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The Iowa legislature's current session involves numerous issues of importance to agricultural operators and rural landowners. We have arranged the bills of interest by category in alphabetical order so that you can find them easier. There are some important ones this session. Make sure you provide your elected representative in the Iowa House or Senate with your perspective on issues of importance to you.

Here's what we see as the most important bills at the present time.

### Civil Liabilities

#### **SF 413 (successor to SSB 1232) & HF 605 (successor to HSB 201) HSB 201 Recreational Use Immunity**

These bills are intended to abrogate the Iowa Supreme Court's opinion in *Sallee v. Stewart*, 827 N.W.2d 128 (Iowa 2013), which essentially eliminated the immunity provided to landowners under the Iowa Recreational Use Statute (Iowa Code §461C).

SF 413 was approved by a subcommittee on March 11 and referred to the Judiciary Committee on March 12. The Judiciary Committee approved the bill on April 4, 2013. On the same day, the bill was amended and referred to the Judiciary Committee. HF605 was introduced on March 15 and referred to the Judiciary Committee.

### HF 649 Land Holder Liability

In the late-night hours May 16, the legislature unanimously passed this bill to address the liability concerns raised by the *Sallee v. Stewart* case. The bill expresses that the statute should be interpreted liberally and broadly in favor of landholders to accomplish the purposes of the statute.

The bill makes clear that the land holder does not have to open the land to the general public. It adds "educational activities" to the scope of recreational use activities. The bill also expressly states that persons accompanying others engaging in the recreational activities are included under the statute (i.e. chaperones). The bill eliminates the causation requirement enunciated in the *Sallee* case that injuries must be directly sustained in the course of a specific recreational activity and includes protection for a person's entire presence on the land to participate in the activities. The bill eliminates any duty of care created solely by reason of guiding, directing, supervising, or participating in the activities ("tour guide" liability).

The bill retains exceptions for statutory liability protection if injuries are sustained from the land holder's willful or malicious failure to guard or warn against a dangerous condition or if the land holder charges a fee for the use of the land.

### **SF 270 Stray Voltage**

This bill relates to legal claims of stray electric current or voltage that impacts dairy cows. The Iowa Utilities Board is to establish standard protocols for measuring stray voltage by developing administrative rules. Under the bill, a dairy producer affected by stray voltage is to provide written notice to the electrical service provider regarding why the producer claims cows are being affected. Within 14 days of receiving notice, the utility is to take measurements of stray voltage at the dairy (while abiding by the dairy farm's biosecurity protocols) and may provide recommendations for remedial actions. The dairy producer may also make a written request to the utility board for measurements. The board shall make rules and regulations regarding stray voltage. See also SF 22.

The bill passed out of the Commerce Committee on February 27.

### **SF 96 Reasonable Force**

Eliminates an individual's duty to retreat and allows a person to "stand their ground" and use deadly force when the subjective belief is that it is necessary to prevent death or serious injury or to prevent a forcible felony. Immunity is provided from all criminal or civil actions unless the incident involves and identified police officer acting within the scope of his or her duties.

The bill is presently before the Judiciary Subcommittee.

### **Estate Planning**

#### **HF 86 Power of Attorney**

This bill requires an attorney in fact or agent to provide a signed, notarized affidavit acknowledging an understanding of the fiduciary responsibilities of the attorney in fact or agent of the principal. This acknowledgement must accompany the power of attorney to make it valid. The attorney in fact or agent must complete a training regarding the fiduciary duties prior to signing the acknowledgement.

The bill was referred to the Judiciary Committee on January 29.

### **Miscellaneous**

#### **SF 264 Industrial Hemp Production**

This bill provides a licensing scheme and requirements for industrial hemp production with cannabis plants containing less than 1% of THC. The bill gives the authority over rules and enforcement to the Department of Agriculture and Land Stewardship (DALs) in cooperation with the Department of Public Safety.

The bill was referred to the Agriculture Committee on February 26.

### **Real Estate**

#### **SF 316 (successor to SF 200) Termination of Farm Tenancies**

This bill eliminates the exception to the statutory written notice requirement for the termination of farm tenancies where less than 40 acres is leased. Thus, a farm lease, irrespective of the number of acres leased, automatically continues on the same terms and conditions as the original lease unless written notice of termination is served on either party (or a successor of the party) in accordance with Iowa Code §562.7. Both the Iowa Farm Bureau Federation and the Iowa Farmers Union have expressed support for the bill. The bill was introduced by Sen. Kapucian (R-Benton County).

