

LEGISLATIVE BILL 862

Approved by the Governor April 14, 2010

Introduced by Christensen, 44; Carlson, 38.

FOR AN ACT relating to natural resources; to amend sections 2-3226.01 and 2-3226.05, Revised Statutes Cumulative Supplement, 2008, and section 46-739.01, Revised Statutes Supplement, 2009; to change provisions relating to river-flow enhancement bonds; to change provisions relating to an occupation tax as prescribed; to provide exceptions to approval requirements for transfers of certified water uses or irrigated acres or participation in certain incentive programs; and to repeal the original sections.

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

Section 1. Section 2-3226.01, Revised Statutes Cumulative Supplement, 2008, is amended to read:

2-3226.01 (1) In order to implement its duties and obligations under the Nebraska Ground Water Management and Protection Act and in addition to other powers authorized by law, the board of a district with jurisdiction that ~~includes a river subject to an interstate compact among three or more states and that also includes one or more irrigation districts within the compact~~ is part of a river basin for which the district has, in accordance with section 46-715, adopted an integrated management plan which references section 2-3226.04 and explicitly states its intent in the plan to utilize qualified projects described in section 2-3226.04 may issue negotiable bonds and refunding bonds of the district and entitled river-flow enhancement bonds, with terms determined appropriate by the board, payable by (a) funds granted to such district by the state or federal government for one or more qualified projects, (b) the occupation tax authorized by section 2-3226.05, or (c) the levy authorized by section 2-3225. The district may issue the bonds or refunding bonds directly, or such bonds may be issued by any joint entity as defined in section 13-803 whose member public agencies consist only of qualified natural resources districts or by any joint public agency as defined in section 13-2503 whose participating public agencies consist only of qualified natural resources districts, in connection with any joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts. For the payment of such bonds or refunding bonds, the district may pledge one or more permitted payment sources.

(2) Within forty-five days after receipt of a written request by the Natural Resources Committee of the Legislature, the qualified natural resources districts shall submit a written report to the committee containing an explanation of existing or planned activities for river-flow enhancement, the revenue source for implementing such activities, and a description of the estimated benefit or benefits to the district or districts.

(3) Beginning on April 1, 2008, if a district uses the proceeds of a bond issued pursuant to this section for the purposes described in subdivision (1) of section 2-3226.04 or the state uses funds for those same purposes, the agreement to acquire water rights by purchase or lease pursuant to such subdivision shall identify (a) the method of payment, (b) the distribution of funds by the party or parties receiving payments, (c) the water use or rights subject to the agreement, and (d) the water use or rights allowed by the agreement. If any irrigation district is party to the agreement, the irrigation district shall allocate funds received under such agreement among its users or members in a reasonable manner, giving consideration to the benefits received and the value of the rights surrendered for the specified contract period.

Sec. 2. Section 2-3226.05, Revised Statutes Cumulative Supplement, 2008, is amended to read:

2-3226.05 (1) ~~The district~~ A district with an integrated management plan as described in subsection (1) of section 2-3226.01 may levy an occupation tax upon the activity of irrigation of agricultural lands within such district on an annual basis, not to exceed ten dollars per irrigated acre, the proceeds of which may be used for ~~the purpose of~~ (a) repaying principal and interest on any bonds or refunding bonds issued pursuant to section 2-3226.01 for one or more projects under section 2-3226.04, (b) or ~~for~~ the repayment of financial assistance received by the district pursuant to section 2-3226.07, or (c) payment of all or any part of the costs and expenses of one or more qualified projects described in section 2-3226.04. If such district has more than one river basin as described in section 2-1504 within

its jurisdiction, such district shall confine such occupation tax authorized in this section to the geographic area affected by an integrated management plan adopted in accordance with section 46-715.

(2) Acres classified by the county assessor as irrigated shall be subject to such district's occupation tax unless, on or before July 1, 2007, and on or before March 1 in each subsequent year, the record owner certifies to the district the nonirrigation status of such acres.

(3) Any such occupation tax shall remain in effect so long as the natural resources district has bonds outstanding which have been issued stating such occupation tax as an available source for payment and for the purpose of paying all or any part of the costs and expenses of one or more projects authorized pursuant to section 2-3226.04.

(4) Such occupation taxes shall be certified to, collected by, and accounted for by the county treasurer at the same time and in the same manner as general real estate taxes, and such occupation taxes shall be and remain a perpetual lien against such real estate until paid. Such occupation taxes shall become delinquent at the same time and in the same manner as general real property taxes. The county treasurer shall publish and post a list of delinquent occupation taxes with the list of real property subject to sale for delinquent property taxes provided for in section 77-1804. In addition, the list shall be provided to natural resources districts which levied the delinquent occupation taxes. The list shall include the record owner's name, the parcel identification number, and the amount of delinquent occupation tax. For services rendered in the collection of the occupation tax, the county treasurer shall receive the fee provided for collection of general natural resources district money under section 33-114.

(5) Such lien shall be inferior only to general taxes levied by political subdivisions of the state. When such occupation taxes have become delinquent and the real property on which the irrigation took place has not been offered at any tax sale, the district may proceed in district court in the county in which the real estate is situated to foreclose in its own name the lien in the same manner and with like effect as a foreclosure of a real estate mortgage, except that sections 77-1903 to 77-1917 shall govern when applicable.

Sec. 3. Section 46-739.01, Revised Statutes Supplement, 2009, is amended to read:

46-739.01 (1) Notwithstanding any other provision of law, no district shall approve a transfer of certified water uses or certified irrigated acres or allow a ground water user or landowner to participate in a financial or other incentive program established pursuant to subsection (8) of section 46-739 unless the person seeking such transfer or participation in such program has submitted to the district a report of title issued by an attorney or a registered abstractor, on a form prescribed by the district, reflecting (a) the owner and legal description of the land from which the certified water uses or certified irrigated acres are to be transferred or which is the subject of such program and (b) the existence of all liens, evidenced by the filing of a mortgage, trust deed, or other equivalent consensual security interest, against the land from which the certified water uses or certified irrigated acres are to be transferred or which is the subject of such program and the name and address of each such lienholder, if any. If the report of title reflects the existence of any lien evidenced by the filing of a mortgage, trust deed, or other equivalent consensual security interest, written consent to such transfer or participation in such program shall be obtained from each such lienholder. The district may assess a fee against the person seeking such transfer or participation in such program to recoup its costs in reviewing the report of title. This subsection does not apply to a transfer of certified water uses or certified irrigated acres resulting from: A one-time transfer of four acres or less; participation in a financial or other incentive program that involves the transfer, purchase, or retirement of four acres or less; or a transfer that involves one landowner on a single tract of land in which there is no reduction or increase in certified water uses or certified irrigated acres and the transfer involves an improvement in irrigation efficiency.

(2) Approval of a transfer of certified water uses or certified irrigated acres or authorization of a ground water user or landowner to participate in such financial or other incentive program by a district shall not affect the rights of any lienholder who is not reflected in the report of title and from whom the required consent was not obtained. Such a lienholder may bring an action against the person seeking such transfer or participation in such program for damages or injunctive or other relief for any injury done to the lienholder's interest in land or use of ground water resulting from such transfer or participation.

(3) This section does not limit the right to resort to other means of review, redress, or relief provided by law.

Sec. 4. Original sections 2-3226.01 and 2-3226.05, Revised Statutes Cumulative Supplement, 2008, and section 46-739.01, Revised Statutes Supplement, 2009, are repealed.