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Urban Affairs Committee
January 21, 2014

[LB679 LB791 LB801 LB802 LB803]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 21, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB679, LB791, LB801, LB802, and LB803. Senators present: Amanda McGill, Chairperson; Colby Coash; Russ Karpisek; Bob Krist; and Scott Lautenbaugh. Senators absent: Sue Crawford, Vice Chairperson and Brad Ashford.

SENATOR MCGILL: Okay, folks. All right. We will call ourselves into session. Welcome to the first hearing of the Urban Affairs Committee for 2014. I'm state Senator Amanda McGill. To my far right is Senator Bob Krist; right next to me is Laurie Holman, our research analyst for the committee. To my left is Senator Russ Karpisek; Senator Colby Coash; and Senator Scott Lautenbaugh; and Katie Chatters is our committee clerk; and we've got Drew over there as our page. Hello. So if you have anything you need passed out to the committee when you come and sit down to testify, you will hand your handouts to Drew and he'll pass them out to us. We don't operate with a light system in here, but it is generally best practice to only go three to five minutes. We appreciate that, if you can be succinct. If you do plan to testify, you can fill out forms by the doors. You'll need to bring that up for the record. And I ask you all to silence your cell phones or put them on vibrate to make sure that those don't go off and interrupt the recordings making a permanent record of this hearing. With that, Senator Mello is here to open on LB679.

SENATOR MELLO: Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. Currently, Nebraska statutes that govern the required legal notices for zoning and redevelopment projects by municipalities provide that a neighborhood association can opt in to receiving notices about zoning changes and redevelopment projects that affect the area of concern for that neighborhood association. While these statutes have provided a helpful tool to notify citizens of impending zoning changes and redevelopment projects, they were written at a time when the Internet was not widely utilized and the preferred method of giving legal notice was certified mail. As e-mail has grown in popularity, Nebraskans have come to expect that a growing number of government services would be available on-line. Yet at the same time our planning statutes continue to require that planning notices be sent by mail and in some cases by certified mail, which means that the recipient must either be home when the notice arrives or pick up the notice from the post office at a later date. LB679, which was brought to me by some south Omaha neighborhood leaders, would amend the two sections of statute that provide for notices to neighborhood associations to allow for greater flexibility in the manner of notice provided. Under the bill, each neighborhood association receiving planning notices would have the option to select a preferred method of notice, either e-mail, regular, certified, or registered mail. Neighborhood associations would still have to opt in to receive notices, and those

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

individuals who prefer to receive notices in the mail could continue to do so. Allowing planning notices to be provided via e-mail, even in these limited circumstances, should help the city planning departments reduce postage costs as well as making the process more convenient for neighborhood associations that receive multiple notices each month. Should LB679 prove successful, I believe there are other areas in our planning statutes where allowing for e-mail notice could help cities to save money while providing citizens with the opportunity to engage in the local planning process. Thank you for your time and I'd be happy to answer any questions you may have. [LB679]

SENATOR MCGILL: Thank you, Senator Mello. Committee, do you have any questions? Senator Krist. [LB679]

SENATOR KRIST: Thank you for bringing us the bill. I think this committee exists because of you. (Laughter) But what I would say is, and knowing a little bit about the technology and about registered mail, I could send an e-mail to you and you would never see it unless I ask you to ping me back and acknowledge receipt. And although I can get on-line and/or in a phone book and find an address, I don't think e-mail addresses are that accessible to the public or for public notice. Would it be your intent in any way to, if you wanted to receive these notices as a home owner's association by e-mail, you would then make the first request and give an e-mail address for it to be sent to. Is that in the statute? [LB679]

SENATOR MELLO: What the...the statute currently reads, Senator Krist, is that a neighborhood association has to opt in for any kind of notification. [LB679]

SENATOR KRIST: So that opt in is the notification. [LB679]

SENATOR MELLO: So the opt in is already in existing statute. [LB679]

SENATOR KRIST: Okay. [LB679]

