

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 54

Introduced by Fischer, 43.

Read first time January 8, 2009

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Nebraska Ground Water Management and
2 Protection Act; to amend sections 46-714, 46-715, and
3 46-719, Revised Statutes Cumulative Supplement, 2008;
4 to change provisions relating to integrated management
5 plans; to harmonize provisions; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-714, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 46-714 (1) Whenever the Department of Natural Resources
4 makes a preliminary determination that a river basin, subbasin,
5 or reach not previously designated as overappropriated and not
6 previously determined to be fully appropriated has become fully
7 appropriated, the department shall place an immediate stay on
8 the issuance of any new natural-flow, storage, or storage-use
9 appropriations in such river basin, subbasin, or reach. The
10 department shall also provide prompt notice of such preliminary
11 determination to all licensed water well contractors in the state
12 and to each natural resources district that encompasses any of
13 the geographic area involved. Such notice to natural resources
14 districts shall be by certified mail. The notice shall be addressed
15 to the manager of the natural resources district or his or her
16 designee and shall include the signature of the Director of Natural
17 Resources. Immediately upon receipt of such notice by the natural
18 resources district, there shall be a stay on issuance of water
19 well construction permits in the geographic area preliminarily
20 determined by the department to include hydrologically connected
21 surface water and ground water in such river basin, subbasin,
22 or reach. The department shall also notify the public of the
23 preliminary determination that the river basin, subbasin, or reach
24 is fully appropriated and of the affected geographic area. Such
25 notice shall be provided by publication once each week for

1 three consecutive weeks in at least one newspaper of statewide
2 circulation and in such other newspaper or newspapers as are deemed
3 appropriate by the department to provide general circulation in the
4 river basin, subbasin, or reach.

5 (2) If the department preliminarily determines a river
6 basin, subbasin, or reach to be fully appropriated and has
7 identified the existence of hydrologically connected surface water
8 and ground water in such river basin, subbasin, or reach, stays
9 shall also be imposed:

10 (a) On the construction of any new water well in the
11 area covered by the determination unless a permit with conditions
12 imposed by the natural resources district has been issued prior
13 to the determination. Such conditions shall meet the objectives
14 of subsection ~~(3)~~ (4) of section 46-715 and may include, but are
15 not limited to, conditions in accordance with subsection (6) of
16 section 46-739. Any well constructed pursuant to such permit shall
17 be completed in accordance with section 46-738; and

18 (b) On the use of an existing water well or an existing
19 surface water appropriation in the affected area to increase the
20 number of acres historically irrigated.

21 Such additional stays shall begin ten days after the
22 first publication, in a newspaper of statewide circulation, of
23 the notice of the preliminary determination that the river basin,
24 subbasin, or reach is fully appropriated.

25 (3) Exceptions to the stays imposed pursuant to

1 subsection (1), (2), (9), or (10) of this section shall exist
2 for (a) test holes, (b) dewatering wells with an intended use
3 of one year or less, (c) monitoring wells, (d) wells constructed
4 pursuant to a ground water remediation plan under the Environmental
5 Protection Act, (e) water wells designed and constructed to pump
6 fifty gallons per minute or less, except that no two or more
7 water wells that each pump fifty gallons per minute or less may
8 be connected or otherwise combined to serve a single project such
9 that the collective pumping would exceed fifty gallons per minute,
10 (f) water wells for range livestock, (g) new surface water uses or
11 water wells that are necessary to alleviate an emergency situation
12 involving the provision of water for human consumption or public
13 health and safety, (h) water wells defined by the applicable
14 natural resources district as replacement water wells, but the
15 consumptive use of any such replacement water well can be no
16 greater than the historic consumptive use of the water well it
17 is to replace or, if applicable, the historic consumptive use of
18 the surface water use it is to replace, (i) new surface water
19 uses and water wells to which a right or permit is transferred in
20 accordance with state law, but the consumptive use of any such new
21 use can be no greater than the historic consumptive use of the
22 surface water use or water well from which the right or permit is
23 being transferred, (j) water wells and increases in ground water
24 irrigated acres for which a variance is granted by the applicable
25 natural resources district for good cause shown, (k) subject to any

