

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

**NATURAL RESOURCES COMMISSION, FUNDS ADMINISTERED;
CHAPTER 2, ARTICLE 15 AND CHAPTER 2, ARTICLE 32;
CHAPTER 46, ARTICLE 14 AND CHAPTER 46, ARTICLE 7**

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CHAPTER 2

REISSUE REVISED STATUTES OF NEBRASKA, 1943

ARTICLE 15

NATURAL RESOURCES COMMISSION,
FUNDS ADMINISTERED, AND
NATURAL RESOURCES DATA BANK

2-1501. Terms, defined. As used in Chapter 2, article 15, unless the context otherwise requires:

- (1) Commission means the Nebraska Natural Resources Commission;
- (2) State means the State of Nebraska;
- (3) Agency of this state means the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state;
- (4) United States or agencies of the United States means the United States of America, the Natural Resources Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America;
- (5) Government or governmental means the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them;
- (6) Lands, easements, and rights-of-way means lands and rights or interests in lands whereon channel improvements, channel rectifications, or water-retarding or gully-stabilization structures are located, including those areas for flooding and flowage purposes, spoil areas, borrow pits, access roads, and similar purposes;
- (7) Local organization means any natural resources district, drainage district, irrigation district, or other public district, county, city, or state agency;
- (8) Subwatershed means a portion of a watershed project as divided by the department on a complete hydrologic unit;
- (9) Rechanneling means the channeling of water from one watercourse to another watercourse by means of open ditches;

(10) Watercourse means any depression two feet or more below the surrounding land serving to give direction to a current of water at least nine months of the year, having a bed and well-defined banks and, upon order of the commission, also includes any particular depression which would not otherwise be within the definition of watercourse;

(11) Director means the Director of Natural Resources; and

(12) Department means the Department of Natural Resources.

Source: Laws 1937, c. 8, § 3, p. 93; C.S.Supp.,1941, § 2-1903; R.S.1943, § 2-1503; Laws 1951, c. 7, § 1, p. 73; Laws 1959, c. 6, § 2, p. 75; Laws 1961, c. 4, § 1, p. 65; Laws 1961, c. 3, § 2, p. 62; Laws 1963, c. 8, § 2, p. 73; Laws 1963, c. 9, § 1, p. 76; Laws 1969, c. 16, § 1, p. 164; Laws 1969, c. 9, § 66, p. 138; Laws 1971, LB 415, § 1; Laws 1972, LB 542, § 1; Laws 1977, LB 510, § 1; Laws 1984, LB 1106, § 11; Laws 1999, LB 403, § 1; R.S.Supp.,1999, § 2-1503; Laws 2000, LB 900, § 17.

2-1502. Soil and water conservation and flood control needs; state financial assistance; conditions.

(1) The purpose of the Small Watersheds Flood Control Fund is to assist local organizations by paying all or part of the cost of purchase of needed lands, easements, and rights-of-way for soil and water conservation and flood control needs when the following conditions have been met:

(a) The local organizations have agreed on a program of work;

(b) Such a program of work has been found to be feasible, practicable, and will promote the health, safety, and general welfare of the people of the state;

(c) The department has either participated in the planning or reviewed the plans and has approved the program of work;

(d) Local organizations have obtained a minimum of seventy-five percent of the needed number of easements and rights-of-way in the project or a subwatershed prior to the use of state funds for this purpose;

(e) Local organizations have made a formal request or application to the department for state funds for the purpose of purchasing lands, easements, and rights-of-way;

(f) Local organizations and the department have entered into an agreement on the administration and expenditure of these state funds;

(g) The purchase price of the land, easement, or right-of-way has been established either by the courts or by one registered, licensed, certified residential, or certified general real estate appraiser approved by the department, which appraisal costs shall be a nonstate cost; and

(h) Local organizations have given assurance to the department that they have obtained any water rights or other permits required under state or federal law and complied with all other applicable state laws.

(2) State funds to be used for lands, easements, and rights-of-way shall be granted to the local organizations in whose name the land, easement, or right-of-way shall be recorded. Rental or lease revenue from these lands may be used subject to the approval of the department by the local organization in the proper management of these lands, such management to include, but not be limited to, weed control, construction, and maintenance of conservation measures, seeding of grass, planting of trees, and construction and maintenance of fences. Within ten years from the purchase date of lands and rights-of-way, and if the lands and rights-of-way are not granted or retained for public purposes as otherwise provided by this section, it shall be the duty of the local organization to sell the property purchased wholly or partially from state funds and to remit to the department a pro rata share of the proceeds of such sale equal to the percentage of the total cost of the acquisition of such real property made from any state allocation made hereunder and all such remittances shall be deposited in the Small Watersheds Flood Control Fund. The local organization shall retain any easement or right-of-way needed to assure the continued operation, maintenance, inspection, and repair of the works of improvement constructed on the land to be sold. The commission and local organization may grant for public purposes title to lands and rights-of-way acquired in whole or in part with funds from the Small Watersheds Flood Control Fund to any public district, city, county, political subdivision of the state, or agency of the state or federal government, or the local organization, with approval of the commission, may retain for public purposes the title to such lands and rights-of-way. Whenever any such grant or retention is approved, the department shall be reimbursed in the amount of the pro rata share of the appraised fair market value that is equal to the percentage of the total cost of acquisition paid from the Small Watersheds Flood Control Fund. All such proceeds to the department shall be remitted to the State Treasurer for credit to the Small Watersheds Flood Control Fund.

Source: Laws 1937, c. 8, § 2, p. 92; C.S.Supp.,1941, § 2-1902; R.S.1943, § 2-1502; Laws 1957, c. 3, § 1, p. 80; Laws 1963, c. 8, § 1, p. 69; Laws 1965, c. 12, § 1, p. 131; Laws 1969, c. 9, § 65, p. 136; Laws 1979, LB 31, § 1; Laws 1981, LB 224, § 1; Laws 1990, LB 1153, § 51; Laws 1991, LB 203, § 1; Laws 1994, LB 1107, § 1; Laws 2000, LB 900, § 18.

2-1503. Transferred to section 2-1501.

2-1503.01. Small Watersheds Flood Control Fund; created; use; investment. The Small Watersheds Flood Control Fund is created. The State Treasurer shall credit to the fund such money as is specifically appropriated during any session of the Legislature. The State Treasurer shall also credit such fund with money contributed to or remitted by local

organizations which was obtained through the sale or lease of property procured through the use of state funds as authorized in sections 2-1502 to 2-1503.03. In addition, funds, services, and properties made available by the United States or one of its departments or agencies may be credited to the fund. The money in the fund shall not be subject to fiscal year or biennium limitations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1963, c. 8, § 3, p. 74; Laws 1969, c. 584, § 26, p. 2357; Laws 1986, LB 258, § 2; Laws 1995, LB 7, § 5; Laws 2000, LB 900, § 19.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

2-1503.02. Commission; flood control funds; allocations; acquisition of land or easements. The commission shall adopt and promulgate rules and regulations for the administration of the Small Watersheds Flood Control Fund. The commission may allocate to any local organization in this state, from the Small Watersheds Flood Control Fund, such sum or sums as in the judgment of the commission may be necessary to enable such local organization to acquire real property or easements needed to permit the local organizations to install upstream flood control or watershed protection and flood prevention structures on rivers, tributaries, streams, or watersheds thereof, including cooperative projects between the local organization and the United States. When any property or easement has been acquired by the use of any funds allocated under this section and the property is thereafter sold or leased, it shall be the duty of the local organization to remit to the department a pro rata share of the proceeds of such sale or lease equal to the percentage of total state funds involved.

Source: Laws 1963, c. 8, § 4, p. 75; Laws 1963, c. 3, § 1, p. 62; Laws 2000, LB 900, § 20.

