

LEGISLATIVE BILL 480

Approved by the Governor April 18, 1994

Introduced by Natural Resources Committee: Beutler, 28, Chairperson;
 Bohlke, 33; Bromm, 23; Elmer, 38; Hartnett, 45; Jones, 43;
 McKenzie, 34; Freister, 5

AN ACT relating to natural resources districts; to amend sections 2-3202, 2-3204, 2-3212.01, 2-3213, 2-3214, 2-3219, 2-3222, 2-3226, 2-3228, 2-3232, 2-3233, 2-3234, 2-3235, 2-3254, 2-4608, 2-4610, 46-629, and 77-27,137.02, Reissue Revised Statutes of Nebraska, 1943, sections 2-3227, 46-673.14, and 46-674, Revised Statutes Supplement, 1992, and section 2-4603, Revised Statutes Supplement, 1993; to eliminate requirements for approval of changes in the number of directors, changes of boundaries of subdistricts, and changes in the manner of electing directors; to change authorized investments; to authorize adoption of flood control improvement corridor maps; to require building permits within the corridors; to state intent; to redefine terms; to change provisions relating to erosion and sediment control; to change provisions relating to amendment of ground water management plans; to provide for ineligibility for certain funds as prescribed; to require implementation of a ground water management plan addressing ground water quality; to eliminate a reporting requirement for certain fees; to harmonize provisions; and to repeal the original sections, and also section 2-3262, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 2-3202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3202. ~~As used in~~ For purposes of Chapter 2, article 32, and sections 16 to 21 of this act unless the context otherwise requires:

(1) Commission shall mean the Nebraska Natural Resources Commission;
 (2) Natural resources district or district shall mean a natural resources district operating pursuant to Chapter 2, article 32, and sections 16 to 21 of this act;

(3) Board shall mean the board of directors of a district;

(4) Director shall mean a member of the board;

(5) Other special-purpose districts shall mean rural water districts, ground water conservation districts, drainage districts, reclamation districts, and irrigation districts; and

(6) Manager shall mean the chief executive hired by a majority vote of the board to be the supervising officer of the district.

Sec. 2. That section 2-3204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3204. (1) The commission shall adopt and promulgate appropriate rules and regulations for all commission hearings authorized by sections 2-1502 to 2-1504, 2-1507, and 2-3201 to 2-3257 and sections 16 to 21 of this act. All such hearings shall be subject to the provisions of the Administrative Procedure Act.

(2) Appeals from commission determinations and orders entered pursuant to sections 2-1502 to 2-1504, 2-1507, and 2-3201 to 2-3257 and sections 16 to 21 of this act may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 3. That section 2-3212.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3212.01. Mergers and transfers of existing districts or boards into natural resources districts pursuant to sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01 and sections 16 to 21 of this act shall not be construed as being discontinuances or dissolutions of those districts or boards as may be provided for by statute outside such sections. ~~2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01.~~

Sec. 4. That section 2-3213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3213. (1) Except as provided in subsections (2) and (3) of this section, each district shall be governed by a board of directors of five, seven, nine, eleven, thirteen, fifteen, seventeen, nineteen, or twenty-one members. The commission board of directors shall determine the number of

directors and in making such determination shall consider the complexity of the foreseeable programs and the population and land area of the district. Districts shall be political subdivisions of the state, shall have perpetual succession, and may sue and be sued in the name of the district.

(2) At least six months prior to the primary election, the board of directors of any natural resources district may request that change the number of directors for the district be changed. Such request shall be directed to the commission and shall be accompanied by proposed new and may change subdistrict boundaries to accommodate the increase or decrease in the number of directors. The board of directors and a plan to accomplish such change in determining whether to approve such requested changes, the commission shall utilize the criteria found in subsection (1) of this section and in subsection (1) of section 2-3214, but the commission shall have the authority only to approve or deny the request and not to specify any other number of directors when changing the number of directors. Except as provided in subsection (5) of this section, no director's term of office shall be shortened as a result of any change in numbers the number of directors. Any reduction in the number of directors shall be made as directors take office during the two succeeding elections or more quickly if the reduction can be made by not filling vacancies on the board and if desired by the board, and approved by the commission. If necessary to preserve staggered terms for directors when the reduction in number is made in whole or in part through unfilled vacancies, the board shall request and the commission may approve may provide for a one-time election of one or more directors for a two-year term. The Director of Natural Resources board of directors shall inform the Secretary of State whenever any such one-time elections have been approved. Notwithstanding subsection (1) of this section, the district may be governed by an even number of directors during the two-year transition to a board of reduced number.

