and the village-owned water plant consisted of 210 meters owned by the consumers with a monthly flat rate of \$2.50. Sewer charges were \$1 per resident and \$1.50 per commercial customer. Electric residential rates were: first 20 KWH @ \$1.75, with excess at \$0.08, and a minimum of \$1.75 per month. Improvements to the water system and many new fire hydrants were installed in the 1970s and 1980s. In April 1982,

the electrical system switched its electrical current supplier to the Nebraska Municipal Power Pool. In 1999, the wastewater facility was a facultative controlled discharge lagoon system which was designed for 0.084 million gallons per day. By 1993, the electric system had 214 electric customers.

Today, Lodgepole has a population of about 348, has been an incorporated village for 110 years and a Utilities Section member for more than 30 years. The municipal water and electric systems have been operating for 100 years, the wastewater facility for 55 years and natural gas service for about 70 years. Natural gas is now provided by SourceGas. The village also has a park, Kasten's ball park, Nancy Fawcett Memorial Library, volunteer fire department and cemetery. Garbage collection is provided by a private collector and the village maintains the village streets. The power plant is operated by emergency standby power with a total generation capacity of about 0.20 megawatts.

References: Nebraska Directory of Municipal Officials, 1956-72,

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Tornado season reminder

Tornado season is here and as most Nebraskans know, we are a part of what is considered “tornado alley.” All employees along with the public should be informed of the emergency procedures implemented in your respective communities. It is important to inform seasonal or temporary employees along with the many volunteers. This season, the major focus has been on flooding from heavy rain and occasional hail storms. The dangers of lightning should be covered with your employees, contractors and the many volunteers helping with sandbagging, levee securement and other basic storm cleanup. As a remind-

er, everyone needs to know the difference from a tornado watch and a tornado warning.

A “tornado watch” means tornadoes are possible in and near the watch area. Review and discuss your emergency plans, and check supplies and your designated safe areas. Be ready to act quickly if a warning is issued or you suspect a tornado is approaching. Acting early helps to save lives!

A tornado warning means a tornado has been sighted or indicated by weather radar. Tornado warnings indicate imminent danger to life and property. Go immediately to a designated shelter preferably an underground basement, storm



cellar or an interior room (closet, hallway or bathroom).

More information concerning tornados, including preparation check lists, can be found at the following websites: <http://www.redcross.org/wwwfiles/Documents/pdf/Preparedness/checklists/Tornado.pdf> or <http://www.bt.cdc.gov/disasters/tornadoes/during.asp>.

Nebraska utilities history

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1979-2011; *Municipal Review Magazine, 1933; Water Resources of Nebraska, December 1936; Cheyenne County Visitors Committee Brochure, 2002; Public*

Power Magazine, January-February 1993, Vol. 51, Number 1; Department of Energy Website, 2004; Guide to Western Nebraska & Eastern Wyoming, Star Herald Publishing, 2004; Nebraska Our

Towns...The Panhandle, 1988; Maps Tell a Story, 1991; Nebraska State Business Gazetteer, 1890-91; History of Cheyenne County 1986; and Who's Who in Nebraska, Cheyenne County, 1940.

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Electric ‘Rubber Gloving’ School held

The Norfolk “Rubber Gloving” School for 2011 was held May 24-26 at Northeast Community College Campus. The school was sponsored by the League of Nebraska Municipalities and the Nebraska Rural Electric Association in cooperation with Northeast Community College.

Electrical line workers from both municipal and rural electric systems participated at this year’s Norfolk school. Participants received a handout on “Suggested Work Rules For Rubber Gloving,” a booklet on “Encyclopedia of Grounding: for de-energized construction and maintenance” by Chance (Hubbell Power Systems) and data sheets on Equal Potential Zone-Step Potential.