1 conditions imposed by the applicable natural resources district, to
2 the extent permitted by the applicable natural resources district,
3 increases in ground water irrigated acres that result from the
4 use of water wells that were permitted prior to the effective
5 date of the determination made in subsection (1) of this section
6 and completed in accordance with section 46-738 but were not used
7 for irrigation prior to that effective date, (l) to the extent
8 permitted by the applicable natural resources district, increases
9 in ground water irrigated acres that result from the use of water
10 wells that are constructed after the effective date of the stay in
11 accordance with a permit granted by that natural resources district
12 prior to the effective date of the stay, (m) surface water uses for
13 which temporary public-use construction permits are issued pursuant
14 to subsection (8) of section 46-233, (n) surface water uses and
15 increases in surface water irrigated acres for which a variance is
16 granted by the department for good cause shown, and (o) water wells
17 for which permits have been approved by the Department of Natural
18 Resources pursuant to the Municipal and Rural Domestic Ground Water
19 Transfers Permit Act prior to the effective date of the stay.

20 (4) Except as otherwise provided in this section, any
21 stay imposed pursuant to subsections (1) and (2) of this section
22 shall remain in effect for the affected river basin, subbasin, or
23 reach until the department has made a final determination regarding
24 whether the river basin, subbasin, or reach is fully appropriated
25 and, if the department's final determination is that the river

1 basin, subbasin, or reach is fully appropriated, shall remain in
2 effect as provided in subsection (12) of this section. Within
3 the time period between the dates of the preliminary and final
4 determinations, the department and the affected natural resources
5 districts shall consult with any irrigation district, reclamation
6 district, public power and irrigation district, mutual irrigation
7 company, canal company, or municipality that relies on water from
8 the affected river basin, subbasin, or reach and with other water
9 users and stakeholders as deemed appropriate by the department
10 or the natural resources districts. The department shall also
11 hold one or more public hearings not more than ninety days after
12 the first publication of the notice required by subsection (1)
13 of this section. Notice of the hearings shall be provided in
14 the same manner as the notice required by such subsection. Any
15 interested person may appear at such hearing and present written or
16 oral testimony and evidence concerning the appropriation status of
17 the river basin, subbasin, or reach, the department's preliminary
18 conclusions about the extent of the area within which the surface
19 water and ground water supplies for the river basin, subbasin, or
20 reach are determined to be hydrologically connected, and whether
21 the stays on new uses should be terminated.

22 (5) Within thirty days after the final hearing under
23 subsection (4) of this section, the department shall notify the
24 appropriate natural resources districts of the department's final
25 determination with respect to the appropriation status of the

1 river basin, subbasin, or reach. If the final determination is
2 that the river basin, subbasin, or reach is fully appropriated,
3 the department, at the same time, shall (a) decide whether to
4 continue or to terminate the stays on new surface water uses and
5 on increases in the number of surface water irrigated acres and (b)
6 designate the geographic area within which the department considers
7 surface water and ground water to be hydrologically connected in
8 the river basin, subbasin, or reach and describe the methods and
9 criteria used in making that determination. The department shall
10 provide notice of its decision to continue or terminate the stays
11 in the same manner as the notice required by subsection (1) of this
12 section.

13 (6) If the department's final determination is that
14 the river basin, subbasin, or reach is not fully appropriated,
15 the department shall provide notice of such determination as
16 provided in subsection (1) of this section, the stays imposed
17 pursuant to subsections (1) and (2) of this section shall terminate
18 immediately, and no further action pursuant to subsections (7)
19 through (12) of this section and sections 46-715 to 46-719 shall be
20 required.