The bill was signed into law on April 24, 2013.

#### **HF 356 Elimination of Two-Year Statute of Limitation for Judgment on Rent**

This legislation eliminates the statute-of-limitations period for an execution of judgment entered in an action involving a claim for rent.

The bill passed the House unanimously on March 25. The bill was amended by the Senate and then passed unanimously on April 9. The House then passed the amended bill on April 24. The bill was signed into law on May 9, 2013.

#### **HF 247 Levee or drainage district in abstracts**

This bill requires an attorney or abstractor that prepares an abstract of title for land in an existing levee or drainage district to indicate that the land is part of a drainage district. The county where the land is located must provide the records necessary for the abstract to be prepared in accordance with the requirements of the bill.

The bill was introduced on February 18 and referred to the Judiciary Committee.

### **Regulatory Law**

#### **SF 280 and HF 498 Electrical Inspections for Installations on Farms**

This bill specifies that new electrical installations for commercial, farm or industrial applications, including inside and outside of buildings (including public use buildings and facilities) will be subject to inspection and enforcement under Iowa Code Chapter 103.

The Senate version of the bill was introduced by Sen. Bolkcom (D-Johnson County) and the House version was introduced by Senator (T. Olson (D-Linn County)). Agricultural groups are largely undecided on the bill.

The Senate bill is presently in the Senate State Government Committee Subcommittee. The House version of the bill is in the Commerce Subcommittee.

#### **SF 194 Food Labeling**

This bill requires labeling of food products for sale at a grocery store containing genetically modified ingredients, and provides penalties for failure to label. The bill has widespread opposition in the agricultural industry. The bill was introduced by Sen. Bolkcom (D-Johnson County).

The bill was introduced on February 13, referred to the Agriculture Committee, and sent to an agricultural subcommittee on April 3.

#### **SF 119 Corn Suitability Rating in Real Estate Advertisement**

This bill would prohibit advertising the corn suitability rating utilizing methodology

recognized in 2013 by Iowa State University in broadcast, print, or internet advertisement unless advertisement also includes corn suitability rating using methodology prior to 2013.

The bill is presently in the Commerce Subcommittee.

#### **SF 77 Sale of Milk Products to Individuals**

This bill would allow dairy producers to sell products on-site to individuals without being required to label the dairy product. Milk products sold on-site could be unpasteurized or ungraded. Milk products could also be delivered to individuals.

There is widespread opposition to the bill among agricultural interests (except for the Iowa Farmers Union). The bill was introduced by Sen. Sorensen (R-Warren County).

The bill was introduced on January 29 and referred to the Agriculture Subcommittee.

#### **SF 61 Moratorium on Regulations Affecting Sale of Unprocessed Food**

This bill requires a report from state agencies by January 1, 2014 of all statutes and regulations affecting the sale of unprocessed foods, including milk, eggs, honey, fruit, and vegetables and then places a moratorium on the administration or enforcement of any of regulations after July 1, 2014.

The bill is widely opposed by agricultural, veterinary and other medical interests. However, the Iowa Farmers Union supports the bill

The bill was introduced on January 29 by Sen. Sorensen (R-Warren County), and is presently in the State Government Subcommittee.

#### **SF 59 Farm Deer**

This bill amends existing Iowa law applicable to farm-raised deer. It redefines “fencing” as a perimeter fence and a secondary fence rather than just a boundary fence. The bill also requires proof of financial responsibility and testing for chronic wasting disease of deer sent for slaughter. The cost of testing is to be borne

by landowner keeping the farm deer. Notice of escaped deer is required and penalties are provided. A party keeping farm-raised deer must annually register with the department of agricultural by June 30. The required fencing for keeping farm-raised deer is a double fence - a perimeter fence and a secondary fence that is a minimum of thirty feet inside the perimeter fence. The ag department is to prescribe rules for the construction and maintenance of the required fencing, and deer cannot be kept on a farm unless the ag department certifies the fencing. The fences are to be at least 10-feet high and must be inspected and approved before it is certified.

If farm-raised deer escape their enclosure, the landowner must notify the ag department within 48 hours of discovering that the deer are escaped or missing. Once escaped deer are missing for more than 10 days, they become subject to the jurisdiction of the department of natural resources.

