

# Hoagland supports redivision of court districts

By Alice Hrnicek

The selection of Nebraska Supreme Court justices from six districts is unfair to 40 percent of the state's lawyers, who live in one of the districts, said State Sen. Peter Hoagland of Omaha.

The division of the Supreme Court districts is especially unfair to Omaha lawyers, who are in the overloaded district, because it decreases their chance of serving on the court, he said.

Under the current law, one Supreme Court justice is selected from each district and the chief justice is chosen from the whole state.

The division is a result of political gerrymandering by the Nebraska Legislature, which redistributes the court every 10 years after the census, Hoagland said. Gerrymandering implies that the legislatures are attempting to divide the court to the benefit of their areas, he said.

Hoagland has proposed an amendment to the Nebraska Constitution which would redivide the court's districts into three areas to coincide with the present congressional districts. Hoagland said the proposed division would concentrate more on division by population rather than by power.

"We ought to have one branch of government insulated from the rough and tumble of special interest," Hoagland

said.

The proposal, which will appear on the Nov. 4 ballot as Proposed Amendment No. 1, provides that two judges will be selected from each congressional district. Judges now serving would be unaffected until their positions became vacant.

Some opponents of the measure say that the only plausible change in the current system would be to choose all judges from the state at large. Others are content with the current division.

State Sen. Jerome Warner of Waverly said he favors the current system. Warner said that the larger districts resulting from the change would make "voter scrutiny" of the judges more difficult. Judges must be approved by voters by ballot every six years.

Hoagland said that a judge's residence area in the state can make a difference in how he views cases. However, he said, this discrepancy does not occur with the present judges.

John W. Strong, dean of the UNL College of Law, also said that the present system has encouraged an adequate judiciary.

But he agrees with Hoagland's view that giving Omaha lawyers greater access to the Nebraska Supreme Court is a worthy idea.

Strong said the new system would be less likely to reflect special interests.

"Now the areas are harder to justify in terms of special interests," he said.

Norman Krivosha, chief justice of the Nebraska Supreme Court, said that districting makes little difference in how judges approach a particular case.

