

LEGISLATIVE BILL 1023

Approved by the Governor April 18, 2022

Introduced by Hilgers, 21; Brandt, 32; Flood, 19; Gragert, 40; Hughes, 44;
McCollister, 20; McDonnell, 5; Wishart, 27.

A BILL FOR AN ACT relating to state government; to amend section 50-802, Reissue Revised Statutes of Nebraska; to adopt the Jobs and Economic Development Initiative Act and the Water Recreation Enhancement Act; to change provisions relating to the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee of the Legislature; to repeal the original section; and to declare an emergency.

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

Section 1. Sections 1 to 4 of this act shall be known and may be cited as the Jobs and Economic Development Initiative Act and may also be referred to as the JEDI Act.

Sec. 2. The Legislature finds and declares as follows:

(1) The future vibrancy of the people, communities, and businesses of Nebraska depends on reliable sources of water;

(2) While it is in the state's best interest to retain control over its water supplies, much of the state's water resources are currently underutilized;

(3) In 2019, the state experienced historic flooding along the Platte River which caused loss of life and over one billion dollars in damage to private and public property and infrastructure;

(4) Well-planned flood control is critical to the future of the people, communities, and businesses of Nebraska;

(5) In light of the disruption from the COVID-19 pandemic and the trend toward a remote workforce around the country, people around the country are rethinking where they want to work, live, and raise a family. As people consider where to live, access to sustainable water resources and outdoor recreational opportunities will be important considerations in making Nebraska a competitive choice for the future;

(6) The state's lakes and rivers help Nebraskans enjoy the water resources in our state and make Nebraska an even more attractive place to live and raise a family;

(7) The state's water resources provide economic benefits to the people, communities, and businesses of Nebraska by helping to attract visitors from other states and boosting local economies;

(8) In 2021, the Legislature passed LB406, which established the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee of the Legislature. The committee was tasked with conducting studies on:

(a) The need to protect public and private property, including use of levee systems, enhance economic development, and promote private investment and the creation of jobs along the Platte River and its tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;

(b) The need to provide for public safety, public infrastructure, land-use planning, recreation, and economic development in the Lake McConaughy region of Keith County, Nebraska; and

(c) The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region in Knox County, Nebraska, that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park;

(9) After considerable study, the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee identified potential opportunities within the floodway near the Platte River that could be used to build a combined reservoir of approximately three thousand six hundred surface acres, or greater, in or near a county having a population of at least one hundred thousand but not more than three hundred thousand inhabitants. Such a reservoir could be built without a dam of a Platte River channel and without negatively impacting any existing municipalities, their surrounding communities, or any economic development already occurring in such areas;

(10) It is in the public interest to construct a lake at or near this location. Such a lake would provide flood control by providing additional off-channel storage during flood events and public recreational opportunities that would benefit generations of Nebraskans, similar to the recreational opportunities provided by Lake McConaughy, Lewis and Clark Lake, and Eugene T. Mahoney State Park;

(11) In addition to the primary purposes of providing flood control and public recreational opportunities that will benefit the public, building a lake will provide the collateral benefit of economic development opportunities;

(12) It is in the public interest, and the purpose of the Jobs and Economic Development Initiative Act, that private parties contribute to the cost of constructing and developing the lake and that the state seek out donations and investments from private parties to fund such construction and

development;

(13) It is in the public interest, and the purpose of the act, that the state (a) manage the construction and development of the lake in a manner that encourages private donations and investments, including through the use of public-private partnerships, (b) maintain sufficient oversight to protect the state's investment in the lake, and (c) retain ownership of the lake as an asset for Nebraskans; and

(14) It is in the public interest, and the purpose of the act, that the lake, and the land near or adjacent thereto, be developed in a thoughtful and planned manner by the state and be free from control of political subdivisions or municipalities to further the act's purposes of providing flood control, recreational opportunities, and orderly development of the project.

Sec. 3. (1) The Department of Natural Resources is granted all power necessary to carry out the purposes of the Jobs and Economic Development Initiative Act, including, but not limited to, the power to:

(a) Purchase, sell, or lease land;

(b) Enter into contracts, including, but not limited to, contracts relating to the provision of construction services, management services, legal services, auditor services, and other consulting services or advice as the department may require in the performance of its duties; and

(c) Enter into agreements with natural resources districts to accomplish the purposes of the act. In any such agreement, a natural resources district may use the full powers granted to it by law.

(2) It is the intent of the Legislature that the department engage private parties and entities to construct and develop the lake and enter into contracts or public-private partnerships that the department deems advantageous to the construction and development of the lake, and land adjacent thereto, and to advance the purposes of the act.