The bill provides procedures for imposing discipline for providing false information to the ag department when applying for registration, failure to provide any required notice, failure to maintain fencing, and other violations. The bill also specifies the applicable penalties for any violation of the provisions of the bill

The bill is presently in the Natural Resources and Environment Subcommittee.

### **HF 512 Confined Feeding Operations**

This bill allows livestock producers raising animals in confinement facilities to be reclassified as a "small animal feeding operation" by election (with details of the election to be developed by the department of agriculture) when downsizing and idling unused barns. The purpose of the bill is to allow operators to downsize their operations and yet return to full-scale at some future point, with minimal regulatory cost. The bill would modify existing law to allow a confinement facility with 500 or fewer animal units to make the election which will eliminate the need for the facility to file a manure management plan (which is presently determined by animal capacity for all

confinement barns irrespective of whether the barn is utilized or not). By making the election, classification as a "small animal feeding operation" is based on the number of animals actually housed on the premises as opposed to the capacity of the facility.

The bill passed the House 83-16 on April 1, 2013. An amended bill was approved by the Senate 43-6 on May 1. The House approved the amended bill 85-14 on May 7, 2013. The bill was signed into law on May 15, 2013.

### **SF 23 Farm Houses Included in County Zoning**

This bill eliminates the farm house exemption from county building codes and zoning regulations but retains similar exemptions for other agricultural structures.

The bill was introduced by Sen. Bolkom (D-Johnson County). The Iowa Farm Bureau Federation opposes the bill.

The bill is presently in the Local Government Subcommittee.

### **HF 312 (successor to HSB 87) Manure Management**

This bill requires continuing instructional courses emphasizing practical and cost-effective methods to prevent manure spills especially from manure storage structures. The instruction is to be given via the internet or through the ISU extension service.

The bill was signed into law on April 24, 2013.

### **HF 269 Local Food and Farm Initiative**

This bill amends the current food and farm program to require 50 percent of the moneys to create opportunities for beginning farmers to participate in the local food and farm program.

The bill is presently in the Appropriations Subcommittee.

### **HF 264 Vehicle Height Limits**

This bill raises the height limit for flatbed trailers to 14 feet 6 inches for trailers loaded

with hay, straw, or stover on non-interstate highways.

The bill is presently in the Transportation Subcommittee.

### **HF 261 Open Burning**

This bill amends existing Iowa law applicable to open burning activities. In particular, the bill allows that during periods of extremely dry conditions the state fire marshal may initiate an open-burning prohibition in an area of the state without a request from local authorities if the marshal determines open burning constitutes a danger to life or property. However, an open burning prohibition does not apply to controlled burns in which permits have been issued, backyard outdoor fireplaces, supervised landfills, burning of trash in incinerators, or where burning is permitted by city or county.

The bill has been referred to the State Government committee.

### **HF 90 Wounded Deer**

Allows a trained blood-scent tracking dog to locate and retrieve a deer wounded during hunting on behalf of a person having a valid deer hunting license as long as the hunter obtains permission from the private property owner or tenant. The dog is to be leashed and under control at all times during the search for the wounded deer. A violation of the bill's provisions results in a fine of \$25.

The bill is presently in the Natural Resources Subcommittee.

### **Secured Transactions**

#### **HF 258 Mechanic's Lien**

This bill is designed to correct language in the existing statute. The bill clarifies some pre-notice requirements, and provides for acknowledgement of satisfaction or partial satisfaction of the claim and procedure for when no acknowledgement has been made.

The bill was withdrawn on March 29, 2013.

### **Taxation**

#### **SF 278 (formerly HF 278) Property Tax Assessment for Cultivation of Algae**

This bill is a property tax bill specifying that agricultural property includes real estate that is used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals or biofuel production. To receive favorable tax classification, the real estate must be an enclosed pond or must be land that contains machinery or equipment that uses a light source to provide photonic energy (i.e., a photobioreactor).

The bill also specifies that for valuations beginning on or after January 1, 2002, the real estate of a vineyard and buildings on the same parcel as the vineyard that are used for processing wine are included in the definition of "agricultural property" for real property tax assessment purposes.

The bill would have been effective upon enactment and would have applied retroactively to assessment years beginning on or after January 1, 2013.

The bill was withdrawn on March 14, 2013.

#### **SF 262 Income Tax Exemption for Sale of Equity Investment**

Provides an exemption from net income for individual income tax of net capital gains from the sale of an equity investment in a qualified Iowa business.