SENATOR MELLO: And so what we're trying to provide in LB679 is the opt in if you want to receive it by e-mail instead of by certified mail or registered mail or just regular mail, you have the ability to be able to do that under LB679. But it doesn't change any other component in regards to the neighborhood association's choosing not to opt in or opting in. That stays the same. It's simply giving a different method of how they can choose to get the information. [LB679]

SENATOR KRIST: And I'm surprised the post office isn't here in opposition because you're taking money out of their pocket. But I think it's very worthwhile and I thank you for bringing it. Thank you very much. [LB679]

SENATOR MELLO: Thank you. [LB679]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

SENATOR KRIST: Thank you, Madam Chair. [LB679]

SENATOR MCGILL: Other questions? No. Thank you, Senator Mello. [LB679]

SENATOR MELLO: And I will waive closing to get back to my committee. Thank you. [LB679]

SENATOR MCGILL: Sounds good. [LB679]

SENATOR LAUTENBAUGH: This is our only shot. (Laughter) I mean, don't you think we should sell MUD and what should we do with all the leftover amber lights? (Laughter) [LB679]

SENATOR MELLO: We can talk about that later. Thank you. [LB679]

SENATOR MCGILL: All right. Any proponents here? [LB679]

MIKE BATTERSHELL: Good afternoon. [LB679]

SENATOR MCGILL: Good afternoon. [LB679]

MIKE BATTERSHELL: My name is Mike Battershell. I reside at 3404 South 94th Street in Omaha, 68124. I'm the current chair of the United Neighborhood Alliances of Omaha and the former president of the South Omaha Neighborhood Alliance in Hanscom Park neighborhood. For the past seven years, I've dealt with exactly the reason and the...for bringing this bill forward today. As a neighborhood leader and as a young professional, I work during the day and when certified mail comes I would receive a postcard that says I have something from the city of Omaha. That can be a good thing; that can be a not-so-good thing. It would then take me three or four days to get to the post office to get the piece of mail, and by the time I get it because of this delay there would always be planning notices or my wife would go get them, which was always if you can imagine the dinner table when she's picked up a planning notice. So the point is it's very hard to communicate. So when we're looking at the e-mail upgrade, and, Senator, your question earlier, the city of Omaha maintains a database that all neighborhoods opt in to, and they've recently put the availability to update that database on-line. So as neighborhood leaders change, they're updating that with the city of Omaha anyway. So the ping of e-mails is available and what happened was we went to planning and said can I get this via e-mail. And they said no we can't actually by statute send it to you by e-mail. So the hope is, is that we can progress. So this is last month's just to give you an idea. Every item on the agenda receives its own certified piece of mail. It's \$6.11 a piece. So this is my one month, all stamped, \$6.11 per piece of mail that gets sent. I received six of them. But not only that I moved. So I didn't receive these until two weeks

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

after the planning board meeting that I was supposed to be receiving notices for regarding the neighborhood that I live in. So this is the reason is the hope is that we can help move planning forward, notify neighbors quicker, receive the documents electronically so we can post them to Web sites so we can put them on social media so that we can communicate with home owner's associations faster. So hopefully this helps and I'd really appreciate your support on pushing this through. [LB679]

SENATOR MCGILL: Yeah, that's great testimony. Any questions? Senator Lautenbaugh. [LB679]

SENATOR LAUTENBAUGH: And thank you for coming today, sir. Does that all represent one home owner's association worth of notices? [LB679]

MIKE BATTERSHELL: Yes. So we had a meeting on Friday of last week, the United Neighborhood Alliances, which there are six alliances just to give you some structure. Omaha has six alliances that then divide up the city into six quadrants and there are 200 neighborhood associations. As to the alliances, we met last week and I said, hey, I'm going down to testify. And they indicated that no less than...no one had received less than four of these notices last month. So if you were to just take that room, which there were six people in the room all receiving four notices at the minimum per month, I mean, you can see you're quickly adding up to \$150 a month just in that room. And so...and I don't know, I can't speak to how SIDs are handled and some of the things that would be outside city jurisdiction or how rural, but certainly within the city of Omaha where we're pretty established with neighborhoods that would opt in to this, I suspect the mailing fee would be high. [LB679]

SENATOR MCGILL: Senator Krist. [LB679]

