

LEGISLATIVE BILL 1060

Approved by the Governor April 12, 1984

Introduced by Haberman, 44

AN ACT relating to ground water; to amend section 46-613.02, Reissue Revised Statutes of Nebraska, 1943, and section 46-613.01, Revised Statutes Supplement, 1983; to provide intent; to change provisions relating to transporting ground water; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 46-613.01, Revised Statutes Supplement, 1983, be amended to read as follows:

46-613.01. The Legislature recognizes and declares that the maintenance of an adequate source of ground water within this state is essential to the social stability of the state and the health, safety, and welfare of its citizens and that reasonable restrictions on the transportation of ground water from this state are a proper exercise of the police powers of the state. The need for such restrictions, which protect the health, safety, and general welfare of the citizens of this state, is hereby declared a matter of legislative determination.

Any person, firm, city, village, municipal corporation, or any other entity intending to withdraw ground water from any well or pit located in the State of Nebraska and transport it for use in another ~~an~~ adjoining state shall apply to the Department of Water Resources for a permit to do so. ~~if the Director of Water Resources finds that the withdrawal of the ground water requested is reasonable, is not contrary to the conservation and use of ground water, and is not otherwise detrimental to the public welfare, he shall grant the permit. In determining whether to grant such permit, the Director of Water Resources shall consider:~~

(1) Whether the proposed use is a beneficial use of ground water;

(2) The availability to the applicant of alternative sources of surface or ground water;

(3) Any negative effect of the proposed withdrawal on surface or ground water supplies needed to meet reasonable future demands for water in the area of the proposed withdrawal; and

(4) Any other factors consistent with the purposes of this section that the director deems relevant to protect the interests of the state and its citizens.

Issuance of a permit shall be conditioned on the applicant's compliance with the rules and regulations of the natural resources district from which the water is to be withdrawn. The applicant shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of the local natural resources district or the Department of Water Resources.

The director may include such reasonable conditions on the proposed use as he or she deems necessary to carry out the purposes of this section.

Sec. 2. That section 46-613.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-613.02. Any person violating the provisions of section 46-613.01, shall be guilty of a Class IV misdemeanor and shall be enjoined from further transporting such water for use in another adjoining state until such provisions are complied with. ~~a permit is obtained from the Department of Water Resources.~~

Sec. 3. That original section 46-613.02, Reissue Revised Statutes of Nebraska, 1943, and section 46-613.01, Revised Statutes Supplement, 1983, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.