(3) Notwithstanding any other provision of law, the department shall give preference to:

(a) Contract proposals relating to the development or management of the lake from a Nebraska nonprofit corporation whose board of directors include at least four directors who are appointed by the Governor with the approval of a majority of the Legislature, one representative of the Game and Parks Commission who is a nonvoting, ex officio member of such board of directors, and one member of the Legislature who is appointed by the Executive Board of the Legislative Council and who is a nonvoting, ex officio member of such board of directors. All such directors must agree to be bound by the conflict-of-interest provisions in sections 49-1493 to 49-14,104. Any such nonprofit corporation shall be bound by the Open Meetings Act and sections 84-712 to 84-712.09 and shall publicly let contracts valued in excess of twenty-five thousand dollars; and

(b) Contract proposals which provide for a public-private partnership with the state in constructing, developing, or managing the lake.

(4) The department is granted authority to select the land upon which the lake will be built. In making such selection, the following shall apply:

(a) The land shall be located in or near a county having a population of at least one hundred thousand but not more than three hundred thousand inhabitants and within the flood plain or floodway of the Platte River;

(b) Preference shall be given to locations that were materially underwater when the Platte River flooded in 2019;

(c) It is the intent of the Legislature that the lake be at least three thousand six hundred surface acres in size;

(d) No dam shall be constructed on the main channel of the Platte River in order to construct the lake; and

(e) No city or village, or any part thereof, shall be flooded in order to construct the lake.

(5) The department is granted authority to designate the land selected for the lake under subsection (4) of this section, and land near or adjacent thereto, as the Lake Development District.

(6) The department may, in the performance of its duties, seek input and advice from any natural resources district that encompasses any of the area included in the Lake Development District.

(7) It is the intent of the Legislature that the department engage local stakeholders as the department carries out its duties under this section.

(8) The land selected for the lake shall be owned by the state, and the department shall ensure that the general public has complete access to the lake. No private entity involved in the constructing, developing, or managing of the lake shall designate any portion of the lake for exclusively private use. Nothing in this subsection shall preclude reasonable limitations on the number of people using the lake, a marina, or any other access point so long as such limitation does not restrict access to a designated class of private parties.

(9) Neither the Director of Natural Resources nor any employee of the Department of Natural Resources shall have a financial interest, either personally or through an immediate family member, in any purchase, sale, or lease of real property relating to the construction or development of the lake or in any contract entered into by the department relating to the construction, development, or management of the lake. For purposes of this subsection, immediate family member means a spouse, child, sibling, parent, grandparent, or grandchild.

Sec. 4. Notwithstanding any other provision of law, no land within the Lake Development District, as designated by the Department of Natural Resources

pursuant to section 3 of this act, shall be annexed.

Sec. 5. Sections 5 to 7 of this act shall be known and may be cited as the Water Recreation Enhancement Act.

Sec. 6. The Legislature finds and declares as follows:

(1) The future vibrancy of the people, communities, and businesses of Nebraska depends on reliable sources of water;

(2) While it is in the state's best interest to retain control over its water supplies, much of the state's water resources are currently underutilized;

(3) In 2019, the state experienced historic flooding along the Platte River which caused loss of life and over one billion dollars in damage to private and public property and infrastructure;

(4) Well-planned flood control is critical to the future of the people, communities, and businesses of Nebraska;

(5) In light of the disruption from the COVID-19 pandemic and the trend toward a remote workforce around the country, people around the country are rethinking where they want to work, live, and raise a family. As people consider where to live, access to sustainable water resources and outdoor recreational opportunities will be important considerations in making Nebraska a competitive choice for the future;

(6) The state's lakes and rivers help Nebraskans enjoy the water resources in our state and make Nebraska an even more attractive place to live and raise a family;

(7) The state's water resources provide economic benefits to the people, communities, and businesses of Nebraska by helping to attract visitors from other states and boosting local economies;

(8) In 2021, the Legislature passed LB406, which established the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee of the Legislature. The committee was tasked with conducting studies on:

(a) The need to protect public and private property, including use of levee systems, enhance economic development, and promote private investment and the creation of jobs along the Platte River and its tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;

(b) The need to provide for public safety, public infrastructure, land-use planning, recreation, and economic development in the Lake McConaughy region of Keith County, Nebraska; and

(c) The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region in Knox County, Nebraska, that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park;

(9) After considerable study, the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee identified the following potential opportunities:

(a) Marina construction projects to expand water access and recreational opportunities at Lake McConaughy and the Lewis and Clark State Recreation Area; and

(b) A project to increase access to and the enjoyment of Niobrara State Park through the construction of an event center and lodge;

(10) It is in the public interest to expand water access and recreational opportunities at Lake McConaughy and the Lewis and Clark State Recreation Area through the construction of new marinas; and

(11) It is in the public interest to increase access to and the enjoyment of Niobrara State Park through the construction of an event center and lodge.

Sec. 7. (1) The purposes of the Water Recreation Enhancement Act are to administer and carry out the following projects:

(a) Marina construction projects to expand water access and recreational opportunities at Lake McConaughy and the Lewis and Clark State Recreation Area; and

(b) A project to increase access to and the enjoyment of Niobrara State Park through the construction of an event center and lodge.

