

LEGISLATIVE BILL 98

Approved by the Governor May 13, 2009

Introduced by Carlson, 38; Christensen, 44; Dubas, 34; Fischer, 43; Haar, 21; Hansen, 42; Harms, 48; Dierks, 40; Price, 3.

FOR AN ACT relating to agriculture; to amend sections 2-958.02, 2-967, 2-968, and 2-5106, Reissue Revised Statutes of Nebraska, and section 2-958.01, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to noxious weed grant programs and the Riparian Vegetation Management Task Force; to provide duties for the Director of Agriculture; to provide for a transfer of funds; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 2-958.01, Revised Statutes Cumulative Supplement, 2008, is amended to read:

2-958.01 The Noxious Weed and Invasive Plant Species Assistance Fund is created. The fund may be used to carry out the purposes of section 2-958.02. The State Treasurer shall credit to the fund any funds transferred pursuant to section 54-857, funds or appropriated to the fund by the Legislature, and funds received as gifts or grants or other private or public funds obtained for the purposes set forth in section 2-958.02. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 2. Section 2-958.02, Reissue Revised Statutes of Nebraska, is amended to read:

2-958.02 (1) From funds available in the Noxious Weed and Invasive Plant Species Assistance Fund, the director may administer a grant program to assist local control authorities and other weed management entities in the cost of implementing and maintaining noxious weed control programs and in addressing special weed control problems as provided in this section.

(2) The director shall receive applications by local control authorities and weed management entities for assistance under this subsection and, in consultation with the advisory committee created under section 2-965.01, award grants for any of the following eligible purposes:

(a) To conduct applied research to solve locally significant weed management problems;

(b) To demonstrate innovative control methods or land management practices which have the potential to reduce landowner costs to control noxious weeds or improve the effectiveness of noxious weed control;

(c) To encourage the formation of weed management entities;

(d) To respond to introductions or infestations of invasive plants that threaten or potentially threaten the productivity of cropland and rangeland over a wide area;

(e) To respond to introductions and infestations of invasive plant species that threaten or potentially threaten the productivity and biodiversity of wildlife and fishery habitats on public and private lands;

(f) To respond to special weed control problems involving weeds not included in the list of noxious weeds promulgated by rule and regulation of the director if the director has approved a petition to bring such weeds under the county control program;

(g) To conduct monitoring or surveillance activities to detect, map, or determine the distribution of invasive plant species and to determine susceptible locations for the introduction or spread of invasive plant species; and

(h) To conduct educational activities.

(3) The director shall select and prioritize applications for assistance under subsection (2) of this section based on the following considerations:

(a) The seriousness of the noxious weed or invasive plant problem or potential problem addressed by the project;

(b) The ability of the project to provide timely intervention to save current and future costs of control and eradication;

(c) The likelihood that the project will prevent or resolve the problem or increase knowledge about resolving similar problems in the future;

(d) The extent to which the project will leverage federal funds and other nonstate funds;

(e) The extent to which the applicant has made progress in addressing noxious weed or invasive plant problems;

(f) The extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds;

(g) The extent to which the project will reduce the total population or area of infestation of a noxious weed;

(h) The extent to which the project uses the principles of integrated vegetation management and sound science; and

(i) Such other factors that the director determines to be relevant.

(4) The director shall receive applications for grants under this subsection and shall award grants to recipients and programs eligible under this subsection. Priority shall be given to grant applicants whose proposed programs are consistent with the policy established in vegetation management goals and priorities and plans and policies of the Riparian Vegetation Management Task Force created pursuant to section 2-968. Beginning in fiscal year 2007-08, 2009-10, it is the intent of the Legislature to appropriate two million dollars annually for the management of vegetation within the banks of a natural stream or within one hundred feet of the banks of a channel of any natural stream. Such funds shall only be used to pay for activities and equipment as part of vegetation management programs that have as their primary objective improving conveyance of streamflow in natural streams. Grants from funds appropriated as provided in this subsection shall be disbursed only to weed management entities, local weed control authorities, and natural resources districts, whose territory includes one or more fully appropriated or overappropriated river basins as designated by the Department of Natural Resources with priority ~~for the first year~~ given to fully appropriated river basins that are the subject of an interstate compact or decree. The Game and Parks Commission shall assist grant recipients in implementing grant projects under this subsection, and interlocal agreements under the Interlocal Cooperation Act or the Joint Public Agency Act shall be utilized whenever possible in carrying out the grant projects. This subsection terminates on June 30, ~~2009.~~ 2013.