2-1503.03. Commission; department; powers; authority. The commission shall have sole power and authority to specify the date and all other terms for the sale of any lands or rights-of-way acquired wholly or in part with funds from the Small Watersheds Flood Control Fund and to require the execution of all necessary documents to complete such sales. The department shall, upon acquisition by the local organization of any such lands or rights-of-way, prepare and file with the register of deeds in the county where such lands or rights-of-way are located an affidavit stating that state funds were utilized for the acquisition of such lands or rights-of-way by the organization receiving such funds and that such lands or rights-of-way cannot be sold, conveyed, granted, or in any way transferred by such organization except at the direction of the commission and in compliance with its rules and regulations.

Source: Laws 1973, LB 188, § 3; Laws 2000, LB 900, § 21.

NATURAL RESOURCES COMMISSION ORGANIZATION/DUTIES

2-1504. Nebraska Natural Resources Commission; creation; functions; membership; selection; terms; vacancy. (1) The Nebraska Natural Resources Commission is established. The commission shall advise the department as requested by the director and shall perform such other functions as are specifically conferred on the commission by law. The commission shall have no jurisdiction over matters pertaining to water rights.

(2) The commission shall consist of the following members, all of whom shall have attained the age of majority:

(a) One resident of each of the following river basins, with delineations being those on the Nebraska river basin map officially adopted by the commission and on file with the department: (i) The Niobrara River, White River, and Hat Creek basin, (ii) the North Platte River basin, (iii) the South Platte River basin, (iv) the middle Platte River basin, (v) the lower Platte River basin, (vi) the Loup River basin, (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin, (ix) the Republican River basin, (x) the Little Blue River basin, (xi) the Big Blue River basin, and (xii) the Nemaha River basin;

(b) One additional resident of each river basin which encompasses one or more cities of the metropolitan class. Each such additional basin member shall be a resident of a natural resources district which encompasses one or more cities of the metropolitan class and shall be selected in the same manner, at the same time, and for a four-year term having the same term sequence as provided for the other member from such basin; and

(c) Three members to be appointed by the Governor, subject to confirmation by the Legislature, who shall serve at the pleasure of the Governor. Of the members appointed by the Governor, one shall represent municipal users of water, one shall represent surface water irrigators, and one shall represent ground water irrigators.

(3) Successors to the members of the commission representing river basins shall be selected for four-year terms at individual caucuses of the natural resources district directors residing in the river basin from which the member is selected. Such caucuses shall be held for each basin within ten days following the first Thursday after the first Tuesday of the year the term of office of the member from that basin expires. The dates and locations for such caucuses shall be established by the commission. Terms of office shall follow the sequence originally determined by the river basin representatives to the commission at their first meeting on the third Thursday after the first Tuesday in January 1975. All river basin members shall take office on the third Thursday after the first Tuesday in January following their selection and any vacancy shall be filled for the unexpired term by a caucus held within thirty days following the date such

vacancy is created. Each member of the commission representing a river basin shall qualify by filing with the other members of the commission an acceptance in writing of his or her selection.

Source: Laws 1937, c. 8, § 4, p. 94; C.S.Supp.,1941, § 2-1904; R.S.1943, § 2-1504; Laws 1951, c. 7, § 2, p. 74; Laws 1957, c. 3, § 2, p. 82; Laws 1959, c. 6, § 3, p. 76; Laws 1961, c. 4, § 2, p. 66; Laws 1963, c. 9, § 2, p. 78; Laws 1967, c. 7, § 1, p. 78; Laws 1967, c. 5, § 1, p. 73; Laws 1969, c. 9, § 67, p. 140; Laws 1972, LB 542, § 2; Laws 1973, LB 337, § 1; Laws 1977, LB 510, § 2; Laws 1980, LB 423, § 1; Laws 1983, LB 36, § 1; Laws 1983, LB 37, § 1; Laws 1984, LB 1106, § 13; Laws 2000, LB 900, § 22.

Cross Reference

Department of Natural Resources, powers, see Chapter 61, article 2.

Designation by Legislature of University of Nebraska officers as members of Natural Resources Commission was a legislative appointment in violation of Constitution; but designation of Director

of Water Resources was valid as simply adding to the duties of a state officer. *Neeman v. Nebraska Nat. Resources Commission*, 191 Neb. 672, 217 N.W.2d 166 (1974).

2-1504.01. Repealed. Laws 1972, LB 542, s. 7.

2-1504.02. Repealed. Laws 2000, LB 900, s. 256.

2-1504.03. Repealed. Laws 2000, LB 900, s. 256.

2-1505. Commission; organization; compensation of members. The commission shall designate a chairperson, a vice-chairperson, and such other officers as it may desire and may, from time to time, change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Each of the members of the commission shall receive a per diem of fifty dollars per day for each day in the performance of his or her duties on the commission, but no member shall receive more than two thousand dollars in any one year, and in addition shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his or her duties on the commission, as provided in sections 81-1174 to 81-1177.

Source: Laws 1937, c. 8, § 4, p. 95; C.S.Supp.,1941, § 2-1904; R.S.1943, § 2-1505; Laws 1957, c. 3, § 3, p. 84; Laws 1961, c. 4, § 3, p.68; Laws 1972, LB 542, § 3; Laws 1978, LB 653, § 2; Laws 1980, LB 701, § 1; Laws 1981, LB 204, § 5; Laws 2000, LB 900, § 23.

2-1506 and 2-1506.01. Repealed. Laws 2000, LB 900, s. 256.

2-1506.02 through 2-1506.10. Repealed. Laws 1983, LB 35, s. 32.

2-1506.11. Repealed. Laws 1973, LB 188, s. 4.

2-1506.12 through 2-1506.27. Repealed. Laws 1983, LB 35, s. 32.

2-1507. Repealed. Laws 2000, LB 900, s. 256.

2-1507.01 through 2-1507.02. Repealed. Laws 1983, LB 36, s. 5.

2-1508 through 2-1517.03. Repealed. Laws 1977, LB 510, s. 10.

2-1517.04. Repealed. Laws 1973, LB 335, s. 5.

2-1518 through 2-1528. Repealed. Laws 1977, LB 510, s. 10.

2-1529. Repealed. Laws 1983, LB 36, s. 5.

2-1530 through 2-1546. Repealed. Laws 1977, LB 510, s. 10.

2-1547. Transferred to section 61-210.

2-1548 through 2-1567. Repealed. Laws 1977, LB 510, s. 10.

SOIL AND WATER CONSERVATION FUND

2-1575. Act, how cited. Sections 2-1575 to 2-1585 shall be known and may be cited as the Nebraska Soil and Water Conservation Act.

Source: Laws 1977, LB 450, § 1; Laws 1983, LB 236, § 1; Laws 2000, LB 900, § 26; Laws 2002, LB 1003, § 8; Laws 2003, LB 619, § 1.

2-1576. Legislative intent. The Legislature recognizes and hereby declares that it is the public policy of this state to properly conserve, protect, and utilize the water and related land resources of the state, to better utilize surface waters and available precipitation, to encourage ground water recharge to protect the state's dwindling ground water supply, to protect the quality of surface water and ground water resources, and to reduce soil erosion and sediment damages. The Legislature further declares that it is in the public interest of this state to financially assist in encouraging water and related land resource conservation and protection measures on privately owned land and that this will produce long-term benefits for the general public.

Source: Laws 1977, LB 450, § 2; Laws 1983, LB 236, § 2; Laws 1986, LB 474, § 14; Laws 1993, LB 247, § 1; Laws 2002, LB 1003, § 9.

