

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 218

Introduced by Groene, 42.

Read first time January 10, 2017

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to irrigation; to provide for installation of
- 2 ground water pumps by public entities; to provide powers and duties;
- 3 and to provide for rules and regulations.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) A governmental entity, governmental agency,
2 political subdivision, or joint entity created pursuant to the Interlocal
3 Cooperation Act seeking to pump ground water for the governmental purpose
4 of augmenting water supplies in order to comply with an interstate
5 compact to which the state is a party, prior to acquiring or using land
6 or commencing pumping, shall:

7 (a) After publication of notice for three consecutive weeks in one
8 or more newspapers of general circulation in the affected area, hold a
9 public hearing to obtain public comment, including, but not limited to,
10 in-person testimony and submission of written testimony regarding the
11 need for such pumping, the governmental use of the ground water, and the
12 expected amount and duration of the pumping; and

13 (b) Adopt a resolution setting forth the need for such ground water
14 pumping, the governmental use of the ground water, and the expected
15 amount and duration of the pumping.

16 (2) After the public hearing described in subdivision (1)(a) of this
17 section, the governmental entity, governmental agency, political
18 subdivision, or joint entity created pursuant to the Interlocal
19 Cooperation Act may:

20 (a) Purchase the land directly impacted by such pumping for fair
21 market value; and

22 (b) Install the necessary water wells and pumps in compliance with
23 section 46-602.

24 (3) Upon commencement of such ground water pumping, the governmental
25 entity, governmental agency, political subdivision, or joint entity
26 shall:

27 (a) Five years after initiating pumping pursuant to the resolution
28 described in subdivision (1)(b) of this section, and once every five
29 years thereafter, hold a public hearing with the opportunity for public
30 comment, including, but not limited to, in-person testimony and
31 submission of written testimony. The hearing described in this section

1 shall be held after publication of notice of such hearing for three
2 consecutive weeks in one or more newspapers of general circulation in the
3 affected area. The purpose of the hearing shall be to review the
4 resolution described in subdivision (1)(b) of this section. This review
5 shall include consideration of: (i) The entity's compliance with either
6 its resolution adopted pursuant to subdivision (1)(b) of this section
7 prior to commencing pumping or the resolution adopted pursuant to
8 subdivision (3)(b) of this section after commencing such pumping,
9 whichever is most recent; (ii) the continued need of ground water
10 pumping; (iii) any effect of pumping on other individuals, entities, or
11 their interests located within five miles of the land used for ground
12 water pumping; (iv) any effect of pumping on surface water rights; (v)
13 any effect of pumping on ground water resources, including, but not
14 limited to, the increase or decrease in the water table in the areas
15 affected by such pumping; (vi) the sustainability of ground water
16 pumping; and (vii) the expected continued amount and duration of ground
17 water pumping. Any governmental entity, governmental agency, political
18 subdivision, or joint entity subject to subsection (1) of this section
19 that has commenced ground water pumping prior to the effective date of
20 this act shall hold a hearing pursuant to this subdivision no later than
21 July 1, 2018.

22 (b) Within sixty days after the hearing described in subdivision (3)
23 (a) of this section, adopt a resolution setting forth whether there is a
24 continued need for such pumping, the governmental use of the ground
25 water, and the expected amount and duration of the pumping;

26 (c) After adopting its first resolution pursuant to subdivision (3)
27 (b) of this section, sell in whole or in part the land purchased pursuant
28 to subdivision (2)(a) of this section to a private bona fide purchaser or
29 purchasers for value without water rights, as set forth in subdivision
30 (3)(d) of this section;

31 (d) Retain the irrigation water rights and easements as necessary to

1 service, maintain, or replace the water wells installed by the
2 governmental entity, governmental agency, political subdivision, or joint
3 entity. A purchaser of the land under subdivision (3)(c) of this section
4 may install its own domestic or livestock water wells; and

5 (e) Apply the proceeds from the sale of such land in the following
6 order:

7 (i) To any indebtedness incurred as a result of the purchase of the
8 land by the governmental entity, governmental agency, political
9 subdivision, or joint entity;

10 (ii) To any indebtedness incurred for the purchase and installation
11 of water wells; and

12 (iii) To the governmental entity, governmental agency, political
13 subdivision, or the members of the joint entity in equal sums.

14 The governmental entity, governmental agency, political subdivision,
15 or joint entity may not transfer the irrigation water rights or sell the
16 water wells except in a manner consistent with subsection (3) of this
17 section.

18 (4) If the governmental entity, governmental agency, political
19 subdivision, or joint entity terminates the need for pumping ground water
20 pursuant to the resolution adopted pursuant to subdivision (1)(b) or (3)
21 (b) of this section, the rights to use ground water for irrigation shall
22 revert to the owner of the land where the water wells were installed.

23 (5) When the right to use ground water for irrigation reverts to the
24 owner of the land where the water wells were installed, the governmental
25 entity, governmental agency, political subdivision, or joint entity may
26 sell the water pumps and appurtenances for fair market value. The owner
27 of the land where the water wells are installed has the right of first
28 refusal in purchasing the water pumps and appurtenances.

29 (6) The Director of Natural Resources may adopt and promulgate rules
30 and regulations to carry out this section.