

AMENDMENTS TO LB 619

(Amendments to Standing Committee amendments, AM0380)

1 1. Insert the following new sections:

2 "Sec. 5. Section 46-642, Revised Statutes Supplement,
3 2002, is amended to read:

4 46-642. (1) If the Director of Natural Resources finds
5 that the withdrawal and transportation of ground water requested by
6 the applicant are reasonable, are not contrary to the conservation
7 and beneficial use of ground water, and are not otherwise
8 detrimental to the public welfare, he or she shall grant a permit
9 to the applicant to withdraw and transport water in the amount
10 applied for or in a lesser amount. The permit so granted shall
11 have a priority date as of the time when the application is filed
12 with the director.

13 (2) In determining whether to grant or deny a permit
14 under subsection (1) of this section, the director shall consider
15 the factors set forth in subdivisions (1) through (7) of section
16 46-613.01.

17 Sec. 7. Section 46-683, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 46-683. (1) The director shall issue a written order
20 containing specific findings of fact either granting or denying a
21 permit. The director shall grant a permit only if he or she finds
22 that the applicant's withdrawal and any transfer of ground water
23 are in the public interest. In determining whether the withdrawal

1 and transfer, if any, are in the public interest, the director's
2 considerations shall include, but not be limited to:

3 (a) Possible adverse effects on existing surface or
4 ground water users;

5 (b) The effect of the withdrawal and any transfer of
6 ground water on surface or ground water supplies needed to meet
7 reasonably anticipated domestic and agricultural demands in the
8 area of the proposed ground water withdrawal;

9 (c) The availability of alternative sources of surface or
10 ground water reasonably accessible to the applicant in or near the
11 region of the proposed withdrawal or use;

12 (d) The economic benefit of the applicant's proposed use;

13 (e) The social and economic benefits of existing uses of
14 surface or ground water in the area of the applicant's proposed use
15 and any transfer;

16 (f) Any waivers of liability from existing users filed
17 with the director; ~~and~~

18 (g) The effects on interstate compacts or decrees and the
19 fulfillment of the provisions of any other state contract or
20 agreement; and

21 (h) Other factors reasonably affecting the equity of
22 granting the permit.

23 (2) The director may grant a permit for less water than
24 requested by the applicant. The director may also impose
25 reasonable conditions on the manner and timing of the ground water
26 withdrawals and on the manner of any transfer of ground water which
27 the director deems necessary to protect existing users of water.

1 The director shall issue such written order within ninety days of
2 the hearing.

3 Sec. 8. Section 46-691, Revised Statutes Supplement,
4 2002, is amended to read:

5 46-691. (1) Any person who withdraws ground water for
6 agricultural purposes, or for any purpose pursuant to a ground
7 water remediation plan as required under the Environmental
8 Protection Act, including the providing of water for domestic
9 purposes, from aquifers located within the State of Nebraska may
10 transfer the use of the ground water off the overlying land if the
11 ground water is put to a reasonable and beneficial use within the
12 State of Nebraska and is used for an agricultural purpose, or for
13 any purpose pursuant to a ground water remediation plan as required
14 under the Environmental Protection Act, including the providing of
15 water for domestic purposes, after transfer, and if such
16 withdrawal, transfer, and use (a) will not significantly adversely
17 affect any other water user, (b) is consistent with all applicable
18 statutes and rules and regulations, and (c) is in the public
19 interest. The determination made by a natural resources district
20 under subsection (2) of this section or the director under
21 subsection (3) of this section shall include consideration of the
22 factors set forth in subdivisions (1) through (7) of section
23 46-613.01. For purposes of this section, domestic has the same
24 meaning as in section 46-613.

25 (2) Any affected party may object to the transfer of
26 ground water by filing written objections, specifically stating the
27 grounds for such objection, in the office of the natural resources

1 district containing the land from which the ground water is
2 withdrawn. Upon the filing of such objections or on its own
3 initiative, the natural resources district shall conduct a
4 preliminary investigation to determine if the withdrawal, transfer,
5 and use of ground water is consistent with the requirements of
6 subsection (1) of this section. Following the preliminary
7 investigation, if the district has reason to believe that the
8 withdrawal, transfer, or use may not comply with any rule or
9 regulation of the district, it may utilize its authority under the
10 Nebraska Ground Water Management and Protection Act to prohibit
11 such withdrawal, transfer, or use. If the district has reason to
12 believe that the withdrawal, transfer, and use is consistent with
13 all rules and regulations of the district but may not comply with
14 one or more other requirements of subsection (1) of this section,
15 the district shall request that the Department of Natural Resources
16 hold a hearing on such transfer.

17 (3) At the hearing, all interested persons may appear and
18 present testimony. Agencies or political subdivisions of this
19 state and the appropriate natural resources districts shall offer
20 as evidence any information in their possession which they deem
21 relevant to the purposes of the hearing. After the hearing, if the
22 Director of Natural Resources finds that the withdrawal, transfer,
23 or use of ground water is contrary to the requirements of
24 subsection (1) of this section, he or she shall issue a cease and
25 desist order prohibiting the withdrawal and transfer.

26 (4) The director may adopt and promulgate rules and
27 regulations to carry out this section."

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- 1 2. Amend the repealer, correct internal references, and
- 2 renumber the remaining sections accordingly.