(3) Whenever any change of boundaries, division, or merger results in a natural resources district director residing in a district other than the one to which such director was elected to serve, such director shall automatically become a director of the board of the district in which he or she then resides. Except as provided in subsection (5) of this section, all such directors shall continue to serve in office until the expiration of the term of office for which they were elected. Directors or supervisors of other special-purpose districts merged into a natural resources district shall not become members of the natural resources district board but may be appointed as advisors in accordance with section 2-3228. No later than six months after any change, division, or merger, each affected board, in accordance with the procedures and criteria found in this section and section 2-3214, shall submit to the commission for approval a recommended determine the number of directors for the district as it then exists, the option chosen for nomination and election of directors, and, if appropriate, new subdistrict boundaries.

(4) To facilitate the task of administration of any board increased in size by a change of boundaries or merger, such board may appoint an executive committee to conduct the business of the board in the interim until board size reductions can be made in accordance with this section. An executive committee shall be empowered to act for the full board in all matters within its purview unless specifically limited by the board in the establishment and appointment of the executive committee.

(5) Notwithstanding the provisions of section 2-3214 and subsections (3) and (4) of this section, the board of directors of any natural resources district established by merging two or more districts in their entirety may request provide that all directors be nominated and elected at the first primary and general elections following the year in which such merger becomes effective. In districts which have one director elected from each subdistrict, each director elected from an even-numbered subdistrict shall be elected for a two-year term and each director from an odd-numbered district and any member to be elected at large shall be elected for a four-year term. In districts which have two directors elected from each subdistrict, the four candidates receiving the highest number of votes at the primary election shall be carried over to the general election, and at such general election the candidate receiving the highest number of votes shall be elected for a four-year term and the candidate receiving the second highest number of votes shall be elected for a two-year term. Thereafter each director shall be elected for a four-year term.

Sec. 5. That section 2-3214, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3214. (1) District directors shall be elected for four-year terms at the general election of the state. Directors shall be elected on a separate nonpartisan ballot as provided in sections 32-535 and 32-537 and shall pay no filing fee. Nominating papers shall be filed with the Secretary

of State or his or her designee. The board of directors may choose to: (a) Nominate candidates from subdistricts and from the district at large which shall be elected by the qualified electors of the entire district; (b) nominate and elect each candidate from the district at large; or (c) nominate and elect candidates from subdistricts of substantially equal population except that any at-large candidate would be nominated and elected by the qualified electors of the entire district. Unless the board of directors determines that the nomination and election of all directors will be at large, the board shall ~~subject to the approval of the commission~~; strive to divide the district into subdistricts of substantially equal population, except that commencing with the primary election in 1988, no subdistrict shall have a population greater than three times the population of any other subdistrict within the district. Such subdistricts shall be consecutively numbered and shall be established with due regard to all factors including, but not limited to, the location of works of improvement and the distribution of population and taxable values within the district. The boundaries and numbering of such subdistricts shall be designated at least six months prior to the primary election. Registered electors residing within the district shall be eligible for nomination as candidates for any at-large position or, in those districts that have established subdistricts, as candidates from the subdistrict within which they reside. Unless the district has been divided into subdistricts with substantially equal population, all directors shall be elected by the qualified electors of the entire district and all electors shall vote on the candidates representing each subdistrict and any at-large candidates. If a district has been divided into subdistricts with substantially equal population, the board of directors may determine that directors shall be elected only by the electors of the subdistrict except that an at-large director may be elected by electors of the entire district.

(2) Except in those districts which have elected to have a single director serve from each subdistrict, the number of subdistricts for a district shall equal a number which is one less than a majority of directors for the district. In those districts which have elected to have a single director serve from each subdistrict, the number of subdistricts shall equal a number which is equal to the total number of directors of the district or which is one less than the total number of directors for the district if there is an at-large candidate. The ballots shall list each nomination subdistrict and candidates therefrom and also the at-large candidates. In those districts which have chosen to nominate and elect each candidate from the district at large, the ballot shall indicate that all of the candidates are at-large candidates. Registered electors may each cast a number of votes not larger than the total number of directors to be elected. The candidate receiving the most votes in each listed subdistrict, or the district at large when applicable, shall be elected. Whenever the number of directors to be elected exceeds the number of subdistricts, or whenever the term of the at-large director expires in those districts which have elected to have a single director serve from each subdistrict, candidates may file as a candidate from the district at large, in which case the ballots shall list such candidates under an appropriate heading.

(3) The Secretary of State shall certify to the county clerk or election commissioner involved the names of the candidates on a sample ballot. The county clerk or election commissioner shall have the necessary ballots printed and distributed to the designated polling places. Local election judges shall determine the appropriate ballot for voters. All registered electors who have legal residence in the district shall be eligible to vote. The county clerk or election commissioner shall forward to the Secretary of State pursuant to law the official canvass of the votes cast in the county for directors. The state canvassing board shall canvass the results of the election of directors for natural resources districts. The Secretary of State shall mail an election certificate to each candidate elected. Elected directors shall take their oath of office in the same manner provided for county officials.