2-1577. Nebraska Soil and Water Conservation Fund; created; investment.
(1) There is hereby created the Nebraska Soil and Water Conservation Fund to be administered by the department. The State Treasurer shall credit to the fund such money as is (a) appropriated to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments

relating to the fund, both principal and interest, and (c) donated as gifts, bequests, or other contributions to such fund from public or private entities. Funds made available by any agency of the United States may also be credited to such fund if so directed by such agency.

(2) The money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any such fiscal year or biennium.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1977, LB 450, § 3; Laws 1983, LB 236, § 3; Laws 1986, LB 258, § 3; Laws 1995, LB 7, § 7; Laws 2000, LB 900, § 27.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

2-1578. Commission; rules and regulations. The commission shall adopt and promulgate appropriate rules and regulations necessary for the administration of the Nebraska Soil and Water Conservation Fund.

Source: Laws 1977, LB 450, § 4; Laws 1983, LB 236, § 4; Laws 2000, LB 900, § 28.

2-1579. Fund; grants; conditions; acceptance, how construed. (1) Except as provided in subsection (2) of this section, expenditures may be made from the Nebraska Soil and Water Conservation Fund as grants to individual landowners of not to exceed seventy-five percent of the actual cost of eligible projects and practices for soil and water conservation or water quality protection, with priority given to those projects and practices providing the greatest number of public benefits.

(2) The department shall reserve at least two percent of the funds credited to the fund for grants to landowners ordered by a natural resources district pursuant to the Erosion and Sediment Control Act to install permanent soil and water conservation practices. Such funds shall be made available for ninety percent of the actual cost of the required practices and shall be granted on a first-come, first-served basis until exhausted. Applications not served shall receive priority in ensuing fiscal years.

(3) The commission shall determine which specific projects and practices are eligible for the funding assistance authorized by this section and shall adopt, by reference or otherwise, appropriate standards and specifications for carrying out such projects and practices. A natural resources district assisting the department in the administration of the program may, with commission approval, further limit the types of projects and practices eligible for funding assistance in that district.

(4) As a condition for receiving any cost-share funds pursuant to this section, the landowner shall be required to enter into an agreement that if a conservation practice is terminated or a project is removed, altered, or modified so as to lessen its effectiveness, without prior approval of the department or its delegated agent, for a period of ten years after the date of receiving payment, the landowner shall refund to the fund any public funds used for the practice or project. When deemed necessary by the department or its delegated agent, the landowner may as a further condition for receiving such funds be required to grant a right of access for the operation and maintenance of any eligible project constructed with such assistance. Acceptance of money from the fund shall not in any other manner be construed as affecting land ownership rights unless the landowner voluntarily surrenders such rights.

(5) To the extent feasible, the department and the commission shall administer the fund so that federal funds available within the state for the same general purposes are supplemented and not replaced with state funds.

(6) Within five days after July 20, 2002, the State Treasurer shall transfer two hundred fifty thousand dollars from the General Fund to the Water Policy Task Force Cash Fund. It is the intent of the Legislature that the General Fund appropriation to the Department of Natural Resources, Program 304, for fiscal year 2002-03 be reduced by two hundred fifty thousand dollars.

Source: Laws 1977, LB 450, § 5; Laws 1978, LB 707, § 1; Laws 1979, LB 326, § 1; Laws 1980, LB 687, § 1; Laws 1983, LB 236, § 5; Laws 1986, LB 474, § 15; Laws 1990, LB 906, § 1; Laws 1993, LB 247, § 2; Laws 2000, LB 900, § 29; Laws 2002, LB 1003, § 11.

Cross Reference

Erosion and Sediment Control Act, see section 2-4601.

2-1580. Fund; erosion and sediment control payments; conditions. Payments may be made from the Nebraska Soil and Water Conservation Fund to owners of private land which is being converted to urban use for the purpose of controlling erosion and sediment loss from construction and development. As a condition for receiving any funds pursuant to this section, the landowner shall agree in writing that the erosion and sediment control practices will be installed prior to the land-disturbing activity, when possible, and that the practices will be adequately maintained or replaced at the landowner's expense until ninety-five percent of the site is permanently stabilized. Payments made pursuant to this section shall be in accordance with and conditional upon such terms as are established by the commission. Such terms may be different from those established by section 2-1579 for payments relating to other types of projects and practices.

Source: Laws 2002, LB 1003, § 10.

2-1581. Fund; payments to reduce consumptive use of water; conditions. Payments may be made from the Nebraska Soil and Water Conservation Fund to the owners of private land for the purpose of adopting or implementing practices or measures to reduce the consumptive use of water in river basins in which an interstate agreement, compact, or decree could require reduction in water usage. Payments made pursuant to this section may be made as part of research, cost-sharing, or other programs implemented by natural resources districts, irrigation districts, or other entities to develop incentive-based practices or measures to reduce the consumptive use of water. Payments made pursuant to this section shall be in accordance with terms and conditions established by the commission. The commission may establish terms and conditions for receipt of payments under this section which are different than those established for receipt of payments pursuant to section 2-1579.

Source: Laws 2003, LB 619, § 2.

2-1582. Repealed. Laws 1983, LB 1, § 1.

2-1583. Fund; land diversion payments; authorized. Expenditures may be made from the Nebraska Soil and Water Conservation Fund to individual landowners as land diversion payments for the purpose of encouraging alternate cropping patterns which, when implemented, will assure a longer conservation practice construction period. No such payments shall be made until the intended projects or practices have been completed.

Source: Laws 1983, LB 236, § 6.

2-1584. Department; assistance from local, state, or federal agencies. The department may request and utilize assistance in the administration of the Nebraska Soil and Water Conservation Fund from natural resources districts, from the Natural Resources Conservation Service and the Farm Service Agency of the United States Department of Agriculture, and from any other appropriate local, state, or federal agencies. Such assistance may include accepting and approving applications for funds and designing, laying out, and certifying the proper completion of projects and practices.

Source: Laws 1983, LB 236, § 7; Laws 1993, LB 247, § 3; Laws 1999, LB 403, § 3; Laws 2000, LB 900, § 30.

2-1585. Long-term agreements; authorized; conditions. If the commission determines that more effective soil and water conservation or water quality protection could be achieved if financial assistance from the Nebraska Soil and Water Conservation Fund were available for multiyear implementation of comprehensive conservation plans, the department may enter into long-term agreements with landowners for such purposes. Such long-term agreements shall be for a term not to exceed ten years and shall specify the eligible projects and practices to be installed and applied, the year of intended installation, and the estimated cost of each such project or practice. Such agreements shall also provide that financial assistance in any year of the agreement be subject to the appropriation of adequate funds by the Legislature and may provide that priority shall be given to funding such projects and practices over those not

identified in other long-term agreements and over those identified in more recently executed long-term agreements. The department shall not in any biennium approve any long-term agreements which would cause the total of then existing state obligations under all such agreements to exceed the amount of new funds appropriated for that biennium.

Source: Laws 1983, LB 236, § 8; Laws 1986, LB 258, § 4; Laws 1993, LB 247, § 4; Laws 2000, LB 900, § 31.

RESOURCES DEVELOPMENT FUND

2-1586. Statement of purpose. The Legislature finds that it is a public purpose of the state to properly develop the water and related land resources of the state and that it is in the public interest (1) to provide financial assistance to programs and projects essential to the development, preservation, and maintenance of the state's water and related land resources, including programs and projects for the (a) abatement of pollution, (b) reduction of potential flood damages, (c) reservation of lands for resource development projects, (d) provision of public irrigation facilities, (e) preservation and development of fish and wildlife resources, (f) protection and improvement of public lands, (g) provision of public outdoor recreation lands and facilities, (h) provision and preservation of the waters of the state for all beneficial uses, including domestic, agricultural, and manufacturing uses, (i) conservation of land resources, and (j) protection of the health, safety, and general welfare of the people, and (2) to provide financial assistance to natural resources districts in the preparation of management plans pursuant to section 46-709.

