

LEGISLATIVE BILL 188

Approved by the Governor February 24, 1973

Introduced by Kremer, 34

AN ACT to amend sections 2-1506.06 and 2-1547, Reissue Revised Statutes of Nebraska, 1943, relating to soil and water conservation; to abolish the Floodway Obstruction Removal Fund; to clarify provisions for the Nebraska Soil and Water Conservation Fund; to provide for sales as prescribed; to repeal the original sections and also section 2-1506.11, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 2-1506.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1506.06. (1) The commission or a political subdivision shall have the power to issue permits for the location or alteration of obstructions or land uses pursuant to the commission's or a political subdivision's land-use regulation standards or which would otherwise violate section 2-1506.05 or the commission's or a political subdivision's land-use regulation standards. The application for the permit shall contain such information as the commission or political subdivision, or both shall by rule, resolution, or ordinance require, including complete maps, plans, profiles, and specifications of the obstruction, land use, and watercourse or drainway, as well as economic, land development and land use information.

(2) In passing upon such application, the commission or political subdivision shall consider (a) the danger to life and property by water which may be backed up or diverted by such obstruction or land use, (b) the danger that the obstruction or land use will be swept downstream to the injury of others, (c) the availability of alternate locations, (d) the construction or alteration of the obstruction in such a manner as to lessen the danger, (e) the permanence of the obstruction or land use, (f) the anticipated development in the foreseeable future of the area which may be affected by the obstruction or land use, (g) hardship factors which may result by approval or denial of the application, and (h) such other factors as are in harmony with the purpose

of sections 2-1506.01 to 2-1506.14. The commission or a political subdivision may make a part of such permit any conditions it may deem advisable. In order for the permit to continue to remain in force, the obstruction or land use must be maintained so as to comply with the conditions and specifications of the permit.

(3) Permits for obstructions or land use to be located in the floodway of watercourses must be specifically approved or denied within a reasonable time by the commission or a political subdivision; permits for obstructions or land use in the floodways of drainways shall be conclusively deemed to have been granted thirty days after the receipt of such application by the commission or political subdivision, or after such time as the commission or political subdivision shall by rule, resolution, or ordinance specify, unless the commission or political subdivision notifies the applicant that the permit is denied.

(4) Every application for a permit shall be accompanied by a nonrefundable application fee of ten dollars which shall be forwarded to the State Treasurer who shall credit same to the Floodway-Obstruction-Removal Fund Nebraska Soil and Water Conservation Fund.

If the political subdivision issues the permit, the applicable permit fee charged by the political subdivision shall be paid to the political subdivision for the benefit of the fund designated by resolution or ordinance to receive such permit fee.

Sec. 2. That section 2-1547, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1547. The State Treasurer is hereby directed to create and establish the Nebraska Soil and Water Conservation Fund. The State Treasurer is hereby directed to credit to said such fund for the uses and purposes of this act such money as shall be specifically appropriated or reappropriated during-any-biennium by the Legislature. The State Treasurer shall also credit said such fund with such-contributions payments, if any, by land-occupiers,-of-funds,-labor,-materials-and-equipment for-erosion-control-operations-carried-out-on-their-lands accepted for services rendered pursuant to section 2-1506, Reissue Revised Statutes of Nebraska, 1943, as amended, and application fees received pursuant to section 2-1506.06, Reissue Revised Statutes of Nebraska, 1943, as amended. The funds;--properties--and--services made available to the Nebraska Soil--and--Water Conservation Natural Resources Commission established by

this act by the United States, through the Soil Conservation Service of the Department of Agriculture, or through any other agencies shall by said treasurer be credited to said fund. Any money in the Nebraska Soil and Water Conservation Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259. The Nebraska Soil--and--Water---Conservation Natural Resources Commission shall,--as--other--spending agencies of the State of Nebraska, on or before the first day of December of each even-numbered year, certify to the Governor the number of districts in operation in the State of Nebraska, together with the request of said commission for an appropriation for said districts out of funds in the state treasury by the legislature for the succeeding biennium. In said budget certificate said commission may make provision on an acreage or other basis for an allocation of the biennial appropriation among the several soil and water conservation districts allocate money from the Nebraska Soil and Water Conservation Fund to pay costs of the programs or activities for which the money has been appropriated, reappropriated or collected. The Director of Administrative Services, upon receipt of proper vouchers approved by the Nebraska Soil--and--Water--Conservation Natural Resources Commission, shall issue his warrants on said funds; and the State Treasurer shall countersign and pay from, but never in excess of, the amounts to the credit of said fund.

Sec. 3. The Nebraska Natural Resources 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 administered pursuant to sections 2-1502 to 2-1503.02 and to require the execution of all necessary documents to complete such sales. The commission 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 commission rules and regulations. The commission shall also, within thirty days of the effective date of this act, file an affidavit as above described against each tract of land or right-of-way acquired by the local organization wholly or in part with funds from the Small Watersheds Flood Control Fund prior to the effective date

of this act, and shall upon the completion of filing assume the sole power and authority to specify the date and all other terms for the sale and to require the execution of all necessary documents to complete the sale of all lands or rights-of-way affected thereby.

Sec. 4. That original sections 2-1506.06 and 2-1547, and also section 2-1506.11, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.