

AMENDMENTS TO LB1098

Introduced by Natural Resources

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 2-1501, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 2-1501 As used in ~~Chapter 27, article 157~~ sections 2-1501
6 to 2-15,123 and sections 3 to 6 of this act, unless the context
7 otherwise requires:

8 (1) Commission means the Nebraska Natural Resources
9 Commission;

10 (2) State means the State of Nebraska;

11 (3) Agency of this state means the government of this
12 state and any subdivision, agency, or instrumentality, corporate or
13 otherwise, of the government of this state;

14 (4) United States or agencies of the United States means
15 the United States of America, the Natural Resources Conservation
16 Service of the United States Department of Agriculture, and any
17 other agency or instrumentality, corporate or otherwise, of the
18 United States of America;

19 (5) Government or governmental means the government
20 of this state, the government of the United States, and any
21 subdivision, agency, or instrumentality, corporate or otherwise, of
22 either of them;

23 (6) Lands, easements, and rights-of-way means lands

1 and rights or interests in lands whereon channel improvements,
2 channel rectifications, or water-retarding or gully-stabilization
3 structures are located, including those areas for flooding and
4 flowage purposes, spoil areas, borrow pits, access roads, and
5 similar purposes;

6 (7) Local organization means any natural resources
7 district, drainage district, irrigation district, or other public
8 district, county, city, or state agency;

9 (8) Subwatershed means a portion of a watershed project
10 as divided by the department on a complete hydrologic unit;

11 (9) Rechanneling means the channeling of water from one
12 watercourse to another watercourse by means of open ditches;

13 (10) Watercourse means any depression two feet or more
14 below the surrounding land serving to give direction to a current
15 of water at least nine months of the year, having a bed and
16 well-defined banks and, upon order of the commission, also includes
17 any particular depression which would not otherwise be within the
18 definition of watercourse;

19 (11) Director means the Director of Natural Resources;
20 and

21 (12) Department means the Department of Natural
22 Resources.

23 Sec. 2. Section 2-1504, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 2-1504 (1) The Nebraska Natural Resources Commission
26 is established. The commission shall advise the department as
27 requested by the director and shall perform such other functions as

1 are specifically conferred on the commission by law. The commission
2 shall have no jurisdiction over matters pertaining to water rights.

3 (2) The voting members of the commission, ~~shall consist~~
4 ~~of the following members,~~ all of whom shall have attained the age
5 of majority, shall be:

6 (a) One resident of each of the following river basins,
7 with delineations being those on the Nebraska river basin map
8 officially adopted by the commission and on file with the
9 department: (i) The Niobrara River, White River, and Hat Creek
10 basin, (ii) the North Platte River basin, (iii) the South Platte
11 River basin, (iv) the middle Platte River basin, (v) the lower
12 Platte River basin, (vi) the Loup River basin, (vii) the Elkhorn
13 River basin, (viii) the Missouri tributaries basin, (ix) the
14 Republican River basin, (x) the Little Blue River basin, (xi) the
15 Big Blue River basin, and (xii) the Nemaha River basin;

16 (b) One additional resident of each river basin which
17 encompasses one or more cities of the metropolitan class; and -
18 ~~Each such additional basin member shall be a resident of a natural~~
19 ~~resources district which encompasses one or more cities of the~~
20 ~~metropolitan class and shall be selected in the same manner, at the~~
21 ~~same time, and for a four-year term having the same term sequence~~
22 ~~as provided for the other member from such basin, and~~

23 (c) ~~Three~~ Fourteen members ~~to~~ be appointed by the
24 Governor, subject to confirmation by the Legislature, ~~who~~
25 ~~shall serve at the pleasure of the Governor.~~ Of the members
26 appointed by the Governor, one shall represent ~~municipal users~~
27 ~~of water, one shall represent surface water irrigators, and one~~

1 ~~shall represent ground water irrigators.~~ each of the following
2 categories: Agribusiness interests; agricultural interests; ground
3 water irrigators; irrigation districts; manufacturing interests;
4 metropolitan utilities districts; municipal users of water from a
5 city of the primary class; municipal users of water from a city of
6 the first or second class or a village; outdoor recreation users;
7 public power districts; public power and irrigation districts;
8 range livestock owners; surface water irrigators; and wildlife
9 conservation interests.