21 (7) Within ninety days after a final determination by
22 the department that a river basin, subbasin, or reach is fully
23 appropriated, an affected natural resources district may hold one
24 or more public hearings on the question of whether the stays on
25 the issuance of new water well permits, on the construction of

1 new water wells, or on increases in ground water irrigated acres
2 should be terminated. Notice of the hearings shall be published as
3 provided in section 46-743.

4 (8) Within forty-five days after a natural resources
5 district's final hearing pursuant to subsection (7) of this
6 section, the natural resources district shall decide (a) whether
7 to terminate the stay on new water wells in all or part of the
8 natural resources district subject to the stay and (b) whether to
9 terminate the stay on increases in ground water irrigated acres. If
10 the natural resources district decides not to terminate the stay
11 on new water wells in any geographic area, it shall also decide
12 whether to exempt from such stay the construction of water wells
13 for which permits were issued prior to the issuance of the stay but
14 for which construction had not begun prior to issuance of the stay.
15 If construction of water wells for which permits were issued prior
16 to the stay is allowed, all permits that were valid when the stay
17 went into effect shall be extended by a time period equal to the
18 length of the stay.

19 (9) Whenever the department designates a river basin,
20 subbasin, or reach as overappropriated, each previously declared
21 moratorium on the issuance of new surface water appropriations in
22 the river basin, subbasin, or reach shall continue in effect. The
23 department shall also provide prompt notice of such designation
24 to all licensed water well contractors in the state and to each
25 natural resources district that encompasses any of the geographic

1 area involved. Immediately upon receipt of such notice by a natural
2 resources district, there shall be a stay on the issuance of new
3 water well construction permits in any portion of such natural
4 resources district that is within the hydrologically connected area
5 designated by the department. The department shall also notify the
6 public of its designation of such river basin, subbasin, or reach
7 as overappropriated and of the geographic area involved in such
8 designation. Such notice shall be published once each week for
9 three consecutive weeks in at least one newspaper of statewide
10 circulation and in such other newspapers as are deemed appropriate
11 by the department to provide general notice in the river basin,
12 subbasin, or reach.

13 (10) Beginning ten days after the first publication
14 of notice under subsection (9) of this section in a newspaper
15 of statewide circulation, there shall also be stays (a) on the
16 construction of any new water well in the hydrologically connected
17 area if such construction has not commenced prior to such date
18 and if no permit for construction of the water well has been
19 issued previously by either the department or the natural resources
20 district, (b) on the use of an existing water well in the
21 hydrologically connected area to increase the number of acres
22 historically irrigated, and (c) on the use of an existing surface
23 water appropriation to increase the number of acres historically
24 irrigated in the affected area.

25 (11) Within ninety days after a designation by

1 the department of a river basin, subbasin, or reach as
2 overappropriated, a natural resources district that encompasses any
3 of the hydrologically connected area designated by the department
4 may hold one or more public hearings on the question of whether
5 to terminate the stays on (a) the construction of new water wells
6 within all or part of its portion of the hydrologically connected
7 area, (b) the issuance of new water well construction permits in
8 such area, or (c) the increase in ground water irrigated acres in
9 such area. Notice of any hearing for such purpose shall be provided
10 pursuant to section 46-743. Prior to the scheduling of a natural
11 resources district hearing on the question of whether to terminate
12 any such stay, the department and the affected natural resources
13 district shall consult with any irrigation district, reclamation
14 district, public power and irrigation district, mutual irrigation
15 company, canal company, or municipality that relies on water from
16 the affected river basin, subbasin, or reach and with other water
17 users and stakeholders as deemed appropriate by the department or
18 the natural resources district.

