

LEGISLATIVE BILL 1094

Approved by the Governor April 1, 2008

Introduced by Carlson, 38; Christensen, 44.

FOR AN ACT relating to water management; to amend sections 2-3225, 2-3226.01, 2-3226.05, and 84-612, Revised Statutes Supplement, 2007; to provide for payment to certain water rights holders pursuant to forbearance contracts; to create a fund; to transfer funds and provide for repayment; to change provisions relating to river-flow enhancement bonds; to provide for a collection fee; to harmonize provisions; to provide a duty for the Revisor of Statutes; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 2-3225, Revised Statutes Supplement, 2007, is amended to read:

2-3225 (1)(a) Each district shall have the power and authority to levy a tax of not to exceed four and one-half cents on each one hundred dollars of taxable valuation annually on all of the taxable property within such district unless a higher levy is authorized pursuant to section 77-3444.

(b) Each district shall also have the power and authority to levy a tax equal to the dollar amount by which its restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition to the power and authority granted in subdivisions (1)(a) and (b) of this section, each district located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which its restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2011-12.

(d) In addition to the power and authority granted in subdivisions (a) through (c) of this subsection, a district with jurisdiction that includes a river subject to an interstate compact among three or more states and that also includes one or more irrigation districts within the compact river basin may annually levy a tax not to exceed ten cents per one hundred dollars of taxable valuation of all taxable property in the district. The proceeds of such tax may be used for the payment of principal and interest on bonds and refunding bonds issued pursuant to section 2-3226.01 or for the repayment of financial assistance received by the district pursuant to section 5 of this act. Such levy is not includable in the computation of other limitations upon the district's tax levy.

(2) The proceeds of the tax levies authorized in subdivisions (1)(a) through (c) of this section shall be used, together with any other funds which the district may receive from any source, for the operation of the district. When adopted by the board, the tax levies authorized in subdivisions (1)(a) through (d) of this section shall be certified by the secretary to the county clerk of each county which in whole or in part is included within the district. Such levy shall be handled by the counties in the same manner as other levies, and proceeds shall be remitted to the district treasurer. Such levy shall not be considered a part of the general county levy and shall not be considered in connection with any limitation on levies of such counties.

Sec. 2. Section 2-3226.01, Revised Statutes Supplement, 2007, is amended to read:

2-3226.01 (1) In order to implement its duties and obligations under the Nebraska Ground Water Management and Protection Act and in addition to other powers authorized by law, the board of a district with jurisdiction that includes a river subject to an interstate compact among three or more states

and that also includes one or more irrigation districts within the compact river basin may issue negotiable bonds and refunding bonds of the district and entitled river-flow enhancement bonds, with terms determined appropriate by the board, payable by (a) funds granted to such district by the state or federal government for one or more qualified projects, (b) the occupation tax authorized by section 2-3226.05, or (c) the levy authorized by section 2-3225. The district may issue the bonds or refunding bonds directly, or such bonds may be issued by any joint entity as defined in section 13-803 whose member public agencies consist only of qualified natural resources districts or by any joint public agency as defined in section 13-2503 whose participating public agencies consist only of qualified natural resources districts, in connection with any joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of its member natural resources districts. For the payment of such bonds or refunding bonds, the district may pledge one or more permitted payment sources.

(2) Within forty-five days after receipt of a written request by the Natural Resources Committee of the Legislature, the qualified natural resources districts shall submit a written report to the committee containing an explanation of existing or planned activities for river-flow enhancement, the revenue source for implementing such activities, and a description of the estimated benefit or benefits to the district or districts.

(3) Beginning on April 1, 2008, if a district uses the proceeds of a bond issued pursuant to this section for the purposes described in subdivision (1) of section 2-3226.04 or the state uses funds for those same purposes, ~~such district shall restrict the use of ground water from water wells used on acres certified for both ground water use and surface water use to no greater than the total ground water allocation previously permitted by district rule or regulation less any surface water purchased, leased, or otherwise acquired for implementation of the project entered into by the district.~~ the agreement to acquire water rights by purchase or lease pursuant to such subdivision shall identify (a) the method of payment, (b) the distribution of funds by the party or parties receiving payments, (c) the water use or rights subject to the agreement, and (d) the water use or rights allowed by the agreement. If any irrigation district is party to the agreement, the irrigation district shall allocate funds received under such agreement among its users or members in a reasonable manner, giving consideration to the benefits received and the value of the rights surrendered for the specified contract period.