SENATOR KRIST: Just to follow up with Senator Lautenbaugh's question, did I hear 200-plus at \$6 a month? Is that what you said? [LB679]

MIKE BATTERSHELL: Well, yeah. That would be...if you were to figure there's 190 neighborhood associations and it would be safe to assume that city planning is hopefully, I mean, we're going to cross our fingers and hope they're doing something to improve the city, that every one of them are receiving one mailing a month. You know, and I think the current bill as it's written doesn't change the statute as it relates to other entities that would need to require the notice, but hopefully we can move them all to a digital form and save money across the board and receive notices quicker. But, I mean, we received, if you figure we received 25 notices at \$6 a piece, there's \$150 in that room that was sent just to 6 of us. [LB679]

SENATOR KRIST: Thank you. [LB679]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

SENATOR MCGILL: Unbelievable. Makes me want to look more comprehensively at all certified mail and what cases that this would be appropriate in. Did you have another question, Senator Lautenbaugh? [LB679]

SENATOR LAUTENBAUGH: Yes, thank you. Thank you, Madam Chair. So what happens if you miss the notice? Are there multiple hearings or do you just get one shot? [LB679]

MIKE BATTERSHELL: That's right. That's the other...that's the thing that I find a little bit why this seems logical because even to Senator Krist's point when we think about, well, I send an e-mail, I don't know if they got it. Well, there's also no repercussion if you send me certified mail and I don't get it and I don't sign for it or I get it late. The intent on behalf of the municipality is that they sent it out, not that I received it. So they can say due process says I've got to send it out. It's my responsibility as an informed, engaged citizen, I think this increases that because you could technically create a pool of e-mails that just get all planning document notices. I mean, that's part of the bigger picture here is how do we increase all planning notices that are distributed via e-mail. So, yeah, I don't...there's no back and forth. [LB679]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB679]

SENATOR MCGILL: Any other questions? No. Thank you very much, Mike. [LB679]

MIKE BATTERSHELL: All right. Thank you very much. [LB679]

SENATOR MCGILL: Very informative. Is there anyone here...one more proponent? [LB679]

JACK CHELOHA: Good afternoon, Senator McGill and members of the Urban Affairs Committee. My name is Jack Cheloha, first name is spelled J-a-c-k, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in support of LB679 today. Senator Mello's office was kind enough to share the draft of the bill in advance of the session, and so we took it to our planning department which ultimately would be responsible for these notices. And at that point they looked at it, and you can understand in government what once you're used to doing something a certain way, you kind of reach your comfort zone. And the reason why I think the initial law was passed was to make sure that, you know, governments act in a transparent manner and to get notice out and to more assuredly try to do everything you could do to make sure notice was given to at least adjacent neighborhoods or adjacent neighbors to development changes or redevelopment or zoning changes. And so at first they thought, well, they looked at it with a little bit of a skeptical eye, but now after we've heard the explanation and realize that, A, this could offer a chance to save some money and we are, as everybody has talked about beforehand, in the electronic age. And

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

where the neighborhood groups opt in for this information we think that this could become more efficient and a better way to do things. And we appreciate the bill being introduced and that's why we support it. So I'll try to answer any questions. [LB679]

SENATOR MCGILL: Any questions for Jack? No. Thank you very much. [LB679]

JACK CHELOHA: Thank you. [LB679]

SENATOR MCGILL: Any other proponents? All right. Anyone here in opposition? Neutral? And Senator Mello waived closing. So that closes LB679. And onto one of my bills, LB791. Senator Karpisek, would you like to chair for a few minutes? [LB679]

SENATOR KARPISEK: I could. Sure.

SENATOR COASH: Is that open for discussion?

SENATOR KRIST: Do we vote on that?

SENATOR KARPISEK: I can try.

SENATOR KRIST: That was way too easy for a Mello bill.

SENATOR KARPISEK: I don't know.

SENATOR KRIST: Absolutely.

SENATOR LAUTENBAUGH: Do we have a Vice Chair?

SENATOR KARPISEK: I don't know. Something has got to be wrong with it.

SENATOR KRIST: Yeah. Absolutely.

SENATOR KARPISEK: Welcome, Senator McGill.