(4) The Secretary of State and the county clerk or election commissioner shall have the power and authority to do those things necessary to carry out the provisions and intent of this section. Except as otherwise provided in this section, the district, after each primary or general election, shall pay to each county wherein the name of one or more candidates appears upon the ballot the following election expenses: (a) Counties having a population of less than three thousand inhabitants, fifty dollars; (b) counties having a population of three thousand but less than nine thousand inhabitants, one hundred dollars; (c) counties having a population of nine thousand but less than fourteen thousand inhabitants, one hundred twenty-five dollars; (d) counties having a population of fourteen thousand but less than

twenty thousand inhabitants, one hundred fifty dollars; (e) counties having a population of twenty thousand but less than sixty thousand inhabitants, one hundred seventy-five dollars; (f) counties having a population of sixty thousand but less than one hundred thousand inhabitants, seven hundred fifty dollars; (g) counties having a population of one hundred thousand but less than two hundred thousand inhabitants, fifteen hundred dollars; and (h) counties having a population of two hundred thousand inhabitants or more, two thousand fifty dollars. When the name of one or more candidates of a district appears on ballots in less than one-half of the precincts of the counties, the cost to the district shall be no more than fifty percent of the expenses established by this section. If the actual expenses to the county in district elections provided for in this section are less than the amounts established in this section, such actual expenses shall be the amount paid by the district to the county. The population of a county for purposes of this section shall be the population as determined by the most recent federal decennial census.

In addition to the costs above provided in this section, the natural resources district shall pay the publication cost of the sample primary and general election ballots appearing in the newspaper and shall pay the actual printing costs for the official ballots used for the election. Election expenses shall be due and payable for each natural resources district within thirty days after the receipt of the statement from the county.

(5) The district shall furnish to the Secretary of State and county clerk or election commissioner such maps and additional information as they may reasonably require in the proper performance of their duties in the conduct of elections and certification of the results of the same.

(6) ~~Subject to the approval of the commission and at~~ At least six months prior to the primary election, the board of directors may elect to have a single director serve from each subdistrict.

Sec. 6. That section 2-3219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3219. (1) The board shall hold regularly scheduled monthly meetings at which meetings the board shall take such action and make such determinations as are required by sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01 and sections 16 to 21 of this act. A majority of the voting members of the board shall constitute a quorum, and the concurrence of a majority of a quorum shall be sufficient to take action and make determinations. Within ninety days of the creation of any natural resources district, the board thereof shall, by appropriate rules and regulations, designate the regular time and place such meetings are to be held. At the first meeting of each year, the board shall review its program for the preceding year and outline its plans for the following year. At the first regularly scheduled meeting after the completion of the yearly audit required by section 2-3223, it shall present a report of the financial condition of the district and open discussion relevant to the same. Notice shall be given of all board meetings pursuant to section 84-1411.

(2) The boards of directors of the natural resources districts within each river basin shall meet jointly at least twice a year at such times and places as may be mutually agreed upon for the purpose of receiving and coordinating their efforts for the maximum benefit of the basin.

Sec. 7. That section 2-3222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3222. The board shall furnish to the commission copies of such rules, regulations, orders, contracts, forms, plans, audits, agreements, minutes of their meetings, and other documents as they shall plan to adopt or employ, and such other information concerning their activities as the commission may require in the performance of its duties under sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01 and sections 16 to 21 of this act.

Sec. 8. That section 2-3226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3226. Each district shall have the power and authority to issue revenue bonds for the purpose of financing construction of facilities authorized by sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01 and sections 16 to 21 of this act. Issuance of revenue bonds must be approved by two-thirds of the members of the board of directors of the district. The district shall pledge sufficient revenue from any revenue-producing facility constructed with the aid of revenue bonds for the payment of principal and interest on such bonds, and shall establish rates for such facilities at a sufficient level to provide for the operation of such facilities and for the bond payments.