Source: Laws 1974, LB 975, § 1; R.S.1943, (1977), § 2-3263; Laws 1984, LB 1106, § 16; Laws 1996, LB 108, § 1; Laws 2004, LB 962, § 1.
Operative date July 16, 2004.

2-1587. Nebraska Resources Development Fund; created; reserve fund; administration; investment. (1) There is hereby created the Nebraska Resources Development Fund to be administered by the department. The State Treasurer shall credit to the fund, to carry out sections 2-1586 to 2-1595, such money as is (a) appropriated to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, and (c) donated as gifts, bequests, or other contributions to such fund from public or private entities. Funds made available by any department or agency of the United States may also be credited to this fund if so directed by such department or agency. The money in the fund shall not be subject to any fiscal year or biennium limitation requiring reappropriation of the unexpended balance at the end of the fiscal year or biennium.

(2) To aid in the funding of projects and to prevent excessive fluctuations in appropriation requirements for the fund, the department shall create a reserve fund to be used only for projects requiring total expenditures from the Nebraska Resources Development Fund in excess of five million dollars. Unless disapproved by the Governor, the department may credit to such reserve fund that portion of any appropriation to the Nebraska Resources Development

Fund which exceeds five million dollars. The department may also credit to the reserve fund such other funds as it determines are available.

(3) Any money in the Nebraska Resources Development Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1974, LB 975, § 2; R.S.1943, (1977), § 2-3264; Laws 1984, LB 985, § 1; Laws 1986, LB 258, § 5; Laws 1995, LB 7, § 8; Laws 2000, LB 900, § 32.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

2-1588. Fund; allocation; report; projects; costs. (1) Any money in the Nebraska Resources Development Fund may be allocated by the commission in accordance with sections 2-1586 to 2-1595 for utilization by the department, by any state office, agency, board, or commission, or by any political subdivision of the state which has the authority to develop the state's water and related land resources. Such money may be allocated in the form of grants or loans or for acquiring state interests in water and related land resources programs and projects undertaken within the state. The allocation of funds to a program or project in one form shall not of itself preclude additional allocations in the same or any other form to the same program or project. Funds may also be allocated to assist natural resources districts in the preparation of management plans as provided in section 46-709. Funds so allocated shall not be subject to sections 2-1589 to 2-1595.

(2) No project, including all related phases, segments, parts, or divisions, shall receive more than ten million dollars from the fund. On July 1, 1994, and each year thereafter, the director shall adjust the project cost and payment limitation of this subsection by an amount equal to the average percentage change in the federal Department of Commerce, Bureau of the Census, Composite Construction Cost Index for the prior three years.

(3) Prior to September 1 of each even-numbered year, a biennial report shall be made to the Governor and the Clerk of the Legislature describing the work accomplished by the use of such development fund during the immediately preceding two-year period. The report shall include a complete financial statement. Each member of the Legislature shall receive a copy of such report upon making a request to the director.

Source: Laws 1974, LB 975, § 3; Laws 1979, LB 322, § 3; Laws 1981, LB 545, § 2; R.S.Supp.,1982, § 2-3265; Laws 1984, LB 1106, § 17; Laws 1985, LB 102, § 2; Laws 1993, LB 155, § 1; Laws 1996, LB 108, § 2; Laws 1998, LB 656, § 5; Laws 2000, LB 900, § 33; Laws 2001, LB 129, § 1; Laws 2004, LB 962, § 2.
Operative date July 16, 2004.

2-1589. Fund; allocations, grants, loans; conditions. (1) The commission shall adopt and promulgate rules and regulations governing the administration of the Nebraska Resources Development Fund. The commission may make an allocation from the fund as a grant to an agency or political subdivision if the commission determines that such an allocation will not be reimbursed from revenue or receipts and when the program or project appears to be of general public benefit, thereby making reimbursement of such money from local tax funds inappropriate or impossible, or when the funds are intended for a state or local contribution to a program or project requiring such contribution to meet the requirements for a matching federal grant.

(2) The commission may make an allocation from the fund as a loan to an agency or political subdivision for any program or project or any part thereof consistent with the purposes of the fund which will directly generate revenue or receipts, which can be anticipated to culminate in a program or project which will generate revenue or receipts, or which would not generate revenue or receipts but would be of general public benefit to the applicant making repayment from local tax funds appropriate.

Source: Laws 1974, LB 975, § 4; R.S.1943, (1977), § 2-3266; Laws 2000, LB 900, § 34.

The adoption and implementation of a general benefit project by a natural resources district is an exercise of a power which is legislative in nature, and the requirements of due process that apply to judicial or

quasi-judicial proceedings are not applicable. Fisher & Trouble Creek v. Lower Platte No. Nat. Resources Dist., 212 Neb. 196, 322 N.W.2d 403 (1982).

2-1590. Department; commission; fund; powers. In order to develop Nebraska's land and water resources, the department, with the approval of the commission, may acquire interests in water and related land resources projects in the name of the state utilizing the Nebraska Resources Development Fund. Such use of the fund shall be made when the public benefits obtained from the project or a part thereof are statewide in nature and when associated costs are determined to be more appropriately financed by other than a local organization. Such use of the fund may be made upon the determination by the department and the commission that such acquisition is appropriate under sections 2-1586 to 2-1595 and may be initiated upon a request filed in accordance with section 2-1593 or by the department itself without such a request. The department, with the approval of the commission, may also acquire interests in water resource projects in the name of the state to meet future demands for usable water. Such resource projects may include, but not be limited to, the construction of dams and reservoirs to provide surplus water storage capacity for municipal and industrial water demands and for other projects to assure an adequate quantity of usable water. In furtherance of these goals the department may contract with the federal government or any of its agencies or departments for the inclusion of additional water supply storage space behind existing or proposed structures.

Source: Laws 1974, LB 975, § 5; R.S.1943, (1977), § 2-3267; Laws 2000, LB 900, § 35.

2-1591. Repealed. Laws 1984, LB 1106, s. 73.

2-1592. Grant or loan; application; procedure. (1) Any organization qualified to apply for and receive funds from the Nebraska Resources Development Fund may file an application with the department for a grant or loan from such fund. Applications for grants to the department itself shall be filed by the department. Each application shall be filed in such manner and form and be accompanied by such information as may be prescribed by the director and the commission.

(2) Any such application shall:

(a) Describe the nature and purpose of the proposed program or project;

(b) Set forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the director and the commission;

(c) State whether money other than that for which the application is made will be used to help in meeting program or project costs and whether such money is available or has been sought for this purpose;

(d) When appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands and has or may acquire all water rights necessary for the proposed project;

(e) Show that the applicant possesses all necessary authority to undertake or participate in the proposed program or project; and

(f) Demonstrate the probable environmental and ecological consequences that may result from such proposed program or project.

(3) Upon receipt of an application, the director shall evaluate and investigate all aspects of the proposed program or project and the proposed schedule for development and completion of such program or project, determine the eligibility of the program or project for funding, and make appropriate recommendations to the commission pursuant to sections 2-1586 to 2-1595. As a part of his or her investigation, the director shall consider whether the plan for development of the program or project is satisfactory. If the director determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the director shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan or the application satisfactory.

(4) Requests for utilization of the Nebraska Resources Development Fund for state participation in any water and related land-water resources projects through acquisition of a state interest therein shall also be filed with the department for the director's evaluation, investigation, and recommendations. Such requests shall be filed in the manner and form and be accompanied by such information as shall be prescribed by the department and the commission.

Source: Laws 1974, LB 975, § 7; R.S.1943, (1977), § 2-3269; Laws 1984, LB 1106, § 18; Laws 2000, LB 900, § 36.