SENATOR MCGILL: Hello. Good morning or good afternoon. I'm sorry, Senators. My name is Amanda McGill, A-m-a-n-d-a M-c-G-i-l-l, and I represent the 26th District here in Lincoln. LB791 is a bill that authorizes cities of the first and second class and villages to borrow money from a bank or other financial institution and allows the loan to be paid in installment payments for purposes of real or personal property for any purpose that a city or village has authorized by law to purchase currently. Current state statute allows cities or villages to borrow money as specially authorized. This can be done through issuing bonds, issuing tax notes, anticipation notes, or by entering into a lease purchase agreement. Currently, there is no specific authority in the law for cities to borrow for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

property purchases from a financial institution. In some cases, borrowing directly from a financial institution may be quicker and less costly than the other alternatives. The language in LB791 is based on the current statute for lease purchases which allows a city or village to lease real or personal property for more than a year and purchase the leased property in installment payments. I also have an amendment that would include credit unions in there. It was an oversight, but, you know, since we're including all those other financial institutions that only made sense. Questions? [LB791]

SENATOR KARPISEK: Do we have any questions for Senator McGill? Seeing none, thank you. [LB791]

SENATOR MCGILL: All right. Thanks. [LB791]

SENATOR KARPISEK: Proponents on LB791. Welcome. [LB791]

LYNN REX: Thank you. Senators, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we, first of all, want to thank Senator McGill for introducing this bill and would encourage the committee to vote this out. We think that this is an important bill. It would save cities money in the long run just because it does allow them to do something more expeditiously by having a loan, and this is an express authority for them to do that. And as Senator McGill already stated, subject to the same conditions that you would have with a lease purchase or something of that nature. Because frankly when you're dealing with big types of...big dollars, then you're going to do a bond issue. But with something that's just a minor amount to get you through from month to month, that's where this type of a situation would occur. And we also support the amendment. Happy to respond to any questions you might have. [LB791]

SENATOR KARPISEK: Senator Coash. [LB791]

SENATOR COASH: Thank you. When is this a cash flow issue for some cities? Is that... [LB791]

LYNN REX: It is for some, yes, in part. [LB791]

SENATOR COASH: How are some cities negotiating this now without the ability to borrow money? What's happening now? [LB791]

LYNN REX: Well, frankly there's a lack of clarity in the law in terms of whether or not people can or cannot do it now. Some jurisdictions the city attorneys believe they do have authority to do it. We think that they need to have...we think this is an excellent clarification of current law because it expressly states that they do have the authority to do that. But right now we do have a situation where there are cities that maybe from a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

month-to-month basis facing some financial issues, maybe because the tax dollars aren't coming in or whatever it may be. So we think this would kind of help them through that situation. [LB791]

SENATOR COASH: So there are some cities who are borrowing now? [LB791]

LYNN REX: There are a couple of...there are a few cities right now that have city attorneys that think they have the authority to do that now. We think that this is...certainly clarifies current law for anybody that has any question about it. [LB791]

SENATOR COASH: So would this be like a situation where a small, you know, village or something, sheriff wrecks the...or police wrecks the police car and they need to go out and buy another one? [LB791]

LYNN REX: That's probably a really good example. And the actual request for this came from the city of Scottsbluff which is a fairly large city in Nebraska standards. But again just to be able to have them have the same kind of authority for the same reason that you might need to have a short-term loan yourself. [LB791]

SENATOR COASH: Is there any limits in LB791 as to how much they can borrow? [LB791]

LYNN REX: Well, yes. It's built in because frankly it's authorized...it says basically for the same...authorized the same purpose for which any city is authorized to purchase property or construct improvements. So essentially right now there are all kinds of limitations that are built into that under current law. And again you'll note it's not restricted to a single year. They can be, you know, paid in installment payments. But in terms of lease purchase we have a number of cities...well, lots of cities all over the state of Nebraska and villages that do lease purchase arrangements right now and they do that. They do it on larger purchases, too, on fire trucks. So it's not just very small things, but some of them go out and do a bond issue. Quite frankly what they do is they work with their financial people and figure out what is the most cost-effective way of doing it so they save tax dollars. [LB791]