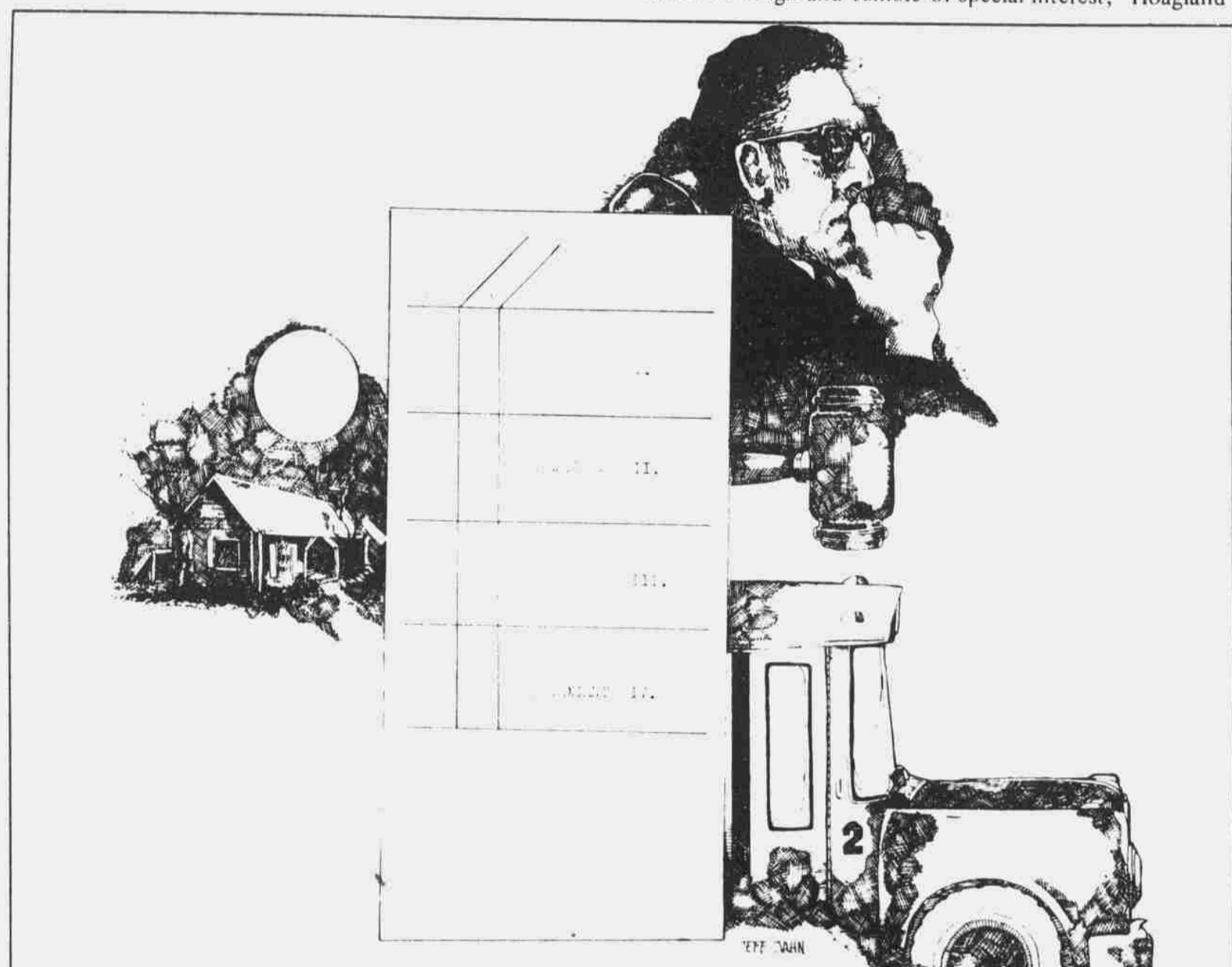
"The Supreme Court doesn't represent groups," Krivosha said. "It acts in an impartial matter to resolve legal matters."

"It's well for the court to have judges selected from various areas," he said. "Whether it's from six or three areas, I'm not sure it makes a difference."

James Lake, UNL law professor, said he is "not too excited about it one way or another."

But he said the issue should not be handled through the Nebraska Constitution.

"The Constitution should deal with vital issues and leave legislative matters to be handled in another way," Lake said.



# Energy amendment not incentive to improve conservation-direction

By Kathy Stokebrand

Proposed Constitutional Amendment No. 3, which should allow the Nebraska Legislature to exempt energy conservation improvements from property taxation, wouldn't be a significant incentive to install such improvements and would be difficult to implement, said Bill Palmer, director of the State Energy Office.

The amendment, also doesn't say whether the exemption will be permanent or for a certain number of years, he said.

It will be difficult to determine how value of a home is related to a renewable energy source, he said.

Nebraska has had a difficult time getting equitable property tax valuations, Palmer said. He said the amendment, if passed will involve making a value judgement as to what portion of a property tax assessment was due to energy conservation improvements, he said.

Current energy conservation incentives available to Nebraskans include a state and city sales tax refund for the purchase of alternative energy-saving devices, such as solar heating. Federal law also provides for an income tax rebate for installation of energy conservation systems. The rebate increased 30 percent to 40 percent in 1980.

Therefore, if \$10,000 were spent on energy conservation improvements to a home, the homeowner could claim a \$4,000 tax credit from the bottom line of the owner's income tax statement, Palmer said.

The amendment passed through the Legislature by a vote of 36-11 with two senators present and not voting. Sen. Barry Reutzel of Fremont sponsored the bill.

Standards will have to be set for the energy-saving

equipment so companies with poor-quality products don't take advantage of consumers, he said.

Energy-conservation improvements, such as insulation and storm windows, will probably not be exempted because they aren't on the property tax valuations, Reutzel said. Tax assessors don't recognize those improvements, he said.

