

LEGISLATIVE BILL 897

Approved by the Governor March 12, 1984

Introduced by Wagner, 41

AN ACT relating to the Department of Water Resources; to amend sections 46-210 and 46-212, Reissue Revised Statutes of Nebraska, 1943, and sections 31-410.01 and 46-209, Revised Statutes Supplement, 1982; to eliminate provisions relating to approval of plans for proposed drainage districts; to harmonize provisions; and to repeal the original sections, and also section 46-211, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 31-410.01, Revised Statutes Supplement, 1982, be amended to read as follows:

31-410.01. The board of directors, having first, with the aid of such engineer, surveyor, and other assistants as it may have chosen, made detailed plans of the public works to be done in accordance with section 31-401, shall cause a notice to be inserted at least once in a newspaper of general circulation in the district, stating the time and place where the directors shall meet for the purpose of conducting a public hearing on the proposed public works and method of financing same. All parties interested in the proposed public works may appear at such public hearing in person, or by counsel, or may file written objections thereto. The directors shall then proceed to hear and consider the same and determine whether to adopt the public works in accordance with the ~~detail~~ detailed plans presented at such hearing and whether to finance the same by benefits accruing to the several tracts of land within the district or by a tax levy upon the actual valuation of all property in the district, except intangible property. The hearing may be continued from time to time upon notice given by publication at least once in a newspaper of general circulation in the district stating the time and place of such continuance. ~~All plans for proposed drainage districts shall be approved by the Department of Water Resources before any contract is let or work begun as provided in section 46-211; Provided, that such approval shall not be required for any proposed drainage district subject to the supervision of the United States Army Corps of Engineers.~~

Sec. 2. That section 46-209, Revised Statutes Supplement, 1982, be amended to read as follows:

46-209. The Department of Water Resources is

given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes, and drainage, except as such jurisdiction is specifically limited by statute. Such department shall adopt rules governing matters coming before it. It may refuse to allow any water to be used by claimants until their rights have been determined and made of record. It may request information relative to irrigation, and water power, and drainage works from any and all county, irrigation, or power, or drainage officers and from any other person or persons. It shall have public hearings on complaints, petitions, or applications in connection with any of the above matters. Such hearings may be had at the time and place designated by the department. The department shall have power to certify to official acts, compel attendance of witnesses, take testimony by deposition as in suits at law, to and examine books, papers, documents, and records of any county, party, or parties interested in any of the matters hereinbefore mentioned, or have such examinations made by its qualified representative, and shall make and preserve a true and complete transcript of its proceedings and hearings. If a hearing is held at the request of one or more parties, the department may require each such requesting party and each person thereafter who requests to be made a party to such hearing to pay the proportional share of the cost of such transcript. Upon any hearing, the department shall receive any evidence relevant to the matter under investigation and the burden of proof shall be upon the person making the complaint, petition, and application. After such hearing and investigation, the department shall render a decision in the premises in writing and shall issue such order or orders duly certified as it may deem necessary.

Sec. 3. That section 46-210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-210. If any county, party, or parties interested in irrigation, or water power, or drainage work affected thereby shall be dissatisfied with the decision or with any order adopted, such dissatisfied county, party, or parties may institute proceedings in the Supreme Court of Nebraska to reverse, vacate, or modify the order complained of. The procedure to obtain such reversal, modification, or vacation of any such decision or order upon which a hearing has been had before the Department of Water Resources shall be governed by the same provisions in force with reference to appeals and error proceedings from the district court to the Supreme Court of Nebraska. The evidence presented before the department as reported by its official stenographer and reduced to writing, together with a transcript of the record and pleadings upon which the decision is based, duly certified in such case under the seal of the department, shall constitute the complete record and the evidence upon which the case shall be

presented to the appellate court. ~~The~~ ~~7~~ ~~Provided,~~ the time for perfecting such appeal shall be limited to one month after the rendition of such decision or order, and the Supreme Court shall advance such appeal to the head of its docket.

Sec. 4. That section 46-212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-212. The Department of Water Resources may make surveys of streams, showing location of possible water power developments, and irrigation ~~and drainage~~ projects.

Sec. 5. That original sections 46-210 and 46-212, Reissue Revised Statutes of Nebraska, 1943, and sections 31-410.01 and 46-209, Revised Statutes Supplement, 1982, and also section 46-211, Reissue Revised Statutes of Nebraska, 1943, are repealed.