2-1593. Program or project; funding; review; approve or reject; procedure. Each program or project for which funding is requested, whether such request has as its origin an application or the action of the department itself, shall be reviewed as provided in sections 2-1586 to 2-1595 by the director prior to the approval of any allocation for such program or project by the commission. The director shall within a reasonable time, not to exceed six months, after receipt of such request report to the commission the results of his or her review and shall recommend approval or rejection of funding for the program or project. The director shall indicate what form of allocation he or she deems to be appropriate. In the case of an approved application recommended for a loan, the commission shall indicate the appropriate repayment period and the rate of interest. The commission shall act in accordance with such recommendations unless action to the contrary is approved by each commission member eligible to vote on the specific recommendation under consideration. No member of the commission shall be eligible to participate in the action of the commission concerning an application for funding to any entity in which such commission member has any interest. The director may be delegated additional responsibilities consistent with the purposes of sections 2-1586 to 2-1595. It shall be the sole responsibility of the commission to determine the priority in which funds are allocated for eligible programs and projects under sections 2-1586 to 2-1595.

Source: Laws 1974, LB 975, § 8; R.S.1943, (1977), § 2-3270; Laws 1984, LB 1106, § 19; Laws 2000, LB 900, § 37.

2-1594. Program or project; costs or acquisition of interest; approval. The director may recommend approval of and the commission may approve grants or loans for program or project costs or acquisition of interests in projects if after investigation and evaluation the director finds that:

- (1) The plan does not conflict with any existing Nebraska state land plan;
- (2) The proposed program or project is economically and financially feasible based upon standards adopted by the commission pursuant to sections 2-1586 to 2-1595;
- (3) The plan for development of the proposed program or project is satisfactory;
- (4) The plan of development minimizes any adverse impacts on the natural environment;
- (5) The applicant is qualified, responsible, and legally capable of carrying out the program or project;
- (6) In the case of a loan, the borrower has demonstrated the ability to repay the loan and there is assurance of adequate operation, maintenance, and replacement during the repayment life of the project;
- (7) The plan considers other plans and programs of the state in accordance with section 84-135 and resources development plans of the political subdivisions of the state; and

(8) The money required from the Nebraska Resources Development Fund is available.

The director and staff of the department shall carry out their powers and duties under sections 2-1586 to 2-1595 independently of and without prejudice to their powers and duties under other provisions of law.

Source: Laws 1974, LB 975, § 9; Laws 1981, LB 326, § 11; R.S.Supp.,1982, § 2-3271; Laws 1984, LB 1106, § 20; Laws 1985, LB 102, § 3; Laws 2000, LB 900, § 38; Laws 2001, LB 129, § 2.

2-1595. Application for a grant, loan, or acquisition; agreement; provisions; successor in interest; lien; filing; foreclosure. (1) If after review of the recommendation by the director the commission determines that an application for a grant, loan, acquisition of an interest, or combination thereof pursuant to sections 2-1586 to 2-1595 is satisfactory and qualified to be approved, before the final approval of such application may be given and the funds allocated, the department shall enter into an agreement in the name of the state with the applicant agency or organization and with any other organizations it deems to be involved in the program or project to which funds shall be applied. The department shall also enter into such agreements as are appropriate before allocation of any funds for the acquisition of interest in any qualified project when such acquisition is initiated by the department itself pursuant to section 2-1590. All agreements entered into pursuant to this section shall include, but not be limited to, a specification of the amount of funds involved, whether the funds are considered as a grant, loan, or for the acquisition of an interest in the name of the state, and, if a combination of these is involved, the amount of funds allocated to each category, the specific purpose for which the allocation is made, the terms of administration of the allocated funds, and any penalties to be imposed upon the applicant organization should it fail to apply or repay the funds in accordance with the agreement.

(2) If the allocation to be approved is a loan, the department and the applicant or applicants shall include in the agreement provisions for repayment to the Nebraska Resources Development Fund of money loaned together with any interest at reasonable rates as established by the commission. The agreement shall further provide that repayment of the loan together with any interest thereon shall commence no later than one full year after construction of the project is completed and that repayment shall be completed within the time period specified by the commission. The repayment period shall not exceed fifty years, except that the commission may extend the time for making repayment in the event of extreme emergency or hardship. Such agreement shall also provide for such assurances of and security for repayment of the loan as shall be considered necessary by the department.

(3) With the express approval of the commission, an applicant may convey its interest in a project to a successor. The department shall contract with the qualified successor in interest of the original obligor for repayment of the loan together with any interest thereon and for succession to its rights and obligations in any contract with the department.

(4) The state shall have a lien upon a project constructed, improved, or renovated with money from the fund for the amount of the loan together with any interest thereon. This lien shall attach to all project facilities, equipment, easements, real property, and property of any kind or nature in which the loan recipient has an interest and which is associated with the project. The department shall file a statement of the lien, its amount, terms, and a description of the project with the county register of deeds of each county in which the project or any part thereof is located. The county register of deeds shall record the lien and it shall be indexed as other liens are required by law to be indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens. Any lien provided for by this section may be subordinate to that which secures federal assistance or other secured assistance received on the same project.

Source: Laws 1974, LB 975, § 10; R.S.1943, (1977), § 2-3272; Laws 1984, LB 679, § 2; Laws 1984, LB 1106, § 21; Laws 2000, LB 900, § 39.

2-1596. Legislative intent. The Legislature finds that an accelerated completion of modern soil surveys will be an asset to the State of Nebraska and good for the general welfare of the citizens of the state. The Legislature further finds that the completion of modern soil surveys can be most appropriately accomplished by accelerating, in a manner deemed appropriate by the department, state financial input into the combined state and federal effort currently being conducted cooperatively by the Natural Resources Conservation Service of the United States Department of Agriculture and the Conservation and Survey Division of the University of Nebraska. It is therefor the intent of this Legislature to embark upon an accelerated program for the completion of Nebraska's modern soil surveys and to recommend that the State of Nebraska and the Legislature appropriate the funds necessary to carry out this accelerated program during the years required for its completion.

Source: Laws 1976, LB 180, § 1; R.S.1943, (1977), § 2-3273; Laws 1999, LB 403, § 4; Laws 2000, LB 900, § 40.

SOIL SURVEY FUND

2-1597. Nebraska Soil Survey Fund; created; purposes; administration. The Nebraska Soil Survey Fund is created. The State Treasurer shall credit to such fund for the uses and purposes of sections 2-1596 to 2-1598 such money as is specifically appropriated, and such funds, fees, donations, gifts, services, devises, or bequests of real or personal property received by the department from any source, federal, state, public or private, to be used by the department for the purposes of accelerating the completion of modern soil surveys. The department shall allocate money from the fund for the purposes of sections 2-1596 to 2-1598. The Director of Administrative Services, upon receipt of proper vouchers approved by the department, shall issue warrants on such fund, and the State Treasurer shall countersign and pay from, but not in excess of, the amounts to the credit of such fund.

Source: Laws 1976, LB 180, § 2; R.S.1943, (1977), § 2-3274; Laws 2000, LB 900, § 41.

2-1598. Nebraska Soil Survey Fund; how expended. The Nebraska Soil Survey Fund shall be expended by contractual agreement with the Conservation and Survey Division of the University of Nebraska for the purposes of accelerating the program of modern soil survey throughout the state in such manner as the department deems proper and necessary.

Source: Laws 1976, LB 180, § 3; R.S.1943, (1977), § 2-3275; Laws 2000, LB 900, § 42.