19 (12) Any stay issued pursuant to this section shall
20 remain in effect until (a) the stay has been terminated pursuant
21 to subsection (5), (6), (8), or (11) of this section, (b) an
22 integrated management plan for the affected river basin, subbasin,
23 or reach has been adopted by the department and the affected
24 natural resources districts and has taken effect, (c) an integrated
25 management plan for the affected river basin, subbasin, or reach

1 has been adopted by the Interrelated Water Review Board and has
2 taken effect, (d) the department has completed a reevaluation
3 pursuant to subsection (2) of section 46-713 and has determined
4 that the affected river basin, subbasin, or reach is not fully
5 appropriated or overappropriated, or (e) the stay expires pursuant
6 to this subsection. Such stay may be imposed initially for not
7 more than three years following the department's designation of
8 the river basin, subbasin, or reach as overappropriated or the
9 department's final determination that a river basin, subbasin, or
10 reach is fully appropriated and may be extended thereafter on
11 an annual basis by agreement of the department and the affected
12 natural resources district for not more than two additional years
13 if necessary to allow the development, adoption, and implementation
14 of an integrated management plan pursuant to sections 46-715 to
15 46-719.

16 Sec. 2. Section 46-715, Revised Statutes Cumulative
17 Supplement, 2008, is amended to read:

18 46-715 (1) Whenever the Department of Natural
19 Resources has designated a river basin, subbasin, or reach as
20 overappropriated or has made a final determination that a river
21 basin, subbasin, or reach is fully appropriated, the natural
22 resources districts encompassing such river basin, subbasin, or
23 reach and the department shall jointly develop an integrated
24 management plan for such river basin, subbasin, or reach. The plan
25 shall be completed, adopted, and take effect within three years

1 after such designation or final determination unless the department
2 and the natural resources districts jointly agree to an extension
3 of not more than two additional years.

4 (2) In developing an integrated management plan, the
5 effects of existing and potential new water uses on existing
6 surface water appropriators and ground water users shall be
7 considered. An integrated management plan shall include the
8 following: (a) Clear goals and objectives with a purpose of
9 sustaining a balance between water uses and water supplies so that
10 the economic viability, social and environmental health, safety,
11 and welfare of the river basin, subbasin, or reach can be achieved
12 and maintained for both the near term and the long term; (b)
13 a map clearly delineating the geographic area subject to the
14 integrated management plan; (c) one or more of the ground water
15 controls authorized for adoption by natural resources districts
16 pursuant to section 46-739; (d) one or more of the surface water
17 controls authorized for adoption by the department pursuant to
18 section 46-716; and (e) a plan to gather and evaluate data,
19 information, and methodologies that could be used to implement
20 sections 46-715 to 46-717, increase understanding of the surface
21 water and hydrologically connected ground water system, and test
22 the validity of the conclusions and information upon which the
23 integrated management plan is based. The plan may also provide for
24 utilization of any applicable incentive programs authorized by law.
25 Nothing in the integrated management plan for a fully appropriated

1 river basin, subbasin, or reach shall require a natural resources
2 district to regulate ground water uses in place at the time of
3 the department's preliminary determination that the river basin,
4 subbasin, or reach is fully appropriated, but a natural resources
5 district may voluntarily adopt such regulations. The applicable
6 natural resources district may decide to include all water users
7 within the district boundary in an integrated management plan.

8 (3) In order to provide a process for economic
9 development opportunities and economic sustainability within a
10 river basin, subbasin, or reach designated as fully appropriated
11 or overappropriated, the integrated management plan shall include
12 clear and transparent procedures to track depletions and gains to
13 streamflows resulting from new, retired, or other changes to uses
14 within the river basin, subbasin, or reach. The procedures shall:

15 (a) Utilize generally accepted methodologies based on the
16 best available information, data, and science;

17 (b) Include a generally accepted methodology to be
18 utilized to estimate depletions and gains to streamflows, which
19 methodology includes location, amount, and time regarding gains to
20 streamflows as offsets to new uses;

21 (c) Identify means to be utilized so that new uses will
22 not significantly adversely affect existing surface water users or
23 ground water users;

24 (d) Identify procedures the natural resources district
25 and the department will use to report, consult, and otherwise

1 share information on new uses, changes in uses, or other activities
2 affecting water use in the river basin, subbasin, or reach;

3 (e) Identify, to the extent feasible, potential water
4 available to mitigate new uses, including, but not limited
5 to, water rights leases, interference agreements, augmentation
6 projects, conjunctive use management, and use retirement;

7 (f) Develop, to the extent feasible, an outline of
8 plans in consultation with irrigation districts, public power
9 and irrigation districts, reclamation districts, municipalities,
10 other political subdivisions, and other water users to make water
11 available for offset to enhance and encourage economic development
12 opportunities and economic sustainability in the river basin,
13 subbasin, or reach; and

14 (g) Clearly identify procedures that applicants for new
15 uses shall take to apply for approval of a new water use and
16 corresponding offset.