(2) The Game and Parks Commission is granted all power necessary to carry out the purposes of the Water Recreation Enhancement Act, including, but not limited to, the power to:

(a) Enter into contracts, including, but not limited to, contracts relating to the provision of construction services, management services, legal services, auditor services, and other consulting services or advice as the commission may require in the performance of its duties; and

(b) Enter into public-private partnerships to carry out the purposes of the act.

(3) It is the intent of the Legislature that the Game and Parks Commission engage local stakeholders as the commission carries out the projects authorized in this section.

(4) It is also the intent of the Legislature to encourage political subdivisions that hold a Federal Energy Regulatory Commission license and that own land in and around the projects authorized in this section to enter into contracts with public and private entities for the use, lease, and purchase of such land whenever possible in order to increase economic development and recreational opportunities, particularly when covenants, easements, and other instruments can ensure such economic development complies with the rules and regulations of the Federal Energy Regulatory Commission.

(5) No member of the Game and Parks Commission or any employee of the

commission shall have a financial interest, either personally or through an immediate family member, in any purchase, sale, or lease of real property relating to a project authorized in this section or in any contract entered into by the commission relating to a project authorized in this section. For purposes of this subsection, immediate family member means a spouse, child, sibling, parent, grandparent, or grandchild.

Sec. 8. Section 50-802, Reissue Revised Statutes of Nebraska, is amended to read:

50-802 (1) The Statewide Tourism And Recreational Water Access and Resource Sustainability (STAR WARS) Special Committee of the Legislature is hereby established as a special legislative committee to exercise the powers and perform the duties provided in this section. The special legislative committee shall consist of no fewer than seven members of the Legislature as determined by the Executive Board of the Legislative Council. The special legislative committee shall consist of the Speaker of the Legislature, who shall serve as chairperson of the special legislative committee, the chairperson of the Natural Resources Committee of the Legislature, one member of the Appropriations Committee of the Legislature, and at least four other members of the Legislature appointed by the executive board. The appointed members of the special legislative committee shall be members who represent legislative districts comprising portions of the areas under study or who otherwise have knowledge of such areas. All appointments shall be made within the first six days of the legislative session in odd-numbered years. Members shall serve two-year terms corresponding with legislative sessions and may be reappointed for consecutive terms.

(2) The Executive Board of the Legislative Council shall provide staff as required by the special legislative committee from existing legislative staff. In addition, the special legislative committee may hire additional staff, make expenditures for travel, and enter into contracts for consulting, engineering, and development studies. The contracts shall be based on competitive bids and subject to approval by the executive board upon the recommendation of a majority of the members of the special legislative committee. It is the intent of the Legislature to appropriate two million dollars for fiscal year 2021-22 to carry out the purposes of this section.

(3)(a) Studies shall be conducted on:

(i) The need to protect public and private property, including use of levee systems, enhance economic development, and promote private investment and the creation of jobs along the Platte River and its tributaries from Columbus, Nebraska, to Plattsmouth, Nebraska;

(ii) The need to provide for public safety, public infrastructure, land-use planning, recreation, and economic development in the Lake McConaughy region of Keith County, Nebraska; and

(iii) The socioeconomic conditions, recreational and tourism opportunities, and public investment necessary to enhance economic development and to catalyze private investment in the region in Knox County, Nebraska, that lies north of State Highway 12 and extends to the South Dakota border and includes Lewis and Clark Lake and Niobrara State Park.

(b) The study of the Lower Platte River pursuant to subdivision (3)(a)(i) of this section shall not include a study of any dam on a Platte River channel, but may include infrastructure options that maintain the integrity of the main channel of the Platte River. The committee may study dams relating to tributaries of the Platte River and levees in such area.

(c) The studies regarding Lake McConaughy in Keith County and Lewis and Clark Lake and Niobrara State Park in Knox County shall evaluate the outcomes and the economic benefits of proposed development and improvements to residents, the local region, and state tourism.

(4) The special legislative committee may hold hearings and request and receive reports from federal, state, county, city, and village agencies and natural resources districts regarding matters pertaining to such studies. The special legislative committee may hold one or more closed sessions for the receipt of confidential information if at least one-half of the members of the special legislative committee vote in open session to hold a closed session. The special legislative committee may appoint one or more subcommittees for the purpose of receiving public input as it relates to the purposes described in section 50-801 and this section.

(5) The special legislative committee shall endeavor to complete each study on or before December 31, 2021, but such studies shall be completed no later than December 31, 2022.

(6) The special legislative committee shall provide oversight over any projects carried out as a result of any studies completed by the committee to ensure continuity and to ensure that the projects fulfill the goals of the studies as they are implemented. The committee may seek input from local stakeholders regarding such projects. The committee shall also recommend legislative changes that may become necessary at the various stages of the implementation of such projects.

(7) (6) The special legislative committee shall terminate on December 31, 2026 2022.

Sec. 9. Original section 50-802, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.