

LEGISLATIVE BILL 308

Approved by the Governor March 15, 1977

Introduced by Agriculture and Environment Committee,
Schmit, 23, Chmn.; Burrows, 30; Kahle, 37;
Lamb, 43; R. Maresh, 32; Hehner, 19; DeCamp,
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AN ACT to amend sections 77-27,150, 77-27,151, 77-27,152,
and 77-27,154, Revised Statutes Supplement,
1976, relating to the Water Pollution Control
Tax Refund Act; to eliminate the Department of
Health from any duties under such act; and to
repeal the original sections.

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

Section 1. That section 77-27,150, Revised
Statutes Supplement, 1976, be amended to read as follows:

77-27,150. (1) An application for a refund of
Nebraska sales and use taxes paid for any air or water
pollution control facility may be filed with the Tax
Commissioner by the owner of such facility in such manner
and in such form as may be prescribed by the
commissioner. The application for a refund shall
contain: (a) Plans and specifications of such facility
including all materials incorporated or to be
incorporated therein; (b) a descriptive list of all
equipment acquired or to be acquired by the applicant for
the purpose of industrial or agricultural waste pollution
control; (c) the proposed operating procedure for the
facility; and (d) the acquisition cost of the facility
for which exemption is claimed.

(2) Before issuing the refund for Nebraska sales
and use taxes paid by an applicant, the Tax Commissioner
shall seek approval of the ~~Department of Health--and~~ the
Department of Environmental Control. The Tax
Commissioner shall offer an applicant a hearing upon
request of such applicant.

Sec. 2. That section 77-27,151, Revised
Statutes Supplement, 1976, be amended to read as follows:

77-27,151. If the ~~Department of Health--and~~ the
Department of Environmental Control find finds that a
facility is designed and operated primarily for control,
capture, abatement, or removal of industrial or
agricultural waste from air or water and is suitable,
reasonably adequate, and meets the intent and purposes of
the Environmental Protection Act they it shall so notify
the Tax Commissioner who shall issue the refund. The

~~Department-of-Health-and-the~~ Department of Environmental Control shall also notify the Tax Commissioner of the extent of commercial or productive value derived from any materials captured or recovered by the facility.

Sec. 3. That section 77-27,152, Revised Statutes Supplement, 1976, be amended to read as follows:

77-27,152. Notice of the commissioner's refusal to issue a refund shall be sent by certified mail to the applicant.

(1) The Tax Commissioner, on notice by certified mail to the applicant giving opportunity for a hearing, shall on his own initiative or on complaint of the ~~Department-of-Health-or~~ the Department of Environmental Control modify or revoke the refund whenever any of the following appears: (a) The refund was obtained by fraud or misrepresentation; (b) the applicant has failed substantially to operate the facility for the purpose and degree of control specified in the application or an amended application; or (c) the facility covered by the refund is no longer used for the primary purpose of pollution control.

(2) On the mailing by certified mail to the refund applicant of notice of the action of the Tax Commissioner modifying or revoking the refund, the refund shall cease to be in force, or shall remain in force only as modified. When a refund is revoked because a refund was obtained by fraud or misrepresentation, all taxes which would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by the Nebraska Revenue Act of 1967. No statute of limitations shall operate in the event of fraud or misrepresentation.

Sec. 4. That section 77-27,154, Revised Statutes Supplement, 1976, be amended to read as follows:

77-27,154. The Tax Commissioner shall adopt rules and regulations necessary for the administration of the provisions of sections 77-27,149 to 77-27,155. Such rules and regulations shall not abridge the authority of ~~the--Department--of--Health---and~~ the Department of Environmental Control to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the provisions of sections 77-27,149 to 77-27,155.

Sec. 5. That original sections 77-27,150, 77-27,151, 77-27,152, and 77-27,154, Revised Statutes Supplement, 1976, are repealed.