Sec. 9. That section 2-3227, Revised Statutes Supplement, 1992, be

amended to read as follows:

2-3227. Each district may invest any surplus money in the district treasury, including such money as may be in any sinking fund established for the purpose of providing for the payment of the principal or interest of any contract, bond, or other indebtedness or for any other purpose, not required for the immediate needs of the district (1) in certificates of deposit of banks which are members of the Federal Deposit Insurance Corporation, except that whenever the amount deposited exceeds the amount of insurance available thereon, the excess shall be secured in the same manner as for the deposit of public funds, (2) in certificates of deposit of capital stock financial institutions as provided by section 77-2366, (3) in building and loan associations in the State of Nebraska to the extent that deposits in such associations are insured by the Federal Deposit Insurance Corporation, (4) in its own bonds, in the bonds of any county, city, village, natural resources district, or school district of this state which have been issued and registered as required by law, in its own registered warrants, or in any registered warrants of any county, city, natural resources district, or school district of this state, (5) in treasury notes, treasury bills, certificates of indebtedness, or bonds of the United States, or (6) in bonds or debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration. Investments in bonds, or treasury notes, or treasury bills may be made by direct purchase of any issue of such bonds, or treasury notes, or treasury bills, or part thereof, at the original sale of the same or by the subsequent purchase of such bonds, or treasury notes, or treasury bills. Any bonds, or treasury notes, or treasury bills thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds, or treasury notes, or treasury bills as provided in this section. Sales of any bonds, or treasury notes, or treasury bills thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds, or treasury notes, or treasury bills were originally purchased was placed in the district treasury. ~~of the district.~~ The functions and duties authorized by this section shall be performed under such rules and regulations as shall be prescribed by the board.

Sec. 10. That section 2-3228, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3228. Each district shall have the power and authority to:

(1) Receive and accept donations, gifts, grants, bequests, appropriations, or other contributions in money, services, materials, or otherwise from the United States or any of its agencies, from the state or any of its agencies or political subdivisions, or from any person as defined in section 49-801 and use or expend all such contributions in carrying on its operations;

(2) Establish advisory groups by appointing persons within the district, pay necessary and proper expenses of such groups as the board shall determine, and dissolve such groups;

(3) Employ such persons as are necessary to carry out the purposes of sections 2-3201 to 2-3257 and sections 16 to 21 of this act and, in addition to other compensation provided, establish and fund a pension plan designed and intended for the benefit of all permanent full-time employees of the district. Any recognized method of funding a pension plan may be employed. Employee contribution shall be required to fund at least fifty percent of the benefits, and past service benefits may be included. The district shall pay all costs of any such past service benefits, which may be retroactive to July 1, 1972, and the plan may be integrated with old age and survivors' insurance, generally known as social security. A uniform pension plan, including the method for jointly funding such plan, shall be established for all districts in the state. A district may elect not to participate in such a plan but shall not establish an independent plan;

(4) Purchase liability, property damage, workers' compensation, and other types of insurance as in the judgment of the board are necessary to protect the assets of the district;

(5) Borrow money to carry out such sections;

(6) Adopt and promulgate rules and regulations to carry out the purposes of such sections; and

(7) Invite the local governing body of any municipality or county to designate a representative to advise and counsel with the board on programs and policies that may affect the property, water supply, or other interests of such municipality or county.

Sec. 11. That section 2-3232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3232. Each district shall have the power and authority to:

(1) Make studies, investigations, or surveys and do research as may be necessary to carry out the purposes of sections 2-3201 to 2-3257 and sections 16 to 21 of this act, to enter upon any land, after notifying the owner or occupier, for the purpose of conducting such studies, investigations, surveys, and research, and to publish and disseminate the results. Entry upon any property pursuant to this section shall not be considered to be legal trespass, and no damage shall be recoverable on that account alone. In case of any actual or demonstrable damage to premises, the district shall pay the owner of the premises the amount of the damages. Upon failure of the landowner and the district to agree upon the amount of damage, the landowner, in addition to any other available remedy, may file a petition as provided in section 76-705. To avoid duplication of effort, any such studies, investigations, surveys, research, or dissemination shall be in cooperation and coordination with the programs of the University of Nebraska, or any department thereof, and any other appropriate state agencies; and

(2) Conduct demonstration projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the owners of such land or the necessary rights and interest in such lands, in order to demonstrate by example the means, methods, and measures by which soil and water resources may be conserved and soil erosion in the form of soil blowing and soil washing may be prevented and controlled. Demonstration projects shall be coordinated with the programs of the Agricultural Research Division of the University of Nebraska.

Sec. 12. That section 2-3233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3233. Each district shall have the power and authority to acquire and dispose of water rights in accordance with Chapter 46, article 2, and to acquire by grant, purchase, bequest, devise, or lease, and to hold and use waterworks, personal property, and interests or title in real property, and to sell, lease, encumber, or otherwise dispose of such waterworks and property. Each district shall also have the power and authority to acquire, construct, own, operate, control, maintain, and use any and all such works and facilities, both within and without the district, necessary to carry out the provisions of sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01, and sections 16 to 21 of this act and furnish water service for domestic, irrigation, power, manufacturing, and other beneficial purposes.