WATER PLANNING AND REVIEW

2-1599. Statement of purpose. In order to provide for the effective conservation and management of Nebraska's water resources, the Legislature hereby endorses the concept of a state water planning and review process. The purpose of this planning process shall be to coordinate and direct the planning efforts of the state agencies and university divisions with responsibilities and interest in the water resources field. This interagency planning process shall be designed to: (1) Provide the Legislature and the citizens of Nebraska with information and alternative methods of addressing important water policy issues and areawide or statewide water resources problems; (2) provide coordinated interagency reviews of proposed local, state, and federal water resources programs and projects; (3) develop and maintain the data, information, and analysis capabilities necessary to provide state agencies and other water interests with a support base for water planning and management activities; (4) provide the state with the capacity to plan and design water resources projects; and (5) conduct any other planning activities necessary to protect and promote the interests of the state and its citizens in the water resources of Nebraska.

Source: Laws 1981, LB 326, § 1; R.S.Supp.,1982, § 2-3282.

2-15,100. Water planning and review; how conducted; assistance. The state water planning and review process shall be conducted under the guidance and general supervision of the director. The director shall be assisted in the state water planning and review process by the Game and Parks Commission, the Department of Agriculture, the Governor's Policy Research Office, the Department of Health and Human Services Regulation and Licensure, the Department of Environmental Quality, the Water Center of the University of Nebraska, and the Conservation and Survey Division of the University of Nebraska. In addition, the director may obtain assistance from any private individual, organization, political subdivision, or agency of the state or federal government.

Source: Laws 1981, LB 326, § 2; R.S.Supp.,1982, § 2-3283; Laws 1984, LB 1106, § 38; Laws 1993, LB 3, § 2; Laws 1996, LB 1044, § 37; Laws 2000, LB 900, § 43.

2-15,101. Appropriations; procedure. Appropriations may be made to the department for all or part of the costs incurred by agencies other than the department in conducting the state water planning and review process. The state budget administrator shall

create a separate budget program within each agency that is to receive a portion of such appropriations. To properly account for such funds, recipients shall submit to the department, in the form prescribed by the department, documentation of all costs incurred in rendering services determined by the department to be eligible for reimbursement.

Source: Laws 1981, LB 326, § 3; R.S.Supp.,1982, § 2-3284; Laws 2000, LB 900, § 44.

2-15,102. Repealed. Laws 1985, LB 102, s. 22.

2-15,103. Commission; duties. The commission shall provide the director and the Legislature upon request with the opinion of the general public and various water interests in the state. It is the intent of the Legislature that the commission consider the different opinions of the individual members but, as a body, it shall provide the director with input and comments on state water planning and review process activities as they relate to the overall use of Nebraska's water resources. The functions of the commission shall include providing upon request advice and assistance in the planning process by: (1) Identifying legislative and administrative policy issues; (2) developing and reviewing alternative solutions for legislative and administrative policy problems, including impact assessment; (3) recommending the types of problems needing analysis and where such problems are located or likely to be located; (4) disseminating information and materials generated by the planning process to the public; (5) determining the conditions under which and the methods by which additional public input is to be obtained; and (6) reviewing and commenting on reports produced through the planning process.

Source: Laws 1981, LB 326, § 5; R.S.Supp.,1982, § 2-3286; Laws 1984, LB 1106, § 39; Laws 2000, LB 900, § 45.

2-15,104. Repealed. Laws 2000, LB 900, s. 256.

2-15,105. Public hearings; materials; made available to public. It is the intent of the Legislature that the public have maximum input into the formulation of state water policy. The director shall conduct one or more public hearings prior to the completion of any recommendations to the Legislature on methods of addressing water policy issues. All materials produced as part of the state water planning and review process shall be available to interested persons and groups upon request. The department or other agency providing such material may make a charge therefor which does not exceed the actual cost of providing the same.

Source: Laws 1981, LB 326, § 7; R.S.Supp.,1982, § 2-3288; Laws 1984, LB 1106, § 41; Laws 2000, LB 900, § 46.

2-15,106. Annual report; contents. On or before September 15 for each odd-numbered year and on or before the date provided in section 81-132 for each even-numbered year, the director shall submit an annual report and plan of work for the state water planning and review process to the Legislature and Governor. The report shall include a listing of expenditures for the past fiscal year, a summary and analysis of work completed in the past fiscal year,

funding requirements for the next fiscal year, and a projection and analysis of work to be completed and estimated funding requirements for such work for the next succeeding four years. The explanation of future funding requirements shall include an explanation of the proposed use of such funds and the anticipated results of the expenditure of such funds. The report shall, to the extent possible, identify such information as it affects each agency or other recipient of program funds. The explanation of future funding requirements shall be in a form suitable for providing an explanation of that portion of the budget request pertaining to the state water planning and review process.

Source: Laws 1981, LB 326, § 8; R.S.Supp.,1982, § 2-3289; Laws 1984, LB 1106, § 42; Laws 2000, LB 900, § 47; Laws 2002, Second Spec. Sess., LB 12, § 1.

2-15,107 through 2-15,117. Repealed. Laws 1991, LB 772, s. 8.

2-15,118 through 2-15,120. Repealed. Laws 1989, LB 710, s. 2.

2-15,121. Repealed. Laws 2000, LB 900, s. 256.

WATER QUALITY FUND

2-15,122. Natural Resources Water Quality Fund; created; use; investment. There is hereby created the Natural Resources Water Quality Fund. The State Treasurer shall credit to the fund for the uses and purposes of section 2-15,123 such money as is specifically appropriated, such funds, fees, donations, gifts, services, or devises or bequests of real or personal property received by the department from any source, federal, state, public, or private, to be used by the department for the purpose of funding programs listed in subsection (2) of section 2-15,123, and such money credited under sections 2-2627, 2-2634, 2-2638, and 2-2641. The department shall allocate money from the fund pursuant to section 2-15,123. The fund shall be exempt from provisions relating to lapsing of appropriations, and the unexpended and unencumbered balance existing in the fund on June 30 each year shall be reappropriated. It is the intent of the Legislature to study and review the funding changes made by Laws 2001, LB 329, before January 1, 2005. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1994, LB 961, § 5; Laws 1995, LB 7, § 9; Laws 2000, LB 900, § 48; Laws 2001, LB 329, § 1.

2-15,123. Natural Resources Water Quality Fund; allocation; programs; rules and regulations. (1) The Natural Resources Water Quality Fund shall be allocated by contractual agreement with natural resources districts for the purpose of funding programs listed in subsection (2) of this section. A natural resources district receiving an allocation shall provide a one hundred fifty percent match of district funds. The initial allocations each fiscal year shall be made by the department, based on needs of individual natural resources districts relative to needs

of other districts, to districts which have qualifying programs. The director shall have sole discretion to decide whether a district's program qualifies for funding pursuant to this section. The unused allocations may be reallocated to another district if the director determines that one or more districts cannot reasonably be expected to use their full allocation for that fiscal year. The commission shall adopt and promulgate rules and regulations to administer the Natural Resources Water Quality Fund.

(2) The fund shall be allocated to natural resources districts for programs related to water quality, including, but not limited to:

- (a) Natural resources districts' water quality programs;
- (b) Natural resources districts' illegal water wells decommissioning programs;
- (c) Inspections by natural resources districts conducted pursuant to the Nebraska Chemigation Act;
- (d) Source water protection programs undertaken by natural resources districts;
- (e) Purchases of special equipment required by natural resources districts in management areas and control areas formed pursuant to the Nebraska Ground Water Management and Protection Act; and
- (f) Application of soil and water conservation practices.

Source: Laws 1994, LB 961, § 6; Laws 2000, LB 900, § 49; Laws 2001, LB 329, § 2.

Cross References

Nebraska Chemigation Act, see section 46-1101.

Nebraska Ground Water Management and Protection Act, see section 46-656.01.