Sec. 3. Section 2-3226.05, Revised Statutes Supplement, 2007, is amended to read:

2-3226.05 (1) The district may levy an occupation tax upon the activity of irrigation of agricultural lands within such district on an annual basis, not to exceed ten dollars per irrigated acre, the proceeds of which may be used for the purpose of repaying principal and interest on any bonds or refunding bonds issued pursuant to section 2-3226.01 for one or more projects under section 2-3226.04 or for the repayment of financial assistance received by the district pursuant to section 5 of this act.

(2) Acres classified by the county assessor as irrigated shall be subject to such district's occupation tax unless, on or before July 1, 2007, and on or before March 1 in each subsequent year, the record owner certifies to the district the nonirrigation status of such acres.

(3) Any such occupation tax shall remain in effect so long as the district has bonds outstanding which have been issued stating such occupation tax as an available source for payment.

(4) Such occupation taxes shall be certified to, collected by, and accounted for by the county treasurer at the same time and in the same manner as general real estate taxes, and such occupation taxes shall be and remain a perpetual lien against such real estate until paid. Such occupation taxes shall become delinquent at the same time and in the same manner as general real property taxes. The county treasurer shall publish and post a list of delinquent occupation taxes with the list of real property subject to sale for delinquent property taxes provided for in section 77-1804. In addition, the list shall be provided to natural resources districts which levied the delinquent occupation taxes. The list shall include the record owner's name, the parcel identification number, and the amount of delinquent occupation tax. For services rendered in the collection of the occupation tax, the county treasurer shall receive the fee provided for collection of general natural resources district money under section 33-114.

(5) Such lien shall be inferior only to general taxes levied by political subdivisions of the state. When such occupation taxes have become delinquent and the real property on which the irrigation took place has not been offered at any tax sale, the district may proceed in district court in the county in which the real estate is situated to foreclose in its own name

the lien in the same manner and with like effect as a foreclosure of a real estate mortgage, except that sections 77-1903 to 77-1917 shall govern when applicable.

Sec. 4. The Legislature finds that water rights holders who lease and forego water use to assist in the management, protection, and conservation of the water resources of river basins must be paid. It is the intent of the Legislature to provide payment to such water rights holders through the financial assistance provided in section 5 of this act. The Legislature further finds that the financial assistance provided by the state under such section shall be repaid through the authority granted under Laws 2007, LB 701, or such other means as are provided by the Legislature.

Sec. 5. (1) The Water Contingency Cash Fund is created. The department shall administer the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) No later than five days after the effective date of this act, a natural resources district with jurisdiction that includes a river subject to an interstate compact among three or more states and that also includes one or more irrigation districts within the compact river basin, and such natural resources district, using authority granted under Laws 2007, LB 701, enters or has entered into agreements, shall submit a request in writing to the department certifying the amount of financial assistance necessary to meet its obligations under section 2-3226.04 by or through obligations of joint entities or joint public agencies formed for the purposes described in section 2-3226.01. Within fifteen days after the effective date of this act, if such a request has been received by the department, the department shall expend from the Water Contingency Cash Fund the amount requested to provide financial assistance to the submitting natural resources district. The natural resources district shall use the financial assistance provided by the state from the Water Contingency Cash Fund to compensate water rights holders who agree or have agreed to lease and forego the use of water. Any financial assistance provided under this section not used for such purpose by the natural resources district within sixty days after it is received by such district shall be returned to the department for credit to the Water Contingency Cash Fund.

Sec. 6. (1) Any district receiving financial assistance pursuant to section 5 of this act shall remit to the department the proceeds of the property tax authorized pursuant to subdivision (1)(d) of section 2-3225, the proceeds of the occupation tax authorized pursuant to section 2-3226.05, or both, when such proceeds are available for distribution until the amount of such financial assistance has been repaid. Such proceeds shall be remitted within fifteen days after receipt of the proceeds by the district.

(2) If the district does not receive proceeds described in subsection (1) of this section, the district shall reimburse the Water Contingency Cash Fund by such means as are provided by the Legislature. Such reimbursement shall be made no later than June 30, 2013.

Sec. 7. The department shall remit reimbursements received pursuant to section 6 of this act to the State Treasurer for credit to the Water Contingency Cash Fund. The department shall calculate the amount of such reimbursements so remitted. After the initial disbursement of financial assistance by the department as authorized in section 5 of this act, the State Treasurer shall, at the end of each calendar month, transfer the balance of the Water Contingency Cash Fund to the Cash Reserve Fund.