Sec. 13. That section 2-3234, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3234. Each district shall have the power and authority to exercise the power of eminent domain when necessary to carry out the purposes of sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01 and sections 16 to 21 of this act within the limits of the district or outside its boundaries. Exercise of eminent domain shall be governed by the provisions of sections 76-704 to 76-724, except ~~PROVIDED~~ that whenever any district seeks to acquire the right to interfere with the use of any water being used for power purposes in accordance with sections 46-204, 70-668, 70-669, and 70-672, and shall be and is unable to agree with the user of such water upon the compensation to be paid for such interference, the procedure to condemn property shall be followed in the manner set forth in sections 76-704 to 76-724, and no other property shall be included in such condemnation. No district shall contract for delivery of water to persons within the corporate limits of any village, city, or metropolitan utilities district, nor in competition therewith outside such corporate limits, except by consent of and written agreement with the governing body of such political subdivision. A village, city, or metropolitan utilities district may negotiate and, if necessary, exercise the power of eminent domain for the acquisition of water supply facilities of the district which are within its boundaries.

Sec. 14. That section 2-3235, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3235. (1) Each district shall have the power and authority to cooperate with or to enter into agreement with and, within the limits of appropriations available, to furnish financial or other aid to any cooperator, any agency, governmental or otherwise, or any owner or occupier of lands within the district for the carrying out of projects for benefit of the district as authorized by sections 2-3201 to 2-3257 and sections 16 to 21 of this act, subject to such conditions as the board may deem necessary to advance the purposes of such sections.

(2) As a condition to the extending of any benefits under such sections to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits and may require landowners to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(3) Each district may make available, on such terms as it shall prescribe, to landowners within the district specialized equipment, materials, and services which are not readily available from other sources and which will assist such landowners to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion. Whenever reasonably possible, purchases or contracts for such equipment shall be made from retail establishments.

Sec. 15. That section 2-3254, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3254. (1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of an improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government, and after the hearing, that the project conforms with the goals, criteria, and policies of sections 2-3201 to 2-3262 2-3257 and sections 16 to 21 of this act, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not conform with such sections, 2-3201 to 2-3262, the findings shall be entered in the board's records, and copies of such findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Water Resources, except that if such project involves a public water supply system as defined in section 71-5301, the filing of the information shall be with the Department of Health rather than the Director of Water Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of Water Resources and the Department of Health, if applicable, except that if such special project involves a public water supply system as defined in section 71-5301, only the Department of Health shall be required to review such plans and specifications and approve the same if in compliance with Chapter 71, article 53, the Nebraska Safe Drinking Water Act and departmental regulations adopted thereunder under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges

levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained herein in this section shall prevent the district from establishing separate areas within the project improvement area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any project improvement area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the project improvement area, stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person, or by counsel, or may file written objections thereto. The directors shall then proceed to hear and consider the same, and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the project improvement area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments shall file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such project in accordance with the apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area, and shall apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county

clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Sec. 16. The board, upon its own motion or upon a petition filed with the district by at least five owners of land within the district and after a public hearing, may adopt or amend flood control improvement corridor maps which show the watercourses as defined in section 31-202 within the district or the reaches of watercourses which the district in the future may determine to improve with levees or other flood control improvements. The maps shall show the corridors of land on either side of the centerlines of the watercourses which the board determines should be reserved for the future construction, operation, or maintenance of flood control improvements and shall show the approximate location of the corridors on each parcel of land traversed.

Sec. 17. At least ten days prior to the district's public hearing on the adoption or amendment of any flood control improvement corridor map, the district shall publish, in a newspaper of general circulation within the district, a notice of the public hearing together with a diagram showing the general location and width of each flood control improvement corridor which is proposed to be adopted or amended. The notice shall identify the place within the district where the detailed flood control improvement corridor maps which are proposed to be adopted or amended are available for public inspection. At least fifteen days prior to the public hearing, the district shall send such notice of public hearing and copies of the flood control improvement corridor map by certified mail to the owner of each parcel of land traversed by the corridor at the address shown for such owner on the county tax records.

Sec. 18. The district shall file a copy of each adopted or amended flood control improvement corridor map, together with a copy of the board resolution adopting or amending such map and containing the legal descriptions of all parcels of land traversed, with the county, city, or village officer responsible for the receipt of requests for the issuance of building permits for each county, city, and village traversed by the flood control improvement corridors depicted upon the map. The district shall also record each adopted or amended flood control improvement corridor map and each board resolution adopting or amending such map with the register of deeds of each county traversed by such corridors. A notice of the existence of the map and board resolution shall be indexed against all parcels of land included in whole or in part on such map and, in addition, shall indicate to the landowner where the map may be reviewed.