Reutzel said a time limit on the exemption would be needed to provide an immediate incentive for property owners. Eventually such devices will be put on the tax rolls, he said, but without an additional incentive to the federal income tax rebate, people won't consider installing alternative energy sources.

The exemption would be a percentage of savings to the homeowner as applied to the purchase price of the energy conservation improvements, Reutzel said.

Bob Martin, deputy county assessor for Lancaster County, said adding a \$500 system wouldn't necessarily mean that value was added to the property tax. It depends on how extensively the energy conservation improvements are used, he said.

The large variety of devices, total and partial units, could throw the current property market analysis into a "tailspin," Martin said. Currently such devices are valued like conventional units, he said.

Under the current mill levy in Lincoln, an exemption for a \$2,000 property valuation because of energy conservation improvements would reduce property taxes by \$40-50 for one year, Martin said.

The amendment could have a trickle-down on the state's economy by spurring production, buying and construction of alternative energy sources, Reutzel said.

# Censure of state judges discussed

By Mary Kempkes

Proposed Amendment No. 2 has received little public attention but has been a controversial subject among the legal professionals in Nebraska.

The amendment broadens the activities for which a judge can be disciplined to include all conduct "prejudicial to the administration of justice." It allows for public or private reprimand, censure and suspension without pay (not to exceed six months).

Since removal from office is now the only punishment, the commission was hesitant to discipline a judge except for the most flagrant disregard for the law, according to proponents of the amendment. If other punishment is available, judges might be disciplined more often.

The most controversial section of Amendment No. 2

is that which allows the commission to reprimand judges privately without public notification. Sen. Ernest Chambers of Omaha said this provision will remove discipline of judges from public view and control.

The amendment also would change the makeup of the commission to include few judges. The commission now consists of seven judges, two attorneys and two lay persons.

The Nebraska State Bar Association supports the amendment. Robert Barlow, president supports the private reprimand section because he said it helps judges retain the public respect.

Other supporters of the amendment include Lincoln Sen. Chris Beutler, who called it the best of the four amendments on the ballot, and Norman Krivosha, chief justice of the Nebraska Supreme Court.

# Amendment proposes 'thorough, efficient' public school financing

By Jim Faddis

Nebraska's voters Tuesday will decide whether to add an amendment to the state constitution directing the Legislature to study the ways of financing Nebraska Public schools.

Proposed constitutional Amendment No. 4 would require the Nebraska Legislature to come up with a method of financing public education which would provide a "thorough and efficient" school system without relying on property taxes "to the extent that an unfair and excessive burden is imposed on property owners."

The amendment would help improve education in the state and create more fair and just tax system for supporting education, according to Herb Schimek, government relations director for the Nebraska State Education Association, which supports the amendment.

Property owners have been bearing too much of the burden of financing schools and this amendment will force the Legislature to use revenues from other taxes to support education, "creating a more even tax base," Schimek said.

The "thorough and efficient" clause will ensure that the state has good schools, Schimek said.

But opponents of the amendment say its language is too vague and the courts would have to interpret it.

The amendment "could very well take control of our schools away from our elected officials," Gov. Charles said in a news release Tuesday.

"It could be interpreted with a result of placing control of primary and secondary education largely in the hands of appointed judges, and this is obviously the wrong way to go," Thone said.

"Our schools should be directly responsible to local elected officials, not to the courts," he said.

The local control question is a "smoke screen," Schimek said.

"There is no such thing as local control," he said. "We have state control of education and the Legislature can take any control back that they want."

State Sen. John DeCamp of Neligh, one of the amendment's top advocates, has written a memorandum saying that of 15 states that have a "thorough and efficient" constitutional clause, only two have had their school finance laws invalidated by the courts.

But Thone argues that "special interests wanting more spending could use Proposition 4 to sue the taxpayers for more tax dollars."

The State Board of Education also has come out against the amendment.

Education Commissioner Anne Campbell said the board supports property tax relief and quality education, but it feels that it should be done on a statutory basis not through a constitutional amendment.

The board thinks the Legislature, not the courts, should define "thorough and efficient" education, Campbell said.