The bill is presently in the Ways and Means Subcommittee.

#### **SF 260 and SF 112 Corporate Income Tax**

This bill would deal with Iowa's corporate tax rate (which is presently the highest stated rate in the nation) by implementing a flat 6 percent rate on a corporation's taxable income. See also SF 112.

The bill is presently in the Ways and Means Subcommittee.

#### **SF 106 Decoupling**

This bill updates Iowa Code references to the Internal Revenue Code as most recently modified by the American Taxpayer Relief Act of 2012 signed into law on January 2, 2013. Iowa couples with the I.R.C. provisions except for first-year 50 percent bonus depreciation. The bill also provides additional time for some taxpayers to file and contains other retroactive provisions.

The bill was signed into law Signed by the Governor on February 14.

### **SF 88 Earned Income Tax Credit**

This bill is proposed by a group of Senate Ways and Means Committee Democrats and would increase the Iowa earned income tax credit from its present seven percent of the federal amount allowed under I.R.C. §32. The bill applies retroactively to January 1, 2013, for tax years beginning on or after that date.

**Note:** The increase in the credit will result in a large increase in the marginal tax rate applicable to families trying to emerge from poverty. That is because of the phase-outs that apply to the credit as income rises. Historically, the earned income tax credit has been riddled with fraud. Neither the Tax Section of the Iowa Bar, nor the Iowa Society of CPAs supports the bill.

The bill is presently in the Ways and Means Subcommittee.

### **SF 30 Renewable Energy Tax Credit**

This bill extends the time period for qualifying for the 10-year tax credit by three years. The renewable energy facility shall be placed in service by January 1, 2018.

This bill was proposed by Sen. Anderson (R-Woodbury County) and is a continuing illustration of Iowa's tax code that is filled with credits for special interests. The Iowa Farm Bureau Federation support the bill.

The bill is presently in the Natural Resources and Environment Subcommittee.

### **HF 323 Property Tax Levy for Cemeteries**

This bill authorizes a township to levy a property tax in an amount sufficient to pay for the improvement and maintenance of any cemetery not owned by the township if devoted to general public use.

The bill was referred to the Ways and Means Committee, and is presently in subcommittee.

### **HF 306 Forest Reservation Tax Exemption**

This bill amends the existing program concerning the acceptance of a tract of land as a forest reservation. The bill requires that a forest management plan must be prepared by a qualified forester with a degree in forestry before the tract can be accepted as a forest reserve. Certain tax exemptions are also included.

The Iowa Chapter of the Sierra Club opposes the bill.

The bill is presently in the Ways and Means Subcommittee.

### **HF 304 Tax Assessments for Fruit-tree or Forest Reservation**

This bill establishes assessments and exemptions for fruit tree and forest reserves.

The bill is presently in the Ways and Means Subcommittee.

### **HF 252(successor to HSB 69) Beginning Farmer Tax Credit**

This bill modifies the tax credit for a "beginning farmer" in significant ways. The bill establishes criteria for a beginning farmer, which include that the farmer (or partnership) must: be a resident of Iowa; have sufficient education, training, or experience in farming; have access to adequate working capital and production items; be materially and substantially participating in farming; and not be responsible for managing or maintaining agricultural land and other agricultural assets greater than necessary to adequately support a beginning farmer as established by rules to be drafted.

The bill establishes the authority for administration of the tax credits and rule-making. It also requires written leases and types of agreements, and sets the amount that can be claimed based on whether the beginning farmer is a veteran and the type of lease arrangement. The bill limits the tax credit to \$50,000 for an individual taxpayer. The bill also establishes a custom farming tax credit and permits a credit based upon rules to be drafted. It also limits the tax credit for related parties, joint property owners, or partners. It limits all tax credits to \$12 million per year with \$8 million allocated to agricultural asset transfer and \$4 million for the custom farming provision and provides that credits will be awarded on a first come, first served basis.

The only farm or agricultural-related group to support the bill is the Iowa Farm Bureau Federation.

The bill was withdrawn on March 29, 2013.

#### **HF 195 Inheritance Tax**

This bill exempts from the Iowa inheritance tax the first \$1 million of value of a decedent's net estate that passes to the decedent's brothers, sisters, uncles, aunts, first cousins, nieces and nephews. The bill also apportions taxes due to these individuals in proportionate shares.

The bill is presently in the Ways and Means Subcommittee.