Sec. 19. A building permit shall be required for all structures within an adopted flood control improvement corridor if the actual cost of the structure will exceed one thousand dollars.

Upon the filing of a request for a building permit for a structure on a parcel of land located within a flood control improvement corridor, the officer responsible for issuance of building permits shall give the district notice of the filing of the request for a building permit. The officer shall not issue a permit for a period of sixty days from the date of mailing such notice to the district unless the district waives the time period in writing.

Within the sixty-day period, the district may file with the officer and send by certified mail to the landowner a statement of the district's intent to negotiate with the owner of the land involved. Upon the filing and mailing of such a statement of intent, the district shall be allowed six months for negotiations with the landowner.

At the end of the six-month period, if the landowner has not withdrawn the application for a permit, the permit shall be issued if it meets all other applicable codes, ordinances, and laws.

Sec. 20. Nothing in sections 16 to 19 of this act shall be deemed a condition precedent to the acquisition of rights-of-way by purchase or by eminent domain.

Sec. 21. Sections 16 to 19 of this act shall only apply in counties, cities, or villages which have a requirement that a building permit be obtained prior to construction of a structure whether the requirement is adopted before, on, or after the effective date of this act.

Sec. 22. That section 2-4603, Revised Statutes Supplement, 1993, be amended to read as follows:

2-4603. As used in For purposes of the Erosion and Sediment Control Act, unless the context otherwise requires:

(1) Commission shall mean the Nebraska Natural Resources Commission;

(2) Conservation agreement shall mean an agreement between the owner or operator of a farm unit and the district in which the owner or operator agrees to implement a farm unit conservation plan or, with the approval of the district within which the farm unit is located, a portion of a farm unit conservation plan. The agreement shall include a schedule for implementation and may be conditioned on the furnishing by the district or other public entity of furnishing technical, planning, or financial assistance in the establishment of the soil and water conservation practices necessary to implement the plan or a portion of the plan;

(3) Director shall mean the Director of Natural Resources;

(4) District shall mean a natural resources district;

(5) Erosion or sediment control practice shall mean:

(a) The construction or installation and maintenance of permanent structures or devices necessary to carry, to a suitable outlet away from any building site, any commercial or industrial development, or any publicly or privately owned recreational or service facility not served by a central storm sewer system, any water which would otherwise cause erosion in excess of the applicable soil-loss limit and which does not carry or constitute sewage or industrial or other waste;

(b) The employment of temporary devices or structures, temporary seeding, fiber mats, plastic, straw, diversions, silt fences, sediment traps, or other measures adequate either to prevent erosion in excess of the applicable soil-loss limit or to prevent excessive downstream sedimentation from land which is the site of or is directly affected by any nonagricultural land-disturbing activity; or

(c) The establishment and maintenance of vegetation upon the right-of-way of any completed portion of any public street, road, or highway or the construction or installation thereon of permanent structures or devices or other measures adequate to prevent erosion of the right-of-way in excess of the applicable soil-loss limit;

(6) Farm unit conservation plan shall mean a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the natural resources district within which the farm unit is located based upon the determined conservation needs for the farm unit and identifying the soil and water conservation practices which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil-loss limit. The plan may also, if practicable, identify alternative practices by which such objective may be attained;

(7) Nonagricultural land-disturbing activity shall mean a land change, including, but not limited to, tilling, clearing, grading, excavating, transporting, or filling land, which may result in soil erosion from wind or water and the movement of sediment and sediment-related pollutants into the waters of the state or onto lands in the state but shall not include the following:

(a) Activities related directly to the production of agricultural, horticultural, or silvicultural crops, including, but not limited to, tilling, planting, or harvesting of such crops;

(b) Installation of aboveground public utility lines and connections, fenceposts, sign posts, telephone poles, electric poles, and other kinds of posts or poles;

(c) Emergency work to protect life or property; and

(d) Activities related to the construction of housing, industrial, and commercial developments on sites under two acres in size;

(8) Person shall mean any individual, partnership, limited liability company, firm, association, joint venture, public or private corporation, trust, estate, commission, board, institution, utility, cooperative, municipality or other political subdivision of this state, interstate body, or other legal entity;

(9) Soil and water conservation practice shall mean a practice which serves to prevent erosion of soil by wind or water in excess of the applicable soil-loss limit from land used only for agricultural, horticultural, or silvicultural purposes. Soil and water conservation practice shall include, but not be limited to:

(a) Permanent soil and water conservation practice, including the planting of perennial grasses, legumes, shrubs, or trees, the establishment of grassed waterways, the construction of terraces, and other permanent soil and water practices approved by the district; and

(b) Temporary soil and water conservation practice, including the planting of annual or biennial crops, use of strip-cropping, contour planting, minimum or mulch tillage, and other cultural practices approved by the district; and

(10) Soil-loss limit shall mean the maximum amount of soil loss due

to erosion by wind or water, expressed in terms of tons per acre per year, which is determined to be acceptable in accordance with the Erosion and Sediment Control Act.