CHAPTER 2

REISSUE REVISED STATUTES OF NEBRASKA, 1943

ARTICLE 32

MODIFICATION OF NRD BOUNDARIES, MERGER OF NRDs, AND MERGER OF SPECIAL PURPOSE DISTRICTS WITH NRDs

2-3207. Districts; change of boundaries, division, or merger. With the approval of the affected natural resources districts, the commission may change the boundaries of natural resources districts, merge two or more such districts into a single district, divide one district into two or more new districts, or divide and merge one district into two or more other existing districts. The commission may also provide for the merger with such districts of other special-purpose districts as enumerated in section 2-3201. In exercising such powers, the commission shall be bound by the criteria and procedures provided by sections 2-3201 to 2-3212.

Source: Laws 1969, c. 9, § 7, p. 105; Laws 1972, LB 543, § 5; Laws 1988, LB 1045, § 2.

2-3208. Districts; proposed changes; procedure. A hearing by the commission on proposed changes as provided by section 2-3207 may be initiated by any of the following methods:

- (1) By the commission on its own motion;
- (2) By written request of a majority of the directors of any or each natural resources district the boundaries of which are proposed to be changed or which is proposed to be merged or divided;
- (3) By petition, signed by twenty-five percent of the legal voters residing within an area proposed to be transferred from one district to an adjoining district by a change in boundaries; or
- (4) By formal written request of a majority of the directors or supervisors of any other special-purpose district wishing to merge with a natural resources district.

Such proposals shall be filed with the department and shall set forth any proposed new boundaries and such other information as the commission requires.

Source: Laws 1969, c. 9, § 8, p. 106; Laws 1988, LB 1045, § 3; Laws 2000, LB 900, § 52.

2-3209. Repealed. Laws 1988, LB 1045, s. 12.

2-3210. Districts; change of boundaries, division, or merger; notice. Within sixty days after such proposal for a change of boundaries, division, or merger is made and filed with

the department, the department shall begin publication of the notices for a public hearing by the commission on the question. Notice requirements shall be satisfied by publishing such notice at least once a week for three consecutive weeks in a legal newspaper published or of general circulation in the areas affected. A public hearing shall then be held as set forth in the notice and in accord with law and the rules and regulations of the commission.

Source: Laws 1969, c. 9, § 10, p. 106; Laws 1988, LB 1045, § 4; Laws 2000, LB 900, § 53.

2-3211. Districts; change of boundaries, division, or merger; hearing; order; notice. After the hearing, as provided in section 2-3210, the commission shall determine, upon the basis of the proposed change, upon the facts and evidence presented at such hearing, upon consideration of the standards provided in section 2-3203 relative to the organization of districts, and upon such other relevant facts and information as may be available, whether such changes in boundaries, division, or merger would promote the public interest and would be administratively and financially practicable and feasible. The commission shall make and record such determination and shall make such other determinations as are required by sections 2-3211.01 and 2-3211.02. The department shall notify the boards of the affected districts of such determinations in writing. No change in boundaries, division, or merger as provided for by sections 2-3207 to 2-3212 shall take place unless the boards of the affected districts favor such change, division, or merger.

Source: Laws 1969, c. 9, § 11, p. 107; Laws 1988, LB 1045, § 5; Laws 2000, LB 900, § 54.

2-3212. Districts; change of boundaries, division, or merger; application; contents; filing; when effective; Secretary of State; duties. If the boards of the affected districts favor a change of boundaries, division, or merger as provided by sections 2-3211 to 2-3211.02, the various affected district boards shall each present to the Secretary of State an application, signed by them, for a certificate evidencing the change, division, or merger. The application shall be filed with the Secretary of State accompanied with a statement by the department certifying that the change, division, or merger is in accordance with the procedures prescribed in sections 2-3207 to 2-3212 and setting forth any new boundary line or other information as in the judgment of the department and Secretary of State is adequate to describe such change, division, or merger. When the application and statement have been filed with the Secretary of State, the change, division, or merger shall be deemed effective and the Secretary of State shall issue to the directors of each of the districts a certificate evidencing the change, division, or merger.

Source: Laws 1969, c. 9, § 12, p. 107; Laws 1988, LB 1045, § 9; Laws 2000, LB 900, § 55.

CHAPTER 46

REISSUE REVISED STATUTES OF NEBRASKA, 1943

ARTICLE 14

WATER WELL DECOMMISSIONING FUND

46-1401. Legislative findings and intent. The Legislature finds that accelerating the decommissioning of illegal water wells will be an asset to the State of Nebraska and good for the general welfare of the citizens of the state. The Legislature further finds that completing such decommissioning can be most appropriately accomplished by accelerating state financial input into the efforts currently being conducted. It is therefor the intent of the Legislature to embark upon an accelerated program for the decommissioning of Nebraska's illegal water wells and to recommend that the State of Nebraska and the Legislature annually appropriate ninety-nine thousand dollars from the General Fund to carry out this accelerated program during the years required for its completion.

Source: Laws 1994, LB 981, § 2; Laws 2000, LB 900, § 237.

46-1402. Definitions, where found. For purposes of sections 46-1401 and 46-1403 to 46-1405, the definitions found in sections 46-1206.01, 46-1207.01, 46-1209, 46-1212, and 46-1213 shall be used.

Source: Laws 1994, LB 981, § 5.

46-1403. Water Well Decommissioning Fund; created; use; investment. There is hereby created the Water Well Decommissioning Fund. The State Treasurer shall credit to the fund for the uses and purposes of sections 46-1401 to 46-1405 such money as is specifically appropriated and such funds, fees, donations, gifts, services, or devises or bequests of real or personal property received by the Department of Natural Resources from any source, federal, state, public, or private, to be used by the department for the purpose of accelerating the decommissioning of illegal water wells. The department shall allocate money from the fund for purposes of sections 46-1401 to 46-1405. The fund shall be exempt from provisions relating to lapsing of appropriations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1994, LB 981, § 3; Laws 1995, LB 7, § 44; Laws 2000, LB 900, § 238.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

46-1404. Water Well Decommissioning Fund; allocation; rules and regulations.
The Water Well Decommissioning Fund shall be allocated by contractual agreement with natural resources districts for the purpose of accelerating the decommissioning of illegal water wells throughout the state. The allocations each fiscal year shall be made by the Department of Natural Resources to natural resources districts in a proportion based on the number of illegal water wells decommissioned in each district in the previous fiscal year which were part of the district's cost-share program to the total number of illegal water wells decommissioned in the state in the previous fiscal year which were part of a district cost-share program. Subsequent allocations for any district which has had a cost-share program for three or more consecutive years shall be based upon the previous three-year average. The allocations may be adjusted on or after March 1 of any year if the Director of Natural Resources determines that one or more districts cannot reasonably be expected to use their full allocation for that fiscal year. Actual disbursement to each district shall be on a reimbursement basis and shall not exceed the amount expended by the district consistent with sections 46-1401 to 46-1405. The Nebraska Natural Resources Commission shall adopt and promulgate rules and regulations to carry out such sections.

Source: Laws 1994, LB 981, § 4; Laws 2000, LB 900, § 239; Laws 2006, LB 508, § 9.

46-1405. Natural resources district; cost-sharing program; qualification for funding.
Any natural resources district cost-sharing program for decommissioning illegal water wells may qualify for funding pursuant to section 46-1404 if the program:

- (1) Applies only to water wells properly decommissioned by licensed water well contractors and pump installation contractors;
- (2) Applies to all water wells in the district;
- (3) Is available for at least thirty water wells per year; and
- (4) Provides at least sixty percent of the costs of decommissioning, up to a maximum of five hundred dollars for all water wells other than hand-dug water wells which shall be eligible for up to a maximum of seven hundred dollars.

A natural resources district may establish maximum cost-share assistance amounts that will be provided to landowners for decommissioning water wells based on well depths and diameters to insure that landowners will be compensated for at least sixty percent of the cost of water well decommissioning.

Source: Laws 1994, LB 981, § 1; Laws 1995, LB 871, § 7; Laws 1996, LB 1241, § 9; Laws 2006, LB 508, § 10.

