

LEGISLATIVE BILL 1003

Approved by the Governor April 19, 2002

Introduced by Schrock, 38; Bromm, 23; Brown, 6; Bruning, 3; Preister, 5

AN ACT relating to the environment; to amend sections 2-1576, 37-101, 37-102, 37-453, 37-491, 37-4,105, 37-4,106, 37-528, 37-608, and 37-806, Reissue Revised Statutes of Nebraska, sections 2-1575, 2-1579, 37-201, 37-202, 37-406, 37-440, 37-525, 37-724, 54-2302, 54-2305, 54-2322, 72-2005, 72-2006, 72-2008, 72-2010, 72-2011, 81-15,167, 81-15,170, 81-15,175, and 81-15,176, Revised Statutes Supplement, 2000, and sections 37-407, 37-426, 37-455, 49-1401, 49-1493, and 66-1519, Revised Statutes Supplement, 2001; to create the Water Policy Task Force; to state findings; to provide powers and duties; to create a fund; to provide for payments from the Nebraska Soil and Water Conservation Fund; to provide for fund transfers; to change provisions relating to membership on the Game and Parks Commission, licenses, permits, and stamps required under the Game Law, authorized weapons for hunting certain wildlife, training and running dogs, paddlefish, property posting requirements, procedures for determination of a species to be endangered or threatened, the Nebraska Environmental Trust Board, and cervine animals and diseases; to authorize and change fees; to authorize the enforcement of federal orders on federal lands as prescribed; to name the Niobrara Scenic River Act; to define terms; to provide powers and duties; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds that there are significant issues relating to the laws of Nebraska governing the management and use of Nebraska surface water and ground water. The issues to be examined are: (1) A review of Laws 1996, LB 108, to determine what, if any, changes are needed to adequately address Nebraska's conjunctive use management issues; (2) an evaluation of the utility of allowing temporary water transfers and, if deemed useful, development of draft legislation and procedures for authorizing and implementing a temporary water transfer law; (3) an evaluation of the utility of authorizing additional types of permanent water transfers and, if deemed useful, development of draft legislation and procedures for authorizing and implementing additional types of permanent water transfers; (4) a determination as to the usefulness of water leasing or transfers and development of a potential water banking system that would facilitate the temporary or permanent transfer of water uses; and (5) a determination as to what other ways, if any, inequities between surface water users and ground water users need to be addressed and potential actions the state could take to address any such inequities. To address such issues, the Governor shall appoint a Water Policy Task Force as provided in section 2 of this act.

Sec. 2. (1) The members of the Water Policy Task Force shall include: (a) Twenty irrigators, with at least one irrigator from each of the state's thirteen river basins, giving consideration to maintaining a balance between surface water users and ground water users. Three irrigators shall be selected from the Republican River Basin, two irrigators shall be selected from the North Platte River Basin, two irrigators shall be selected from the middle Platte River Basin, two irrigators shall be selected from the Loup River Basin, two irrigators shall be selected from the Elkhorn River Basin, two irrigators shall be selected from the Big Blue River Basin, one irrigator shall be selected from the South Platte River Basin, one irrigator shall be selected from the lower Platte River Basin, one irrigator shall be selected from the Little Blue River Basin, one irrigator shall be selected from the Nemaha River Basin, one irrigator shall be selected from the Niobrara River Basin, one irrigator shall be selected from the White Hat River Basin, and one irrigator shall be selected from the Missouri tributaries basin; (b) three representatives from differing agricultural organizations; (c) three representatives from differing environmental organizations; (d) two representatives from differing recreational organizations; (e) three representatives to represent the state at large; (f) five representatives suggested for the Governor's consideration by the Nebraska Association of Resources Districts; (g) four representatives suggested for the Governor's consideration by the Nebraska Power Association; (h) five representatives suggested for the Governor's consideration by the League of Nebraska

Municipalities, with consideration given to maintaining a balance between larger and smaller municipalities; and (i) such other members as the Governor deems appropriate to provide the task force with adequate and balanced representation. The Governor shall notify the Legislature upon completion of the appointments.