Sec. 23. That section 2-4608, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4608. (1) Except to the extent jurisdiction has been assumed by a municipality or county in accordance with section 2-4606, the district may inspect or cause to be inspected any land within the district upon receipt of a written and signed complaint which alleges that soil erosion is occurring in excess of the applicable soil-loss limit. Complaints shall be filed on a form provided by the director. Complaints may be filed by any owner or operator of land being damaged by sediment, by any state agency or political subdivision whose roads or other public facilities are being damaged by sediment, by any state agency or political subdivision with responsibility for water quality maintenance if it is alleged that the soil erosion complained of is adversely affecting water quality, or by a staff member or other agent of the district authorized by the board of directors to file such complaints. Inspections following receipt of a written and signed complaint may be made only after notice to the owner and, if appropriate, the operator of the land involved, and such person shall be given an opportunity to accompany the inspector.

(2) The owner, the operator if appropriate, and the district may agree to a plan and schedule for eliminating excessive erosion on and sedimentation from the land involved. Any such agreement may be enforced in district court in the same manner as an administrative order issued pursuant to the Erosion and Sediment Control Act. If no agreement is reached, the findings of the inspection shall be presented to the district board of directors and the owner and, if appropriate, the operator of the land shall be given a reasonable opportunity to be heard at a meeting of the board or, if requested, at a public hearing. If the district finds that the alleged sediment damage is occurring and that excess soil erosion is occurring on the land inspected, it shall issue an administrative order to the owner of record and, if appropriate, to the operator describing the land and stating as nearly as possible the extent to which the soil erosion exceeds the applicable soil-loss limit. When the complained-of erosion is the result of agricultural, horticultural, or silvicultural activities, the district shall direct the owner and, if appropriate, the operator to bring the land into conformance with the applicable soil-loss limit. When the complained-of erosion is the result of a nonagricultural land-disturbing activity, the district may authorize the owner and, if appropriate, the operator to either bring such land into conformance with the soil-loss limit or to prevent sediment resulting from excessive erosion from leaving such land.

(3) The district may specify, as applicable, alternative soil and water conservation practices or erosion or sediment control practices which the owner and, if appropriate, the operator may use to comply with the administrative order. A copy of the administrative order shall be delivered by either personal service or certified or registered mail to each person to whom it is directed and shall:

(a) In the case of erosion occurring on the site of any nonagricultural land-disturbing activity, state ~~the a reasonable time, which shall be not less than five days nor more than fifteen days~~ after service or mailing of the order, when the work necessary to establish or maintain erosion or sediment control practices shall be commenced and the time, not more than forty-five days after service or mailing of the order, when the work shall be satisfactorily completed;

(b) In all other cases, state the time, not more than six months after service or mailing of the order, the work needed to establish or maintain the necessary soil and water conservation practices or permanent erosion control practices shall be commenced and the time, not more than one year after the service or mailing of the order, the work shall be satisfactorily completed, unless the requirements of the order are superseded by section 2-4610; and

(c) State any reasonable requirements regarding the operation, utilization, and maintenance of the practices to be installed, constructed, or applied.

(4) Upon failure to comply with the order, the owner or, if appropriate, the operator shall be deemed in violation of the Erosion and Sediment Control Act and subject to further actions as provided by such act.

Sec. 24. That section 2-4610, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4610. (1) Any person owning or operating private agricultural, horticultural, or silvicultural lands who has a farm unit conservation plan approved by the district and is implementing and maintaining the plan in

strict compliance with a conservation agreement or any person whose normal agricultural, horticultural, and silvicultural practices are in conformance with the applicable soil-loss limit shall, for purposes of such land, be deemed to be in compliance with the requirements of the Erosion and Sediment Control Act and any approved erosion and sediment control program.

(2) If there is not available to any owner or operator at least ninety percent cost-sharing assistance for the installation of permanent soil and water conservation practices which are required in an approved farm unit conservation plan or are required to conform agricultural, horticultural, and silvicultural practices to the applicable soil-loss limit, any such owner or operator shall not be required to install such practices pursuant to the Erosion and Sediment Control Act until such cost-sharing assistance is made available, except that such owner or operator may agree to a cost-share rate of less than ninety percent. To be enforceable, any agreement providing for cost-sharing assistance at a rate of less than ninety percent shall include notice that the owner or operator may choose not to sign such agreement and that such choice will preserve the right to not less than ninety percent cost-sharing assistance before any permanent soil and water conservation practices can be required by the district. The owner or operator may be required to utilize temporary soil and water conservation practices in the interim to minimize soil erosion and sediment damage.