Sec. 8. Section 84-612, Revised Statutes Supplement, 2007, is amended to read:

84-612 (1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(3) The State Treasurer, at the direction of the budget administrator of the budget division of the Department of Administrative Services, shall transfer such amounts not to exceed seven million seven hundred fifty-three thousand two hundred sixty-three dollars in total from the Cash Reserve Fund to the Nebraska Capital Construction Fund between July 1, 2003, and June 30, 2007.

(4) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred

pursuant to subsection (3) of this section from the General Fund to the Cash Reserve Fund on or before June 30, 2008.

(5) In addition to receiving transfers from other funds, the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes, federal revenue sharing, or general fiscal relief of the state.

(6) On June 15, 2007, the State Treasurer shall transfer fifteen million six hundred seventy-four thousand one hundred seven dollars from the Cash Reserve Fund to the General Fund.

(7) On June 16, 2008, the State Treasurer shall transfer seventeen million nine hundred thirty-one thousand thirty dollars from the Cash Reserve Fund to the General Fund.

(8) On June 15, 2009, the State Treasurer shall transfer four million nine hundred ninety thousand five hundred five dollars from the Cash Reserve Fund to the General Fund.

(9) On or before June 16, 2008, the State Treasurer, at the direction of the budget administrator, shall transfer fifty million dollars from the Cash Reserve Fund to the General Fund.

(10) On or before June 16, 2009, the State Treasurer, at the direction of the budget administrator, shall transfer fifty million dollars from the Cash Reserve Fund to the General Fund.

(11) From the effective date of an endowment agreement as defined in subdivision (3)(c) of section 79-1101 until June 30, 2007, forty million dollars of the Cash Reserve Fund shall be deemed to constitute the Early Childhood Education Endowment Fund. Such funds shall remain part of the Cash Reserve Fund for all purposes, except that the interest earned on such forty million dollars shall accrue as provided in section 84-613.

(12) The State Treasurer, at the direction of the budget administrator, shall transfer such amounts, as certified by the Director of Administrative Services, for employee health insurance claims and expenses, not to exceed twelve million dollars in total from the Cash Reserve Fund to the State Employees Insurance Fund between May 1, 2007, and June 30, 2011.

(13) On July 9, 2007, the State Treasurer shall transfer twelve million dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund.

(14) On July 9, 2007, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section 81-1201.21.

(15) On July 7, 2008, the State Treasurer shall transfer five million dollars from the Cash Reserve Fund to the Job Training Cash Fund. The State Treasurer shall transfer from the Job Training Cash Fund to the Cash Reserve Fund such amounts as directed in section 81-1201.21.

(16) On or before August 1, 2007, the State Treasurer, at the direction of the budget administrator, shall transfer seventy-five million dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund.

(17) On or before June 30, 2009, the State Treasurer shall transfer nine million five hundred ninety thousand dollars from the Cash Reserve Fund to the Nebraska Capital Construction Fund.

(18) The State Treasurer, at the direction of the budget administrator, shall transfer an amount equal to the total amount transferred pursuant to subsection (12) of this section from the appropriate health insurance accounts of the State Employees Insurance Fund in such amounts as certified by the Director of Administrative Services to the Cash Reserve Fund on or before June 30, 2011.

(19) On July 9, 2007, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Microenterprise Development Cash Fund.

(20) On July 9, 2007, the State Treasurer shall transfer two hundred fifty thousand dollars from the Cash Reserve Fund to the Building Entrepreneurial Communities Cash Fund.

(21) On July 7, 2008, the State Treasurer shall transfer one million dollars from the Cash Reserve Fund to the Microenterprise Development Cash Fund.

(22) On July 7, 2008, the State Treasurer shall transfer two hundred fifty thousand dollars from the Cash Reserve Fund to the Building Entrepreneurial Communities Cash Fund.

(23) Within seven days after the effective date of this act, the State Treasurer shall transfer nine million dollars from the Cash Reserve Fund to the Water Contingency Cash Fund.

Sec. 9. The Revisor of Statutes shall assign sections 5, 6, and 7 of this act within Chapter 2, article 32.

Sec. 10. Original sections 2-3225, 2-3226.01, 2-3226.05, and 84-612, Revised Statutes Supplement, 2007, are repealed.

Sec. 11. Since an emergency exists, this act takes effect when passed and approved according to law.