17 Nothing in this subsection shall require revision or
18 amendment of an integrated management plan approved on or before
19 the effective date of this act.

20 ~~(3)~~ (4) The ground water and surface water controls
21 proposed for adoption in the integrated management plan pursuant
22 to subsection (1) of this section shall, when considered together
23 and with any applicable incentive programs, (a) be consistent with
24 the goals and objectives of the plan, (b) be sufficient to ensure
25 that the state will remain in compliance with applicable state and

1 federal laws and with any applicable interstate water compact or
2 decree or other formal state contract or agreement pertaining to
3 surface water or ground water use or supplies, and (c) protect the
4 ground water users whose water wells are dependent on recharge from
5 the river or stream involved and the surface water appropriators on
6 such river or stream from streamflow depletion caused by surface
7 water uses and ground water uses begun after the date the river
8 basin, subbasin, or reach was designated as overappropriated or
9 was preliminarily determined to be fully appropriated in accordance
10 with section 46-713.

11 ~~(4)(a)~~ (5)(a) In any river basin, subbasin, or reach that
12 is designated as overappropriated, when the designated area lies
13 within two or more natural resources districts, the department and
14 the affected natural resources districts shall jointly develop a
15 basin-wide plan for the area designated as overappropriated. Such
16 plan shall be developed using the consultation and collaboration
17 process described in subdivision (b) of this subsection, shall
18 be developed concurrently with the development of the integrated
19 management plan required pursuant to subsections (1) through ~~(3)~~
20 (4) of this section, and shall be designed to achieve, in the
21 incremental manner described in subdivision (d) of this subsection,
22 the goals and objectives described in subsection (2) of this
23 section. The basin-wide plan shall be adopted after hearings by the
24 department and the affected natural resources districts.

25 (b) In any river basin, subbasin, or reach designated

1 as overappropriated and subject to this subsection, the department
2 and each natural resources district encompassing such river basin,
3 subbasin, or reach shall jointly develop an integrated management
4 plan for such river basin, subbasin, or reach pursuant to
5 subsections (1) through ~~(3)~~ (4) of this section. Each integrated
6 management plan for a river basin, subbasin, or reach subject
7 to this subsection shall be consistent with any basin-wide plan
8 developed pursuant to subdivision (a) of this subsection. Such
9 integrated management plan shall be developed after consultation
10 and collaboration with irrigation districts, reclamation districts,
11 public power and irrigation districts, mutual irrigation companies,
12 canal companies, and municipalities that rely on water from
13 within the affected area and that, after being notified of the
14 commencement of the plan development process, indicate in writing
15 their desire to participate in such process. In addition, the
16 department or the affected natural resources districts may include
17 designated representatives of other stakeholders. If agreement
18 is reached by all parties involved in such consultation and
19 collaboration process, the department and each natural resources
20 district shall adopt the agreed-upon integrated management plan. If
21 agreement cannot be reached by all parties involved, the integrated
22 management plan shall be developed and adopted by the department
23 and the affected natural resources district pursuant to sections
24 46-715 to 46-718 or by the Interrelated Water Review Board pursuant
25 to section 46-719.

1 (c) Any integrated management plan developed under
2 this subsection shall identify the overall difference between
3 the current and fully appropriated levels of development. Such
4 determination shall take into account cyclical supply, including
5 drought, identify the portion of the overall difference between the
6 current and fully appropriated levels of development that is due
7 to conservation measures, and identify the portions of the overall
8 difference between the current and fully appropriated levels of
9 development that are due to water use initiated prior to July 1,
10 1997, and to water use initiated on or after such date.