SENATOR COASH: Thank you. [LB791]

SENATOR KARPISEK: Thank you, Senator Coash. Any other questions? Senator Krist. [LB791]

SENATOR KRIST: Thank you, Senator Karpisek. So it brings into a question, cities of the metropolitan don't need this authority? [LB791]

LYNN REX: No. [LB791]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

SENATOR KRIST: They already have it in the charter. [LB791]

LYNN REX: I don't know if they have it or not, but they didn't request the authority. [LB791]

SENATOR KRIST: So are they going to come back and ask us next year? [LB791]

LYNN REX: I do not know that they will or not. [LB791]

SENATOR KRIST: Because for a matter of public record then I would ask that the cities, the other classes of cities and villages review so that we know so that we can tie this up before we... [LB791]

LYNN REX: Okay, okay. [LB791]

SENATOR KRIST: ...actually take it forward. [LB791]

LYNN REX: And you have three of the... [LB791]

SENATOR KRIST: Jack is shaking his head back there, so that's fine. [LB791]

LYNN REX: Shaking his head yes that they already have the authority? [LB791]

SENATOR KRIST: Yeah, he...yeah, so they will. He will check it out. [LB791]

LYNN REX: Oh, he's going to check it out. [LB791]

SENATOR KRIST: Yeah. [LB791]

LYNN REX: So Jack Cheloha, for the record, will be checking it out on behalf of the city of Omaha... (laughter) [LB791]

SENATOR KRIST: The lobbyist from the city of Omaha, Jack Cheloha. [LB791]

LYNN REX: ...will be checking that out. And this bill addresses three of the five classes. There are five classes of cities, five forms of government. This addresses three of those classes of cities: first class, second class, and villages. Both Lincoln and Omaha, metropolitan class and primary class cities, are on our legislative committees internally. They did not make the request which is why they're not included. But we certainly have no problem with including them. [LB791]

SENATOR KRIST: Okay. Thank you, Lynn. Thank you, Chair. [LB791]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

LYNN REX: And thank you for raising that issue. [LB791]

SENATOR KARPISEK: Thank you, Senator Krist. Any other questions? Seeing none, thank you. [LB791]

LYNN REX: Thank you. Thank you very much, and thank you to Senator McGill. [LB791]

SENATOR KARPISEK: Any further proponents? Any opponents? Anyone neutral? Oh, we have a neutral. You're going to wait. Yeah. I'm not used to this in my committee. There's usually a lot of opponents, (laughter) on my bills anyway. [LB791]

SENATOR KRIST: And you're looking at one of them. [LB791]

SENATOR KARPISEK: (Laughter) Welcome, Mr. Stilmock. [LB791]

JERRY STILMOCK: Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client the Nebraska Bankers Association in neutral capacity mostly just because we haven't had an opportunity to get together with our government relations committee to formulate positions. It looks like something that we would support, another item that municipalities in the classes of first, second, and villages would be able to use. I wasn't aware of the amendment. Reserve on that and have to get back to the committee. Adding credit unions typically in our positions is financial institutions for Nebraska banks are to make a clear delineation between banks in working with the governmental political subdivisions, so. But overall it looks like something we would support, but wanted to come in to the committee and share that with you this afternoon. Thank you. [LB791]

SENATOR KARPISEK: Thank you. Any questions? Seeing none, thank you. [LB791]

JERRY STILMOCK: Thank you. [LB791]

SENATOR KARPISEK: Any other neutral testimony? Seeing none, Senator McGill... [LB791]

SENATOR MCGILL: Waive. [LB791]

SENATOR KARPISEK: ...will waive closing. That will end the hearing on LB791. [LB791]

SENATOR MCGILL: All right. And we'll move on to LB801. Going to start a series of committee bills, and so our research analyst Laurie Holman will go ahead and open on

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

these.