#### **HF 111 All-Terrain Vehicles Sales-Tax Exemption**

This bill deals with a problem that has arisen in recent years with respect to all-terrain vehicles and the attempts by the Iowa Department of Revenue to subject ATV used on a farm to sales and use tax. This bill exempts ATVs used on farms in agricultural production from sales and use tax.

The bill is supported by the Iowa and Nebraska Farm Equipment Dealers Association.

The bill was withdrawn on March 29, 2013.

#### **HF 91 Exclusion of Net Capital Gain from Net Income**

This bill expands the exclusion of net capital gain from net capital income to include the sale of business equipment. The bill also reduces the required holding period to three years.

The bill was introduced on January 29 and referred to the Ways and Means Committee, and is presently in subcommittee.

#### **HF 50 Exemption from State Inheritance Taxes**

This bill, introduced by Rep. Drake (R-Cass County) raises the exemption from state inheritance tax from \$25,000 to \$100,000.

The bill is presently in the Judiciary Committee.

#### **HF 478 (successor to HF 3) Alternative Maximum Tax**

This bill allows individual taxpayers to apply a flat 4.5 percent rate of tax on Iowa adjusted gross income as an alternative to the graduated rate tax structure. Tax liability would be computed under the flat rate approach and the multi-rate approach, with the taxpayer paying the lower amount. The bill also contains a tax credit that alters how Iowa distributes budget surplus funds. Such funds would be available to taxpayers in the form of a credit on the Iowa return.

The bill passed the House on March 13 on a straight party-line vote of 53-46 with the minority party criticizing the bill based on their claim that it would impact a fraction of Iowa taxpayers and that it would be more beneficial to high-income taxpayers. But, that argument is red-herring inasmuch as high income taxpayers already pay much more tax than do lower income earners. In addition, IDOR data indicates that the bill would be beneficial for a majority of Iowa income tax filers irrespective of income level.

The bill is not expected to pass the Senate. Interestingly, the Iowa State Education Association opposes the bill.

The bill is presently in the Senate Ways and Means Subcommittee.

### **HF 633 Election To Exclude Gain From Sale of Employer Stock**

This bill provides for a one-time irrevocable lifetime election to exclude from taxable income on the Iowa return net capital gain from the sale or exchange of employer stock realized by an employee-owner. The provision applies to the sale or exchange of capital stock of a "qualified corporation" where the capital stock was acquired by the employee-owner on account of employment by the qualified corporation. The election is available while the employee is employed by the qualified corporation. The bill states that the election is applicable to all subsequent sales or exchanges of elected capital stock in the qualified corporation acquired on account of employment by the corporation during the employee's employment.

The bill defines "capital stock" as common or preferred, either voting or nonvoting, but the term does not include stock rights, stock warrants, stock options or debt securities. A "qualified corporation" must have been doing business in Iowa for 10 or more years and have at least five shareholders at the time of the stock sale. No definition is provided for the meaning of "on account" of employment.

The bill was introduced on April 10, 2013, and passed the House on April 23 by an 86-11 vote. The bill has been referred to the Senate Ways and Means Committee.

The bill is supported by Hy-Vee Corporation.

### **HF 641 (Successor to HSB 234) Reinvestment Districts**

This bill allows politicians at the local level to designate 25-acre development zones, and use a share of sale tax and hotel/motel tax revenues to assist private projects of at least \$10 million. While the alleged purpose of the bill is to spur economic development, the bill provides a mechanism for politicians to allocate investment capital to personal political interests.

The bill passed the House on April 24 by an 87-9 margin, and passed the Senate on May 15 by a 43-2 vote. The House has concurred in a Senate amendment to the bill and passed the bill by a 93-4 vote.

### **Water**

#### **HF 152 Levee or drainage districts**

Overlying drainage or levee district controlling improvements and rights-of-way surrendered by board of supervisors or board of trustees of a contained district. The district shall continue to be controlled by a board of trustees and trustees of the overlapping district shall be initially elected, the new district shall be established, and divide district into three election districts.

The bill unanimously passed the House on February 13, 2013, and passed the Senate unanimously on April 22, 2013. The bill was subsequently amended and the House concurred in the Senate amendment and passed the amended bill unanimously on April 23, 2013. The amended bill contains language that clarifies that a drainage district can enter into agreements with landowners in the drainage district.

The bill was signed into law on May 1, 2013.