11 (d) Any integrated management plan developed under this
12 subsection shall adopt an incremental approach to achieve the goals
13 and objectives identified under subdivision (2)(a) of this section
14 using the following steps:

15 (i) The first incremental goals shall be to address the
16 impact of streamflow depletions to (A) surface water appropriations
17 and (B) water wells constructed in aquifers dependent upon recharge
18 from streamflow, to the extent those depletions are due to water
19 use initiated after July 1, 1997, and, unless an interstate
20 cooperative agreement for such river basin, subbasin, or reach is
21 no longer in effect, to prevent streamflow depletions that would
22 cause noncompliance by Nebraska with such interstate cooperative
23 agreement. During the first increment, the department and the
24 affected natural resources districts shall also pursue voluntary
25 efforts, subject to the availability of funds, to offset any

1 increase in streamflow depletive effects that occur after July 1,
2 1997, but are caused by ground water uses initiated prior to such
3 date. The department and the affected natural resources districts
4 may also use other appropriate and authorized measures for such
5 purpose;

6 (ii) The department and the affected natural resources
7 districts may amend an integrated management plan subject to this
8 subsection ~~(4)~~ (5) as necessary based on an annual review of the
9 progress being made toward achieving the goals for that increment;

10 (iii) During the ten years following adoption of an
11 integrated management plan developed under this subsection ~~(4)~~ (5)
12 or during the ten years after the adoption of any subsequent
13 increment of the integrated management plan pursuant to subdivision
14 (d) (iv) of this subsection, the department and the affected natural
15 resources district shall conduct a technical analysis of the
16 actions taken in such increment to determine the progress towards
17 meeting the goals and objectives adopted pursuant to subsection (2)
18 of this section. The analysis shall include an examination of (A)
19 available supplies and changes in long-term availability, (B) the
20 effects of conservation practices and natural causes, including,
21 but not limited to, drought, and (C) the effects of the plan
22 on reducing the overall difference between the current and fully
23 appropriated levels of development identified in subdivision ~~(4)~~ (e)
24 (5) (c) of this section. The analysis shall determine whether a
25 subsequent increment is necessary in the integrated management plan

1 to meet the goals and objectives adopted pursuant to subsection
2 (2) of this section and reduce the overall difference between the
3 current and fully appropriated levels of development identified in
4 subdivision ~~(4)(e)~~ (5)(c) of this section;

5 (iv) Based on the determination made in subdivision
6 (d)(iii) of this subsection, the department and the affected
7 natural resources districts, utilizing the consultative and
8 collaborative process described in subdivision (b) of this
9 subsection, shall if necessary identify goals for a subsequent
10 increment of the integrated management plan. Subsequent increments
11 shall be completed, adopted, and take effect not more than ten
12 years after adoption of the previous increment; and

13 (v) If necessary, the steps described in subdivisions
14 (d)(ii) through (iv) of this subsection shall be repeated until the
15 department and the affected natural resources districts agree that
16 the goals and objectives identified pursuant to subsection (2) of
17 this section have been met and the overall difference between the
18 current and fully appropriated levels of development identified in
19 subdivision ~~(4)(e)~~ (5)(c) of this section has been addressed so
20 that the river basin, subbasin, or reach has returned to a fully
21 appropriated condition.

22 ~~(5)~~ (6) In any river basin, subbasin, or reach that is
23 designated as fully appropriated or overappropriated and whenever
24 necessary to ensure that the state is in compliance with an
25 interstate compact or decree or a formal state contract or

1 agreement, the department, in consultation with the affected
2 districts, shall forecast on an annual basis the maximum amount
3 of water that may be available from streamflow for beneficial use
4 in the short term and long term in order to comply with the
5 requirement of subdivision ~~(3)(b)~~ (4)(b) of this section. This
6 forecast shall be made by January 1, 2008, and each January 1
7 thereafter.