(3) To prevent excessive erosion and sediment from leaving the land due to any nonagricultural land-disturbing activity, cost-sharing assistance may be available from any district. Such assistance may be used for any erosion or sediment control practice.

Sec. 25. That section 46-629, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-629. The board of directors shall have authority to:

(1) Maintain and equip an office, and employ such persons as may be needed;

(2) Gather information concerning ground water conservation and supply this information as requested to the three state agencies and to the appropriate natural resources district or districts;

(3) Promulgate and administer policies relating to ground water, except that responsibility as relates to land treatment programs shall be limited to making recommendations to the appropriate natural resources districts and their subdistricts, with such land treatment programs to be carried out as authorized in sections 2-3201 to ~~2-3262~~ 2-3257 and sections 16 to 21 of this act;

(4) Contract with any private individual, association, or corporation, or with any state agency, or subdivision thereof, engaged in ground water conservation, for performance of the activities mentioned in subdivisions (2) and (3) of this section;

(5) In cooperation with the extension service, disseminate technical information concerning ground water conservation;

(6) Adopt, administer, and enforce rules and regulations to ensure the proper conservation of ground water within the district as provided in section 46-630; and

(7) Levy a tax as provided in section 46-631.

Sec. 26. That section 46-673.14, Revised Statutes Supplement, 1992, be amended to read as follows:

46-673.14. Prior to ~~July 1, 1993~~ January 1, 1996, each district shall amend its ground water management plan to identify to the extent possible the levels and sources of ground water contamination within the area, ground water quality goals, long-term solutions necessary to prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards, and practices recommended to stabilize, reduce, and prevent the occurrence, increase, or spread of ground water contamination. Notwithstanding the restrictions provided in section 46-673.13, each district may modify its plan to include (1) any agreements between the district and state or federal agencies entered into as part of the review process conducted pursuant to section 46-673.03 and (2) any conditions imposed by the director during such review process. If a special ground water quality protection area has been designated in a district as of September 6, 1991, the district shall not be required to amend its plan for the geographical area encompassed by the special protection area.

Sec. 27. That section 46-674, Revised Statutes Supplement, 1992, be amended to read as follows:

46-674. Sections 46-656 to 46-674.20 and sections 28 and 29 of this act shall be known and may be cited as the Nebraska Ground Water Management and Protection Act.

Sec. 28. (1) Any district which fails to comply with section

46-673.14 shall be ineligible to receive for fiscal year 1996-97 any funds appropriated pursuant to sections 77-27.136 and 77-27.137.02.

(2) Any district which fails to have an approved ground water management plan pursuant to sections 46-673.01 to 46-673.14 by January 1, 1996, shall become eligible to receive funds enumerated in subsection (1) of this section for any subsequent fiscal year if the district has an approved ground water management plan pursuant to sections 46-673.01 to 46-673.14 by the March 1 immediately preceding the start of such fiscal year.

Sec. 29. Each district shall, on or before January 1, 1997, begin implementation of an approved ground water management plan pursuant to sections 46-673.01 to 46-673.14 which specifically addresses ground water quality.

Sec. 30. That section 77-27,137.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,137.02. The Except as provided in section 28 of this act, the appropriation provided for in section 77-27,136 for aid to natural resources districts shall be distributed to the various natural resources districts of the state on the basis of the ratio of the total amount of property taxes levied by the particular natural resources district to the total amount of property taxes levied by all natural resources districts within the state based on amounts stated in the most recent certificate of taxes levied statement and schedules submitted by each county to the Tax Commissioner pursuant to section 77-1613.01. The Tax Commissioner shall determine the amount to be distributed to the various natural resources districts and certify such amounts by voucher to the Director of Administrative Services. Each amount shall be distributed in seven as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning December 1, 1982, and each December thereafter. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, upon receipt of such notification and vouchers, draw warrants against funds appropriated. The proceeds of the payments received by the various natural resources districts shall be credited to the general fund of the district.

Sec. 31. That original sections 2-3202, 2-3204, 2-3212.01, 2-3213, 2-3214, 2-3219, 2-3222, 2-3226, 2-3228, 2-3232, 2-3233, 2-3234, 2-3235, 2-3254, 2-4608, 2-4610, 46-629, and 77-27,137.02, Reissue Revised Statutes of Nebraska, 1943, sections 2-3227, 46-673.14, and 46-674, Revised Statutes Supplement, 1992, and section 2-4603, Revised Statutes Supplement, 1993, and also section 2-3262, Reissue Revised Statutes of Nebraska, 1943, are repealed.