(5) Nothing in this section shall be construed to relieve control authorities of their duties and responsibilities under the Noxious Weed Control Act or the duty of a person to control the spread of noxious weeds on lands owned and controlled by him or her.

(6) The Department of Agriculture may adopt and promulgate necessary rules and regulations to carry out this section.

(7)(a) The director shall apply for a grant from the Nebraska Environmental Trust Fund prior to the application deadline in September of 2009 for grants to be awarded and funded in April of 2010.

(b) The director shall apply for a grant from the Natural Resources Conservation Service of the United States Department of Agriculture prior to July 31, 2009.

Sec. 3. Section 2-967, Reissue Revised Statutes of Nebraska, is amended to read:

2-967 The Riparian Vegetation Management Task Force is created. The Governor shall appoint the members of the task force. The members shall include one surface water project representative from each river basin that has been determined to be fully appropriated pursuant to section 46-714 or 46-720 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources; one representative from the Department of Agriculture, the Department of Environmental Quality, the Department of Natural Resources, the office of the Governor, the office of the State Forester, the Game and Parks Commission, and the University of Nebraska; two representatives nominated by the Nebraska Association of Resources Districts; two representatives nominated by the Nebraska Weed Control Association; one riparian landowner from each of the state's congressional districts; and one representative from the Nebraska Environmental Trust. In addition to such members, any member of the Legislature may serve as a member of the task force at his or her option. For administrative and budgetary purposes only, the task force shall be housed within the Department of Agriculture. This section terminates on June 30, ~~2009.~~ 2013.

Sec. 4. Section 2-968, Reissue Revised Statutes of Nebraska, is amended to read:

2-968 The Riparian Vegetation Management Task Force, in consultation with appropriate federal agencies, shall develop and prioritize vegetation management goals and objectives, analyze the cost-effectiveness of available vegetation treatment, and develop plans and policies to achieve such goals and objectives. Any plan shall utilize the principles of integrated vegetation management and sound science. The task force shall convene within thirty days after the appointment of the members is complete to elect a chairperson and conduct such other business as deemed necessary. The efforts of the task force shall be initially directed toward river basins designated by the Department

of Natural Resources as fully appropriated or overappropriated. Task force meetings shall be held in communities within the Republican River and Platte River basins. ~~The task force shall make preliminary recommendations to the Governor and the Legislature regarding funding and legislation needed to achieve its goals on or before December 15, 2007, and each year thereafter, with a final report due to the Governor and the Legislature prior to June 30, 2009- 2013.~~ It is the intent of the Legislature that expenses of the task force be paid from funds appropriated for Laws 2007, LB 701, and shall not exceed twenty-five thousand dollars per fiscal year. This section terminates on June 30, ~~2009- 2013.~~

Sec. 5. Section 2-5106, Reissue Revised Statutes of Nebraska, is amended to read:

2-5106 The Buffer Strip Incentive Fund is created. Proceeds raised from fees imposed for the registration of pesticides and earmarked for the fund pursuant to section 2-2634, proceeds raised from federal grants earmarked for the fund, and any proceeds raised from public or private donations made to the fund shall be remitted to the State Treasurer for credit to the fund. The fund shall be administered by the department to maintain the buffer strip program and for expenses directly related to the program, including necessary expenses of the department in carrying out its duties and responsibilities under the Buffer Strip Act, except that on July 1, 2009, or as soon thereafter as administratively possible, the State Treasurer shall transfer five hundred thousand dollars from the Buffer Strip Incentive Fund to the Noxious Weed and Invasive Plant Species Assistance Fund. The annual cost of administering the buffer strip program shall not exceed ten percent of the total annual proceeds credited to the ~~fund- Buffer Strip Incentive Fund.~~ Such administrative costs shall include funds allocated by the department to the districts for their administrative costs. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. Original sections 2-958.02, 2-967, 2-968, and 2-5106, Reissue Revised Statutes of Nebraska, and section 2-958.01, Revised Statutes Cumulative Supplement, 2008, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.