8 Sec. 3. Section 46-719, Revised Statutes Cumulative
9 Supplement, 2008, is amended to read:

10 46-719 (1)(a) The Interrelated Water Review Board is
11 created for the purposes stated in subsections (2) through (5)
12 of this section. The board shall consist of five members. The
13 board, when appointed and convened, shall continue in existence
14 only until it has resolved a dispute referred to it pursuant to
15 such subsections. The Governor shall appoint and convene the board
16 within forty-five days of being notified of the need to resolve
17 a dispute. The board shall be chaired by the Governor or his
18 or her designee, which designee shall be knowledgeable concerning
19 surface water and ground water issues. The Governor shall appoint
20 one additional member of his or her choosing and shall appoint
21 the other three members of the board from a list of no fewer than
22 six nominees provided by the Nebraska Natural Resources Commission
23 within twenty days after request by the Governor for a list of
24 nominees.

25 (b) Not more than two members of the board shall reside

1 in the geographic area involved in the dispute. A person is not
2 eligible for membership on the board if the decisions to be made
3 by the board would or could cause financial benefit or detriment
4 to the person, a member of his or her immediate family, or a
5 business with which the person is associated, unless such benefit
6 or detriment is indistinguishable from the effects of such action
7 on the public generally or a broad segment of the public. The board
8 shall be subject to the Open Meetings Act.

9 (c) For purposes of subsections (2) and (3) of this
10 section, action may be taken by a vote of three of the board's five
11 members. For purposes of subsections (4) and (5) of this section,
12 action may be taken only by a vote of at least four of the board's
13 five members.

14 (2) (a) If the Department of Natural Resources and the
15 affected natural resources districts cannot resolve disputes over
16 the content of a basin-wide plan or an integrated management plan
17 by utilizing the process described in sections 46-715 to 46-718,
18 the Governor shall be notified and the dispute submitted to the
19 Interrelated Water Review Board. When the board has been appointed
20 and convened to resolve disputes over a basin-wide plan, the
21 department and each affected district shall present their proposed
22 basin-wide plans to the board. When the board has been convened to
23 resolve disputes over an integrated management plan, the department
24 and each affected natural resources district shall present their
25 (i) proposed goals and objectives for the integrated management

1 plan, (ii) proposed geographic area to be subject to controls,
2 and (iii) proposed surface water and ground water controls and any
3 proposed incentive program for adoption and implementation in the
4 river basin, subbasin, or reach involved. The department and each
5 affected natural resources district shall also be given adequate
6 opportunity to comment on the proposals made by the other parties
7 to the dispute.

8 (b) When the Interrelated Water Review Board concludes
9 that the issues in dispute have been fully presented and commented
10 upon by the parties to the dispute, which conclusion shall be made
11 not more than forty-five days after the board is convened, the
12 board shall select the proposals or portions of proposals that the
13 board will consider for adoption and shall schedule one or more
14 public hearings to take testimony on the selected proposals. The
15 hearings shall be held within forty-five days after the board's
16 selection of proposals to consider for adoption and shall be within
17 or in reasonable proximity to the area that would be affected by
18 implementation of any of the proposals to be considered at the
19 hearings. Notice of the hearings shall be published as provided in
20 section 46-743. The cost of publishing the notice shall be shared
21 by the department and the affected natural resources districts. All
22 interested persons may appear at the hearings and present testimony
23 or provide other evidence relevant to the issues being considered.

24 (c) Within forty-five days after the final hearing
25 pursuant to subdivision (b) of this subsection, the Interrelated

1 Water Review Board shall by order, as applicable, adopt a
2 basin-wide plan or an integrated management plan for the affected
3 river basin, subbasin, or reach and, in the case of an integrated
4 management plan, shall designate a ground water management area
5 for integrated management or an integrated management subarea for
6 such river basin, subbasin, or reach. An integrated management plan
7 shall be consistent with subsection (2) of section 46-715, and
8 the surface water and ground water controls and any applicable
9 incentive programs adopted as part of that plan shall be consistent
10 with subsection ~~(3)~~ (4) of section 46-715. The controls adopted by
11 the board shall not be substantially different from those described
12 in the notice of hearing. The area designated as a ground water
13 management area or an integrated management subarea shall not
14 include any area that was not identified in the notice of the
15 hearing as within the area proposed to be subject to the controls
16 in the plan.