A special thanks to the companies and individuals listed for their support and donation of time and materials to make the school a success (listed alphabetical, associate members in bold):

- **Altec: Don Sedlacek, Andy Packer, Travis Paulson**
- American Iron & Steel Institute: Gary McDonald, Dan Snyder
- Cahoon Sales: Greg Schraeder, Dan Bollig
- DBI Sala: Jeff Springer
- **EnergySolutions, Inc.:** Adam Nelson
- ETI: Whit Hamilton
- **Evans Lipka & Associates Inc.:** Doug Kotas
- Hubbell Power Systems: Steve Holler
- **McCaskey Company:** Ken Rieck
- Miller Fall Protection:

Rob Luckey
 • Nebraska Harvester: Dave Scarf
 • PDS: Jeff Carlson
 • **WESCO:** Lloyd Wolfe
 Also, a special thanks to the individuals and their respective systems who served as instructors:

- Station #1 (pole change-out): Brad Davis, Nebraska City Utilities
- Station #2 (C-8 double dead-end): Kory McManigol, Perennial PPD
- Station #3 (steel pole change-out): Gary McDonald, American Iron & Steel Institute
- Station #4 (C-1 pole change-out): Justin



Seth Marek of Fremont at Fall Arrest Demonstration

Sunday, Polk County PPD

- Station #5 (Reclosures classroom): Lloyd Wolfe, WESCO and Jeff Carlson, PDS
- Beginner Stations: Troy Norman, Cornhusker PPD and Kory Hildebrand, Northeast Community College



Photos: Tam Kessler, Scott Doherty



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Classifieds

Utility Superintendent. The Village of Palisade is now accepting applications for Utility Superintendent. Must be 19 years of age and obtain a current valid driver's license. Applicant skills include maintenance of streets, operation of sewer and water systems, including water tests, reading meters and park and swimming pool maintenance. Applicants must obtain Class IV Water Operator License within six months of hire. Wage is dependent upon qualifications and experience, benefits are



included.
Applications should be returned to the Village of Palisade, 122 North Main Street, Palisade, NE 69040. Initial review of applications will be Aug. 1, 2011. Although, applications will be taken until position is filled.

Available on League's new website


Advantage Library

The Utilities Section's "Advantage Library" is on the League website with a list of most of the VHS and DVD videos in the library. A request form is also available on the website.

NDOR Special Events Policies

For information on NDOR Special Events Policies, go to the League website at www.lonm.org at lonm.org/images/Special_Events_2011-05-27-131927.pdf.


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Training calendar for 2011

July

July 12.....Safety Workshop..... Fire Hall, Gering
July 26.....Street Lighting Workshop..... Grand Island

August

Aug. 23-25Electric Rubber Gloving Wheatbelt PPD Training Field, Sidney
Aug. 31-Sept. 1 ..Electric Underground Wheatbelt PPD Training Field, Sidney

September

Sept. 6Backflow Workshop..... Fire Hall, Ogallala
Sept. 15Tree Trimming Workshop..... Fire Hall, Gering
Sept. 20Backflow Workshop..... Howard Johnson Riverside Inn,
Grand Island
Sept. 21Backflow Workshop..... Fire Hall, Wayne
Sept. 22Backflow Workshop..... BPW Building, Beatrice

Workshops also are listed on our website at www.lonm.org "Calendar of Events."

Mileage rate increases to 55.5 cents

Effective July 1, 2011, the mileage rate at which elected and appointed officials, employees, or volunteers may be reimbursed was increased from 51 cents to 55.5 cents per mile.

The Local Government Miscellaneous Expenditure Act provides that local units of government may approve mileage at the rate allowed by Section 81-1176. This section requires the state Department of Administrative Services to set the mileage rate. Effective Jan. 1, 2001, the state created a state policy that the state

mileage rate will be set at the prevailing standard mileage rate as established by the Internal Revenue Service through its Revenue Procedures.

Portions of Act, Section 13-2203, provide as follows: "In addition to other expenditures authorized by law, each government body may approve:

(1)(a) The expenditure of public funds for the payment or reimbursement of actual and necessary expenses incurred by elected and appointed officials, employees, or volunteers at educational workshops, conferences, training programs,

official functions, hearings, or meetings, whether incurred within or outside the boundaries of the local government, if the governing body gave prior approval for participation or attendance at the event and for payment or reimbursement either by the formal adoption of a uniform policy or by a formal vote of the governing body. Authorized expenses may include: (ii) Mileage at the rate allowed by section 81-1176 or actual travel expense if travel is authorized by commercial or charter means."