LAURIE HOLMAN: Good afternoon, Senators. For the record, my name is Laurie Holman, spelled L-a-u-r-i-e H-o-l-m-a-n, and I am introducing LB801 for the committee. LB801 is a bill that establishes a procedure for a property owner or occupant to appeal a nuisance citation in a city of the first class, second class, or village. Current law allows for an appeal, but it does not specify the appeal procedure. LB801 requires the city or village to establish a method of notice by ordinance. It also sets the time for the property owner to file an appeal, the time for the hearing to be held, and the time within which the hearing officer must make a decision. This is intended to ensure that the appeal procedure is the same for all first-class and second-class cities and villages and that a standard procedure will be followed. The language for LB801 mirrors that from LB643 last year that was brought to us by Senator Davis that established the appeals procedure for grass and weed citations. LB801 extends this same appeal procedure to other nuisance citations in these same classes of cities. Thank you. [LB801]

SENATOR MCGILL: Thank you, Laurie. Are there questions? Senator Krist. [LB801]

LAURIE HOLMAN: Yes. [LB801]

SENATOR KRIST: Just again for public record, are we going to see this from the city of metropolitan or do they already have that? [LB801]

LAURIE HOLMAN: They already have that authority. [LB801]

SENATOR KRIST: Okay. So we don't have to worry about other classes. [LB801]

LAURIE HOLMAN: Yes. [LB801]

SENATOR KRIST: Okay. Thank you very much. [LB801]

SENATOR MCGILL: All right. Thank you, Laurie. First proponent. Welcome, Greg. [LB801]

GREG BUTCHER: Good afternoon, Madam Chair, members of the Urban Affairs Committee. I am Greg Butcher, G-r-e-g B-u-t-c-h-e-r. I am the city attorney for the city of Beatrice testifying today in support of LB801. LB801 is an extension, as Laurie noted, out of LB643 from last year in regards to grass and weeds. In 2012, the city of Beatrice received an unfavorable opinion in a case involving a weed abatement in which a Court Opinion was ordered upon us which stated that due to the language that's in the statute currently that mirrors the language that's in our bill today, all the defendant would have to do in regards to a weed abatement is request the appeal hearing, and at that point they've essentially won the battle. The city would have no ability to, whether the opinion

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

on the appeal was in favor or not of the city, to abate that process. While we were reviewing and helping draft that legislation working with the League, I did a search for that same language and found it to be hidden again in the sidewalk statutes in regards to nuisance. And so to rectify that we've requested through the League, and we thank you for introducing the bill to clarify the language so they match and we also have a mirrored process for notice on abatements, so. Answer any questions you may have. [LB801]

SENATOR MCGILL: Any questions from the committee? I don't see any. Thank you very much. [LB801]

GREG BUTCHER: Thank you so much. [LB801]

SENATOR MCGILL: Other proponents. [LB801]

GARY KRUMLAND: Senator McGill, members of the committee, my name is Gary Krumland, it's K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB801. I won't repeat everything that's been said, but I just mention that these two statutes that are being amended are already in existence. They apply to cities of the first class and second statute applies to cities of the second class and villages. They talk about nuisances created by things on the sidewalk or overhanging the sidewalk and rights of way, diseased trees, that sort of thing. So it's a fairly narrow nuisance but it does have the appeal procedure that was corrected last year in LB643 and we think it should be corrected here too. So we do support the bill. [LB801]

SENATOR MCGILL: (Exhibit 1) All right, any questions? Thank you, very much, Gary. Any more proponents? Any opponents? Anyone neutral? Oh, okay. Then we will...there is a letter to be read into the record on LB801 from the ACLU. Sorry, I didn't see that in advance. So thank you, Senator Coash. Yeah. I don't think I have not seen it yet today either. But thank you for bringing that to my attention. So there is that letter in opposition from the ACLU. And with that, we will close that hearing and move onto LB802. Laurie. [LB801]