17 (d) The order adopted under this subsection shall be
18 published in the manner prescribed in section 46-744.

19 (e) Surface water controls adopted by the Interrelated
20 Water Review Board shall be implemented and enforced by the
21 department. Ground water controls adopted by the Interrelated Water
22 Review Board shall be implemented and enforced by the affected
23 natural resources districts.

24 (3) Whether an integrated management plan is adopted
25 pursuant to section 46-718 or by the Interrelated Water Review

1 Board pursuant to subsection (2) of this section, the department or
2 a natural resources district responsible in part for implementation
3 and enforcement of an integrated management plan may propose
4 modification of the goals or objectives of that plan, of the area
5 subject to the plan, or of the surface water controls, ground
6 water controls, or incentive programs adopted to implement the
7 plan. The department and the affected natural resources districts
8 shall utilize the procedures in sections 46-715 to 46-718 in
9 an attempt to reach agreement on and to adopt and implement
10 proposed modifications. If agreement on such modifications cannot
11 be achieved utilizing those procedures, either the department or
12 an affected natural resources district may notify the Governor of
13 the dispute. The Interrelated Water Review Board shall be appointed
14 and convened in accordance with subsection (1) of this section to
15 resolve the dispute and, if applicable, to adopt any modifications
16 utilizing the procedures in subsection (2) of this section.

17 (4) The department and the affected natural resources
18 districts may also raise objections concerning the implementation
19 or enforcement of previously adopted surface water or ground
20 water controls. The department and the affected natural resources
21 districts shall utilize the procedures in sections 46-715 to
22 46-718 in an attempt to reach agreement on such implementation or
23 enforcement issues. If agreement on such issues cannot be achieved
24 utilizing such procedures, either the department or an affected
25 natural resources district may notify the Governor of the dispute.

1 The Interrelated Water Review Board shall be appointed and convened
2 in accordance with subsection (1) of this section. After permitting
3 each party to fully express its reasons for its position on the
4 disputed issues, the board may either take no action or conclude
5 (a) that one or more parties needs to modify its approach to
6 implementation or enforcement and direct that such modifications
7 take place or (b) that one or more parties either has not made
8 a good faith effort to implement or enforce the portion of the
9 plan or controls for which it is responsible or is unable to
10 fully implement and enforce such portion and that such party's
11 jurisdiction with respect to implementation and enforcement of
12 the plan and controls shall be terminated and reassigned to one
13 or more of the other parties responsible for implementation and
14 enforcement. A decision by the Interrelated Water Review Board to
15 terminate and reassign jurisdiction of any portion of the plan or
16 controls shall take effect immediately upon that decision. Notice
17 of such reassignment shall be published at least once in one or
18 more newspapers as necessary to provide general circulation in the
19 area affected by such reassignment.

20 (5) The board may be reconvened in accordance with
21 subsection (1) of this section at a later date upon request to
22 the Governor by the party for which jurisdiction for implementation
23 and enforcement was terminated if such party desires to have its
24 jurisdiction reinstated, but no such request shall be honored until
25 at least one year after the termination and not more than once

1 per year thereafter. The board may reinstate jurisdiction to that
2 party only upon a clear showing by such party that it is willing
3 and able to fully implement and enforce the plan and any applicable
4 controls. Notice that a party's jurisdiction has been reinstated
5 shall be provided in the same manner that notice of the earlier
6 termination was given.

7 Sec. 4. Original sections 46-714, 46-715, and 46-719,
8 Revised Statutes Cumulative Supplement, 2008, are repealed.