

LEGISLATIVE BILL 966

Approved by the Governor March 13, 1996

Introduced by Agriculture Committee: Dierks, 40, Chairperson; Cudaback, 36; Hudkins, 21; Schellpeper, 18; Schmitt, 41

AN ACT relating to agriculture; to amend sections 81-829.43 and 81-829.45, Reissue Revised Statutes of Nebraska; to eliminate provisions relating to weather modification, the Agricultural Revitalization Authority Act, the Bureau of Dairies, Foods and Drugs, and a duplicate budget report; to harmonize provisions; to repeal the original sections; and to outright repeal sections 2-2401 to 2-2403, 2-2405, 2-2407 to 2-2408.01, 2-2409, 2-4701 to 2-4721, 2-4723 to 2-4748, 81-229, 81-262, and 81-1113.02, Reissue Revised Statutes of Nebraska, section 2-2406, Revised Statutes Supplement, 1994, section 2-2408.02, Revised Statutes Supplement, 1995, and section 2-4722, Reissue Revised Statutes of Nebraska, as amended by section 1014, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996.

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

Section 1. Section 81-829.43, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.43. (1) In addition to disaster prevention measures as included in the state, local, and interjurisdictional disaster plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At his or her direction, and pursuant to any other authority and competence they have, state agencies, including, but not limited to those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, ~~weather modification~~, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards, shall make studies of disaster prevention-related matters. The Governor, from time to time, shall make recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(2) The appropriate state agencies, in conjunction with the state Civil Defense Agency, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by any such occurrence or the consequences thereof.

(3) If the state Civil Defense Agency believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor. If the Governor upon review of the recommendation finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter. If no action or insufficient action pursuant to his or her recommendations is taken within the time specified by the Governor, he or she shall so inform the Legislature and request legislative action appropriate to mitigate the impact of disaster.

(4) The Governor, at the same time that he or she makes recommendations pursuant to subsection (3) of this section, may suspend the standard or control which he or she finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by resolution of the Legislature or amended by the Governor. During the time it is in effect, the standard or control contained in the Governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The Governor's action may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 2. Section 81-829.45, Reissue Revised Statutes of Nebraska, is

amended to read:

81-829.45. The state Civil Defense Agency shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the agency determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits, and thereupon no permits may be issued until the agency informs the officer or agency that the danger has passed.

Sec. 3. Original sections 81-829.43 and 81-829.45, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 4. The following sections are outright repealed: Sections 2-2401 to 2-2403, 2-2405, 2-2407 to 2-2408.01, 2-2409, 2-4701 to 2-4721, 2-4723 to 2-4748, 81-229, 81-262, and 81-1113.02, Reissue Revised Statutes of Nebraska, section 2-2406, Revised Statutes Supplement, 1994, section 2-2408.02, Revised Statutes Supplement, 1995, and section 2-4722, Reissue Revised Statutes of Nebraska, as amended by section 1014, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996.