10 (3) ~~Successors to the members~~ Members of the commission
11 ~~representing river basins~~ described in subdivision (2)(a) of this
12 section shall be selected for four-year terms at individual
13 caucuses of the natural resources district directors residing
14 in the river basin from which the member is selected. Such caucuses
15 shall be held for each basin within ten days following the first
16 Thursday after the first Tuesday of the year the term of office
17 of the member from that basin expires. The dates and locations
18 for such caucuses shall be established by the commission, and the
19 commission shall provide notice to the public by issuing press
20 releases for publication in a newspaper of general circulation in
21 each county that comprises the river basin for which a caucus
22 election will be held. Terms of office of such members shall
23 follow the sequence originally determined by the river basin
24 representatives to the commission at their first meeting on the
25 third Thursday after the first Tuesday in January 1975. All river
26 basin members shall take office on the third Thursday after the
27 first Tuesday in January following their selection and any vacancy

1 shall be filled for the unexpired term by a caucus held within
2 thirty days following the date such vacancy is created. Each member
3 of the commission representing a river basin shall qualify by
4 filing with the other members of the commission an acceptance in
5 writing of his or her selection.

6 (4) Members of the commission described in subdivision
7 (2)(b) of this section shall be residents of natural resources
8 districts which encompass one or more cities of the metropolitan
9 class and shall be selected in the same manner, at the same time,
10 and for a four-year term having the same term sequence as provided
11 for the other members from such basin under subsection (3) of this
12 section.

13 (5) For members of the commission described in
14 subdivision (2)(c) of this section:

15 (a) The Governor shall appoint the eleven additional
16 members added by this legislative bill within thirty days after
17 the effective date of this act. The eleven additional appointments
18 shall be for staggered four-year terms, as determined by the
19 Governor. The Governor shall also set the terms of the current
20 members of the commission appointed under such subdivision and
21 serving on the effective date of this act to staggered four-year
22 terms. Future appointments shall be for four-year terms. Members
23 whose terms have expired shall continue to serve until their
24 successors have been appointed. In the case of a vacancy, the
25 Governor shall appoint a successor for the unexpired term. Members
26 may be removed for cause. Initial appointees shall begin serving
27 immediately following notice of appointment, except that the member

1 appointed representing municipal users of water from the class of
2 city or a village that is being represented by the current member
3 representing municipal users of water and the members representing
4 surface water irrigators and ground water irrigators shall not
5 begin serving until the term of the current member representative
6 of the category expires or such member resigns or is otherwise
7 removed; and

8 (b) In appointing such members, the Governor shall:

9 (i) Create a broad-based commission which has knowledge
10 of, has experience with, and is representative of Nebraska's water
11 use and economy;

12 (ii) Give recognition to the importance of both water
13 quantity and water quality; and

14 (iii) Appoint members who represent diverse geographic
15 regions of the state, including urban and rural areas.

16 (6) After the members have been appointed as required
17 under this section, the commission shall establish goals and a
18 ranking system for projects applying for funding. The commission
19 shall revise, adopt, and promulgate rules and regulations as
20 necessary to ensure that the commission's Water Sustainability Fund
21 funding process utilizes criteria upon which projects, programs,
22 and activities will be ranked and prioritized according to the
23 water sustainability goals adopted by the commission.

24 Sec. 3. It is the intent of the Legislature that the
25 Water Sustainability Fund be used to meet the following goals:

26 (1) Protecting the ability of future generations to
27 meet their needs through increasing aquifer recharge, reducing

1 aquifer depletion, increasing stream flow, remediating threats to
2 drinking water, and forwarding the goals and objectives of approved
3 integrated management plans;

4 (2) Contributing to multiple water supply management
5 goals such as flood control, agricultural use, municipal
6 and industrial uses, recreational benefits, wildlife habitat,
7 conservation, and preservation of water resources;

8 (3) Providing funds to municipalities to be used to
9 replace and redevelop sewer infrastructure facilities to reduce
10 combined sewer overflow;

11 (4) Providing increased water productivity, and enhancing
12 water quality;

13 (5) Using the most cost-effective solutions available;
14 and

15 (6) Complying with interstate compacts, decrees, and
16 other state contracts and agreements.

17 Sec. 4. The Legislature finds that the goals of the
18 Water Sustainability Fund can be met by giving equal consideration
19 to projects in the following categories: (1) Research, data,
20 and modeling; (2) rehabilitation or restoration of water supply
21 infrastructure, new water supply infrastructure, or water supply
22 infrastructure maintenance or flood prevention for protection of
23 critical infrastructure; (3) conjunctive management, storage, and
24 integrated management of ground water and surface water; and (4)
25 compliance with interstate compacts or agreements or other formal
26 state contracts or agreements.

27 Sec. 5. It is the intent of the Legislature that the

1 Water Sustainability Fund be equitably distributed statewide to
2 the greatest extent possible for the long term. Distributions for
3 projects authorized under subdivision (3) of section 3 of this act
4 shall be limited to no more than ten percent of the total annual
5 appropriation to the Water Sustainability Fund. A natural resources
6 district is eligible for funding from the Water Sustainability Fund
7 only if the district has adopted or is currently participating
8 in the development of an integrated management plan pursuant to
9 subdivision (1)(a) or (b) of section 46-715.