LAURIE HOLMAN: Okay. Good afternoon, Senators. For the record, my name is Laurie Holman, L-a-u-r-i-e H-o-l-m-a-n, and I am introducing LB802 on behalf of the committee. LB802 is a bill that represents the continuing effort to clean up the code adoption statutes. This bill eliminates the language that allowed cities of the first and second class and villages and also counties to adopt future amendments to codes they adopted by ordinance. What may be adopted by ordinance must be currently written and it is the language in statute that says amendments as may be made from time to time language that is the problematic portion. The Nebraska Supreme Court stated in Clemens v. Harvey in 1994, and the Attorney General's Opinion we received in 2010 reemphasized specifically that the Legislature may not adopt a language of statutes, regulations, or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
January 21, 2014

other materials from another governmental entity or organization to be promulgated in the future since that would constitute an improper delegation of the Legislature's authority to the entity in question. And that's been extended to cities who adopt ordinances similarly to how we adopt statutes here in the Legislature. That's why we're considering this bill today. Thank you. [LB802]

SENATOR MCGILL: All right. Looking back at the codes. Any questions? No. Thank you very much, Laurie. Proponents. [LB802]

LYNN REX: Senator McGill, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We'd just like to go on record in support of this for the reasons outlined by committee counsel. It's an unlawful delegation and the statute needs to be cleaned up. Happy to respond to any questions. [LB802]

SENATOR MCGILL: Thank you very much, Lynn. I don't think there will probably be any questions. No. Pretty clear cut. [LB802]

LYNN REX: Thank you. [LB802]

SENATOR MCGILL: Any other proponents? Any opponents? Any neutral? All right. That closes LB802. I think we're on track for a record here for five bills. And LB803. [LB802]

LAURIE HOLMAN: Okay. Again, for the record, my name is Laurie Holman, L-a-u-r-i-e H-o-l-m-a-n, and I'm introducing LB803 on behalf of the committee today. This is a bill to clarify a mayor's veto authority in cities of the first and second classes. Currently, mayors in these cities have veto authority, but the language in statute is unclear and contradictory. The statute for cities of the second class was adopted in 1879 and the statute for cities of the first class in 1901, and neither of these statutes have been harmonized or updated since their original adoption. LB803 is needed to establish a clear procedure for a veto and the language before you is similar to the Governor's veto authority language and makes this authority the same in both classifications of city. Under LB803, a mayor can veto a measure at the meeting when it is passed or within seven calendar days after the meeting. A veto after the meeting must be in writing and delivered to the city clerk. The city clerk will notify the city council in writing. The current provisions authorizing the council to override the veto by two-thirds vote are not changed. Under current law, a mayor in the city of the first class may veto an ordinance, order, bylaw, resolution, contract, or claim. A mayor in a city of the second class can only veto ordinances. LB803 makes this veto authority consistent in both classes of city by extending the veto authority in cities of the second class to the other measures in addition to the ordinances mirroring the authority of mayors in the first-class cities. Any questions? [LB803]

SENATOR MCGILL: Senator Krist. [LB803]

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Urban Affairs Committee
January 21, 2014

SENATOR KRIST: Just for the record, by charter... [LB803]

LAURIE HOLMAN: Yes. [LB803]

SENATOR KRIST: ...the others, metropolitan and primary... [LB803]

LAURIE HOLMAN: Yes. [LB803]

SENATOR KRIST: ...and this covers all categories. [LB803]

LAURIE HOLMAN: It does. [LB803]

SENATOR KRIST: Thank you very much. [LB803]

LAURIE HOLMAN: You're welcome. [LB803]

SENATOR MCGILL: Other questions? No. Thank you very much, Laurie. [LB803]

LAURIE HOLMAN: Thank you. [LB803]

SENATOR MCGILL: Proponents. [LB803]

GARY KRUMLAND: Senator McGill, members of the committee, my name is Gary Krumland, it's K-r-u-m-l-a-n-d, from the League of Nebraska Municipalities in support of LB803. One of the persistent common questions we get from city attorneys and from city officials is what procedure does a mayor have to do to veto a bill? If they're familiar with the Governor's procedure, the Governor returns the bill with his objections and then the...within five days. However, if you look at the current law, if a mayor returns an ordinance with his objections, the lobby comes or the ordinance becomes law without his signature. So everybody asks, well, if you can't follow what we all believe is the standard procedure for a veto, what do we do? It's clear the mayor's authority but it's not clear what the procedure is. And so a lot of cities have developed their own procedure through ordinance but it's not necessarily standardized. So what LB803 does is set up procedures similar to what the Governor vetoes the legislative enactment and puts that in the statute for cities of the first class and for cities of the second class. And... [LB803]

