

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 747

Introduced by Beutler, 28

Read first time January 20, 1999

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to environmental protection; to adopt the
2 Nebraska Protected Rivers Act; to provide powers and
3 duties; and to declare an emergency.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known
2 and may be cited as the Nebraska Protected Rivers Act.

3 Sec. 2. The Legislature finds that certain rivers and
4 streams of Nebraska possess outstanding natural, scenic,
5 recreational, educational, geological, fish and wildlife, historic,
6 scientific, and cultural values which are of importance to the
7 present and future generations of this state. The Legislature
8 further finds that it would be greatly beneficial to maintain the
9 natural and scenic conditions of such rivers and streams and
10 adjacent lands and to preserve such rivers and streams in a
11 free-flowing state.

12 Sec. 3. For purposes of the Nebraska Protected Rivers
13 Act:

14 (1) Free flowing means the flow of a river or stream in a
15 natural condition without substantial impoundment, diversion,
16 channelization, or other modification. The existence of low dams,
17 diversion works, or other minor structures at the time the river is
18 proposed for inclusion in the Nebraska protected river system shall
19 not automatically bar its consideration for such inclusion, except
20 that this subdivision shall not be construed to authorize, intend,
21 or encourage future construction of such structures within
22 designated rivers; and

23 (2) State designated river means a river or stream or
24 river or stream segment designated by state law as a state
25 protected river.

26 Sec. 4. (1) The Legislature may designate as state
27 protected rivers, in accordance with the Nebraska Protected Rivers
28 Act, rivers and streams which are largely free of impoundments and

1 which offer outstanding natural, scenic, recreational, educational,
2 geological, fish and wildlife, historic, scientific, or cultural
3 values.

4 (2) A river or stream segment must be free flowing and at
5 least one mile in length in order to be designated as a state
6 designated river in the Nebraska protected river system. The
7 boundaries of a designated river shall be determined by the
8 managing agency of the river, but for any given river such
9 boundaries shall not average less than one hundred feet or more
10 than an average of one-fourth mile from each shoreline.

11 (3) The construction of new dams, diversion works,
12 rip-rap, or channelization shall be prohibited within a designated
13 river of the system. The filling of beds or removal of material
14 from the beds or banks of a designated river or other alterations
15 of the beds or banks shall be prohibited except by special permit
16 by the Director of Water Resources. Such permit may only be issued
17 if it will not adversely impact the values for which the river was
18 designated.

19 Sec. 5. The Department of Environmental Quality shall
20 not authorize the construction of new livestock waste control
21 facilities or the expansion of any currently existing livestock
22 waste control facilities within one mile of the boundary of a state
23 designated river. The Department of Environmental Quality shall
24 not authorize the construction or expansion of any new Class III or
25 Class IV livestock waste control facilities, as defined in the
26 Livestock Waste Management Act, within three miles of the boundary
27 of a state designated river.

28 Sec. 6. (1) A state designated river shall be managed by

1 either (a) the Game and Parks Commission in cooperation with an
2 advisory council as provided in subsection (2) of this section or
3 (b) a river management council as provided in subsection (3) of
4 this section. The Legislature shall determine the managing agency
5 for a given river when the river is designated.

6 (2) The Game and Parks Commission shall adopt and
7 promulgate rules and regulations to govern the management of any
8 state designated river for which it is the managing agency. Such
9 management shall be accomplished in consultation with an advisory
10 council, named by the Governor, with the same representation as
11 provided in subsection (3) of this section.

12 (3) A river management council which is designated as the
13 managing agency shall contain the following members, to be
14 appointed by the Governor:

15 (a) A representative of each county government in which a
16 portion of the state designated river is located;

17 (b) Five representatives of landowners of property
18 located in whole or in part within the state designated river
19 boundaries;

20 (c) The secretary of the Game and Parks Commission or his
21 or her designee;

22 (d) The Director of Water Resources or his or her
23 designee;

24 (e) The Director of Environmental Quality or his or her
25 designee; and

26 (f) One representative of each natural resources district
27 in which a portion of the state designated river is located.

28 (4) A managing agency shall develop and implement a

1 management plan for a state designated river. Such management plan
2 shall provide for the protection of the natural, scenic,
3 recreational, educational, geological, fish and wildlife, historic,
4 scientific, or cultural values for which the river was designated.
5 Such management plan shall also provide for at least two points of
6 public access on each state designated river where practicable.
7 The management plan may, at the discretion of the managing agency,
8 make provision for the protection and maintenance of current water
9 quality standards at the time of designation. If such standards
10 are authorized by the managing agency, the Department of
11 Environmental Quality shall enforce such standards. The managing
12 agency shall have standing to sue for the enforcement of the water
13 quality standards.

14 (5) A managing agency shall make an annual status report
15 by December 1 of each year to the Governor and the Legislature,
16 which report shall include the progress made in implementing its
17 management plan.

18 Sec. 7. A county board in which a state designated river
19 is located shall notify the managing agency at least thirty days
20 before it takes any zoning action which affects the designated
21 river. A county board shall not enact any zoning action which may
22 be adverse to the values of a state designated river unless such
23 action is approved in writing by the managing agency.

24 Sec. 8. Since an emergency exists, this act takes effect
25 when passed and approved according to law.