10 The commission shall adopt criteria for ranking and
11 scoring projects applying for funding which include:

12 (1) The extent to which the project contributes to
13 the goals of water sustainability for the State of Nebraska by
14 protecting the ability of future generations to meet their needs,
15 including: (a) Remediating or mitigating threats to drinking water;
16 or (b) meeting the goals and objectives of an approved integrated
17 management plan or ground water management plan;

18 (2) The extent to which the project contributes to
19 the goals of water sustainability for the State of Nebraska by
20 protecting the ability of future generations to meet their needs,
21 including: (a) Increasing aquifer recharge; (b) reducing aquifer
22 depletion; or (c) increasing streamflow;

23 (3) The extent to which the project contributes to
24 multiple water supply management goals, including, but not limited
25 to, flood control, agricultural use, municipal and industrial uses,
26 recreational benefits, wildlife habitat, conservation of water
27 resources, and preservation of water resources;

1 (4) The extent to which the project provides increased
2 water productivity and otherwise maximizes the beneficial use
3 of Nebraska's water resources for the benefit of the state's
4 residents;

5 (5) The cost-effectiveness of the project relative to
6 achieving the state's water management goals;

7 (6) The extent to which the project helps the state meet
8 its obligations under interstate compacts, decrees, or other state
9 contracts or agreements;

10 (7) The extent to which the project reduces threat to
11 property damage or protects critical infrastructure that consists
12 of the physical assets, systems, and networks vital to the state
13 or the United States such that their incapacitation would have a
14 debilitating effect on public security or public health and safety;

15 (8) The extent to which the project improves water
16 quality;

17 (9) The extent to which the local jurisdiction has used
18 all available funding resources to support the project;

19 (10) The extent to which the local jurisdiction has plans
20 in place that support sustainable water use;

21 (11) The extent to which the project addresses a
22 statewide problem or issue;

23 (12) The extent to which the project contributes to the
24 state's ability to leverage state dollars with local or federal
25 government partners or other partners to maximize the use of its
26 resources;

27 (13) The extent to which the project has been approved

1 for, but has not received funding through, an established state
2 program;

3 (14) The extent to which the project contributes to
4 watershed health and function; and

5 (15) The extent to which the project uses objectives
6 described in the Annual Report and Plan of Work for the Nebraska
7 State Water Planning and Review Process issued by the Department of
8 Natural Resources.

9 The commission may refine and clarify the criteria listed
10 in subdivisions (1) through (15) of this section to carry out the
11 intent of this section and section 3 of this act.

12 The commission shall utilize the resources and expertise
13 of, and collaborate with the Department of Natural Resources, the
14 University of Nebraska, the Department of Environmental Quality,
15 the Nebraska Environmental Trust Board, and the Game and Parks
16 Commission on funding and planning for water projects, programs, or
17 activities.

18 The commission through the Department of Natural
19 Resources shall submit a report to the Legislature electronically
20 on a biennial basis on the progress made toward the goals of the
21 Water Sustainability Fund. The first report shall be submitted by
22 December 31, 2015.

23 Sec. 6. Each program, project, or activity for which
24 funding is requested from the Water Sustainability Fund shall be
25 reviewed as provided in sections 3 to 6 of this act by the
26 director prior to the approval of any allocation for such program,
27 project, or activity by the commission. The director shall within

1 a reasonable time, not to exceed six months, after receipt of
2 such request report to the commission the results of his or her
3 review and shall recommend approval or rejection of funding for
4 the program, project, or activity. The director shall indicate
5 what form of allocation he or she deems to be appropriate. In
6 the case of an approved application recommended for a loan, the
7 commission shall indicate the appropriate repayment period and the
8 rate of interest. The commission shall act in accordance with such
9 recommendations unless action to the contrary is approved by each
10 commission member eligible to vote on the specific recommendation
11 under consideration. No member of the commission shall be eligible
12 to participate in the action of the commission concerning an
13 application for funding to any entity in which such commission
14 member has any interest. The director may be delegated additional
15 responsibilities consistent with the purposes of sections 3 to 6 of
16 this act. It shall be the sole responsibility of the commission to
17 determine the priority in which funds are allocated for eligible
18 programs, projects, or activities under sections 3 to 6 of this
19 act.

20 Sec. 7. Original sections 2-1501 and 2-1504, Reissue
21 Revised Statutes of Nebraska, are repealed.

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