(2) Additional members of the task force shall be: (a) One representative from the Department of Natural Resources to coordinate as appropriate with other state agencies; (b) one representative from the Attorney General's office; (c) the chairperson of the Natural Resources Committee of the Legislature; and (d) the vice chairperson of the Natural Resources Committee of the Legislature. Other members of the Legislature may participate as desired.

Sec. 3. On behalf of the Water Policy Task Force, the Natural Resources Committee of the Legislature shall contract for the services of a meeting facilitator and such other assistance as the task force deems necessary within the limits of the funds appropriated. Such contract shall have the approval of the Executive Board of the Legislative Council. In making its selection for facilitator, the Natural Resources Committee shall consult with the Attorney General's office and the Department of Natural Resources.

Sec. 4. The Water Policy Task Force shall select an executive committee. The executive committee shall consist of three representatives from irrigation interests; one representative from an agricultural organization; one representative from an environmental organization; one representative from a recreational organization; one representative of the state at large; one representative of natural resources districts; one representative of the Nebraska Power Association; one representative of municipalities; one representative of the Department of Natural Resources; one representative of the Attorney General's office; and the chairperson and vice chairperson of the Natural Resources Committee of the Legislature. Each executive committee member shall be responsible for representing the rest of his or her interest group on the executive committee. The executive committee shall be responsible for developing the operating rules of the task force and for developing proposals and recommendations to be considered by the entire task force. The executive committee shall apply for a grant of a minimum of three hundred fifty thousand dollars from the Nebraska Environmental Trust Fund prior to the application deadline of September 9, 2002, for grants to be awarded and funded in 2003.

Sec. 5. The Water Policy Task Force shall meet at least four times each year to consider the proposals and recommendations of the executive committee and any other additional times as the executive committee determines to be necessary to accomplish the objectives established in section 1 of this act.

Sec. 6. The Water Policy Task Force shall discuss the issues described in section 1 of this act and such related issues as it deems appropriate, shall identify options for resolution of such issues, and shall make recommendations to the Legislature and the Governor relating to any water policy changes the task force deems desirable.

The task force shall complete its work within eighteen months after the Governor notifies the Legislature that all members of the task force have been appointed and a meeting facilitator has been selected.

Sec. 7. The Water Policy Task Force Cash Fund is created. The fund shall be administered by the Department of Natural Resources and expended at the direction of the Water Policy Task Force. The fund shall consist of funds appropriated by the Legislature, money received as gifts, grants, and donations, and transfers authorized under sections 2-1579 and 66-1519. 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.

Sec. 8. Section 2-1575, Revised Statutes Supplement, 2000, is amended to read:

2-1575. Sections 2-1575 to 2-1585 and section 10 of this act shall be known and may be cited as the Nebraska Soil and Water Conservation Act.

Sec. 9. Section 2-1576, Reissue Revised Statutes of Nebraska, is amended to read:

2-1576. 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 ~~agricultural, horticultural, or silvicultural~~ land and that this will produce long-term benefits for the general public.

Sec. 10. 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.

Sec. 11. Section 2-1579, Revised Statutes Supplement, 2000, is amended to read:

2-1579. (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 the effective date of this act, 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.

Sec. 12. Section 37-101, Reissue Revised Statutes of Nebraska, is amended to read:

37-101. (1) The Game and Parks Commission shall consist of ~~seven~~ eight members, one from each of the ~~seven~~ eight districts provided for by section 37-102, and shall be appointed by the Governor with the consent of a majority of all members of the Legislature. Members of the commission shall be legal residents and citizens of Nebraska and shall be well informed on wildlife conservation and restoration. At Until January 1, 2006, at least two members of the commission shall be actually engaged in agricultural pursuits and shall reside on a farm or ranch. On and after January 1, 2006, at least three members of the commission shall be actually engaged in agricultural pursuits and at least two of such members shall reside on a farm or ranch.