SENATOR MCGILL: So in some cases are vetoes just being completely ignored by city council or just making up their own process to...? [LB803]

GARY KRUMLAND: No, I mean, they're generally you kind of say this is a veto and I really mean it kind of thing. (Laughter) You know, and everybody puts up their own kind of procedure. But reading the statute you can't tell what that procedure is, so this

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Transcriber's Office

Urban Affairs Committee
January 21, 2014

clarifies it and standardizes it. And then as Laurie mentioned, cities of the first class can veto ordinances, orders, bylaws, resolutions, contracts, or claims. A mayor in the city of the second class can only veto ordinances, so this standardizes both of those authority. [LB803]

SENATOR MCGILL: All right. Any questions? No. Thank you very much, Gary. Other proponents. [LB803]

GREG BUTCHER: Senator McGill, members of the Urban Affairs Committee, my name is Greg Butcher, that's G-r-e-g B-u-t-c-h-e-r. I'm the city attorney for the city of Beatrice. We we're one of those calls into the League that requested some assistance in trying to define our procedure in regards to vetoing ordinances, resolutions, and contracts. In the 12 years that our current mayor served, he has never vetoed a single item that we know of. And so when the time came to actually have the discussion of potentially doing it, we were without resolve. We didn't know what to do. And so we called the League and after a while in discussion we felt that this needed clarification. We received the same call in from the second-class cities and villages that they had the same concern as you heard. One of the definitive things that's in this piece of legislation also defines the two kind of mechanisms we see for the ability to veto ordinances. And that is what I would call the immediate veto which is after you've passed an ordinance, a piece of legislation, resolution, the mayor on the record can veto that item immediately at the hearing where the interested parties would be who have come in to testify or see what's kind of going on on a measure. And what we would hope is through the process is then also if it would be the will of the council that they could take on the veto override at that point and they could finish the entire process of that legislation whether that's successful or not--right there, in the public meeting, upon the record, in front of the interested parties. So that's the first. But should the mayor want to take some time if it's a contentious issue, this is built in the seven-day calendar day provisions. We feel that's predominantly a good amount of time. We think there's a great mechanism here for identifying the clerk, letting the council know, and then letting the council be able to work through whatever their procedures or processes are to bring that up at the next regular scheduled meeting or an emergency or however it may be to pass a veto override should they choose to. Now I will digress a little bit from what's been written in there. In discussions we've had with our city clerk, our mayor, and our city administrator, one of the essential parties that at least we as the city of Beatrice are involved in is our press. They are constantly interested as the local press in matters, especially when something is vetoed and we haven't had a veto in 12 years. They receive that as newsworthy. And if...under the current procedures that are defined in the bill, if something were to be vetoed in that seven-day period, usually that could take place outside the realm of the press. Obviously the notification of the city clerk is going to be outside the realm of the press, and the notification of the city council is going to be outside of the realm of the press. When it's outside the realm of the press, it's usually outside the main realm of the public. And so interested parties if they're not contacted by their city council member

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Transcriber's Office

Urban Affairs Committee
January 21, 2014

may not even know that the legislation they believe to be potentially passed when they saw it, the final vote of the council take place at a regularly scheduled meeting, may be vetoed up to seven days later, how are they to be informed to maybe contact their council and representative to work towards a veto override. And so we may want to see something in regards to either the press or the public being notified in some way that the veto has taken place if it takes place after the meeting. I think one of the possibilities that could be looked at--we may discuss this more with the League or with the committee--is the potential of just scheduling the item which is vetoed at the next regularly scheduled meeting, and then should the council want to take up an override motion they can do so. I believe this procedure may be used by Lincoln or other larger municipalities. So, I'd answer any questions you have. [LB803]

SENATOR MCGILL: None. Those are good thoughts. Any questions from the committee? No. Thank you very much. [LB803]

GREG BUTCHER: Thank you so much. [LB803]

SENATOR MCGILL: Other proponents? Are there any opponents here? Anyone neutral? Then we'll waive closing on the bill and that's it for the day, folks. Thank you for coming. [LB803]