CHAPTER 46

REISSUE REVISED STATUTES OF NEBRASKA, 1943

ARTICLE 7

INTERRELATED WATER REVIEW BOARD

46-719. Interrelated Water Review Board; created; members; powers and duties.

(1)(a) The Interrelated Water Review Board is created for the purposes stated in subsections (2) through (5) of this section. The board shall consist of five members. The board, when appointed and convened, shall continue in existence only until it has resolved a dispute referred to it pursuant to such subsections. The Governor shall appoint and convene the board within forty-five days of being notified of the need to resolve a dispute. The board shall be chaired by the Governor or his or her designee, which designee shall be knowledgeable concerning surface water and ground water issues. The Governor shall appoint one additional member of his or her choosing and shall appoint the other three members of the board from a list of no fewer than six nominees provided by the Nebraska Natural Resources Commission within twenty days after request by the Governor for a list of nominees.

(b) Not more than two members of the board shall reside in the geographic area involved in the dispute. A person is not eligible for membership on the board if the decisions to be made by the board would or could cause financial benefit or detriment to the person, a member of his or her immediate family, or a business with which the person is associated, unless such benefit or detriment is indistinguishable from the effects of such action on the public generally or a broad segment of the public. The board shall be subject to the Open Meetings Act.

(c) For purposes of subsections (2) and (3) of this section, action may be taken by a vote of three of the board's five members. For purposes of subsections (4) and (5) of this section, action may be taken only by a vote of at least four of the board's five members.

(2)(a) If the Department of Natural Resources and the affected natural resources districts cannot resolve disputes over the content of a basin-wide plan or an integrated management plan by utilizing the process described in sections 46-715 to 46-718, the Governor shall be notified and the dispute submitted to the Interrelated Water Review Board. When the board has been appointed and convened to resolve disputes over a basin-wide plan, the department and each affected district shall present their proposed basin-wide plans to the board. When the board has been convened to resolve disputes over an integrated management plan, the department and each affected natural resources district shall present their (i) proposed goals and objectives for the integrated management plan, (ii) proposed geographic area to be subject to controls, and (iii) proposed surface water and ground water controls and any proposed incentive program for adoption and implementation in the river basin, subbasin, or reach involved. The department and each affected natural resources district shall also be given adequate opportunity to comment on the proposals made by the other parties to the dispute.

(b) When the Interrelated Water Review Board concludes that the issues in dispute have been fully presented and commented upon by the parties to the dispute, which conclusion shall be made not more than forty-five days after the board is convened, the board shall select the

proposals or portions of proposals that the board will consider for adoption and shall schedule one or more public hearings to take testimony on the selected proposals. The hearings shall be held within forty-five days after the board's selection of proposals to consider for adoption and shall be within or in reasonable proximity to the area that would be affected by implementation of any of the proposals to be considered at the hearings. Notice of the hearings shall be published as provided in section 46-743. The cost of publishing the notice shall be shared by the department and the affected natural resources districts. All interested persons may appear at the hearings and present testimony or provide other evidence relevant to the issues being considered.

(c) Within forty-five days after the final hearing pursuant to subdivision (b) of this subsection, the Interrelated Water Review Board shall by order, as applicable, adopt a basin-wide plan or an integrated management plan for the affected river basin, subbasin, or reach and, in the case of an integrated management plan, shall designate a ground water management area for integrated management or an integrated management subarea for such river basin, subbasin, or reach. An integrated management plan shall be consistent with subsection (2) of section 46-715, and the surface water and ground water controls and any applicable incentive programs adopted as part of that plan shall be consistent with subsection (3) of section 46-715. The controls adopted by the board shall not be substantially different from those described in the notice of hearing. The area designated as a ground water management area or an integrated management subarea shall not include any area that was not identified in the notice of the hearing as within the area proposed to be subject to the controls in the plan.

(d) The order adopted under this subsection shall be published in the manner prescribed in section 46-744.

(e) Surface water controls adopted by the Interrelated Water Review Board shall be implemented and enforced by the department. Ground water controls adopted by the Interrelated Water Review Board shall be implemented and enforced by the affected natural resources districts.

(3) Whether an integrated management plan is adopted pursuant to section 46-718 or by the Interrelated Water Review Board pursuant to subsection (2) of this section, the department or a natural resources district responsible in part for implementation and enforcement of an integrated management plan may propose modification of the goals or objectives of that plan, of the area subject to the plan, or of the surface water controls, ground water controls, or incentive programs adopted to implement the plan. The department and the affected natural resources districts shall utilize the procedures in sections 46-715 to 46-718 in an attempt to reach agreement on and to adopt and implement proposed modifications. If agreement on such modifications cannot be achieved utilizing those procedures, either the department or an affected natural resources district may notify the Governor of the dispute. The Interrelated Water Review Board shall be appointed and convened in accordance with subsection (1) of this section to resolve the dispute and, if applicable, to adopt any modifications utilizing the procedures in subsection (2) of this section.

(4) The department and the affected natural resources districts may also raise objections concerning the implementation or enforcement of previously adopted surface water or ground water controls. The department and the affected natural resources districts shall utilize the procedures in sections 46-715 to 46-718 in an attempt to reach agreement on such

implementation or enforcement issues. If agreement on such issues cannot be achieved utilizing such procedures, either the department or an affected natural resources district may notify the Governor of the dispute. The Interrelated Water Review Board shall be appointed and convened in accordance with subsection (1) of this section. After permitting each party to fully express its reasons for its position on the disputed issues, the board may either take no action or conclude (a) that one or more parties needs to modify its approach to implementation or enforcement and direct that such modifications take place or (b) that one or more parties either has not made a good faith effort to implement or enforce the portion of the plan or controls for which it is responsible or is unable to fully implement and enforce such portion and that such party's jurisdiction with respect to implementation and enforcement of the plan and controls shall be terminated and reassigned to one or more of the other parties responsible for implementation and enforcement. A decision by the Interrelated Water Review Board to terminate and reassign jurisdiction of any portion of the plan or controls shall take effect immediately upon that decision. Notice of such reassignment shall be published at least once in one or more newspapers as necessary to provide general circulation in the area affected by such reassignment.

(5) The board may be reconvened in accordance with subsection (1) of this section at a later date upon request to the Governor by the party for which jurisdiction for implementation and enforcement was terminated if such party desires to have its jurisdiction reinstated, but no such request shall be honored until at least one year after the termination and not more than once per year thereafter. The board may reinstate jurisdiction to that party only upon a clear showing by such party that it is willing and able to fully implement and enforce the plan and any applicable controls. Notice that a party's jurisdiction has been reinstated shall be provided in the same manner that notice of the earlier termination was given.

Cross References

Open Meetings Act, see section 84-1407.

Source: Laws 2004, LB 962, § 59; Laws 2006, LB 1226, § 26.

INTERRELATED WATER MANAGEMENT PLAN PROGRAM

46-754. Interrelated Water Management Plan Program; created; grants; commission; duties; use. The Interrelated Water Management Plan Program is created for the purpose of facilitating and funding the duties of districts arising under the Nebraska Ground Water Management and Protection Act. The program shall function as a grant program administered by the Nebraska Natural Resources Commission and the Department of Natural Resources upon recommendations of the commission using funds appropriated for the program. The commission shall develop guidelines and limitations for grant requests for funding such district's duties, including studies required to carry out those duties. Grant requests shall be made to the commission for review in a manner and form prescribed by the commission. The amounts requested and approved shall be supported by a minimum local revenue match comprising twenty percent of the total project cost. The Director of Natural Resources shall expend funds to

implement the commission's recommendations for fiscal support under the program only upon the commission's approval.

Source: Laws 2006, LB 1226, § 20.