

E AND R AMENDMENTS TO LB 632

Introduced by Slama, 1, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 2-1504, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 2-1504 (1) The Nebraska Natural Resources Commission is established.
6 The commission shall advise the department as requested by the director
7 and shall perform such other functions as are specifically conferred on
8 the commission by law. The commission shall have no jurisdiction over
9 matters pertaining to water rights.

10 (2) Each member of the commission shall be a resident of the State
11 of Nebraska and shall have attained the age of majority. The voting
12 members of the commission, ~~all of whom shall have attained the age of~~
13 ~~majority,~~ shall be:

14 (a) One resident of each of the following river basins, with
15 delineations being those on the Nebraska river basin map officially
16 adopted by the commission and on file with the department: (i) The
17 Niobrara River, White River, and Hat Creek basin, (ii) the North Platte
18 River basin, (iii) the South Platte River basin, (iv) the middle Platte
19 River basin, (v) the lower Platte River basin, (vi) the Loup River basin,
20 (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin,
21 (ix) the Republican River basin, (x) the Little Blue River basin, (xi)
22 the Big Blue River basin, and (xii) the Nemaha River basin;

23 (b) One additional resident of each river basin which encompasses
24 one or more cities of the metropolitan class; and

25 (c) Fourteen members appointed by the Governor, subject to
26 confirmation by the Legislature. Of the members appointed by the
27 Governor, one shall represent each of the following categories:

1 Agribusiness interests; agricultural interests; ground water irrigators;
2 irrigation districts; manufacturing interests; metropolitan utilities
3 districts; municipal users of water from a city of the primary class;
4 municipal users of water from a city of the first or second class or a
5 village; outdoor recreation users; public power districts; public power
6 and irrigation districts; range livestock owners; surface water
7 irrigators; and wildlife conservation interests.

8 (3) Members of the commission described in subdivision (2)(a) of
9 this section shall be selected for four-year terms at individual caucuses
10 of the natural resources district directors residing in the river basin
11 from which the member is selected. Such caucuses shall be held for each
12 basin within ten days following the first Thursday after the first
13 Tuesday of the year the term of office of the member from that basin
14 expires. The dates and locations for such caucuses shall be established
15 by the commission, and the commission shall provide notice to the public
16 by issuing press releases for publication in a newspaper of general
17 circulation in each county that comprises the river basin for which a
18 caucus election will be held. Terms of office of such members shall
19 follow the sequence originally determined by the river basin
20 representatives to the commission at their first meeting on the third
21 Thursday after the first Tuesday in January 1975. All river basin members
22 shall take office on the third Thursday after the first Tuesday in
23 January following their selection and any vacancy shall be filled for the
24 unexpired term by a caucus held within thirty days following the date
25 such vacancy is created. Each member of the commission representing a
26 river basin shall qualify by filing with the other members of the
27 commission an acceptance in writing of his or her selection.

28 (4) Members of the commission described in subdivision (2)(b) of
29 this section shall be residents of natural resources districts which
30 encompass one or more cities of the metropolitan class and shall be
31 selected in the same manner, at the same time, and for a four-year term

1 having the same term sequence as provided for the other members from such
2 basin under subsection (3) of this section.

3 (5) For members of the commission described in subdivision (2)(c) of
4 this section:

5 (a) The Governor shall appoint the eleven additional members added
6 by Laws 2014, LB1098, within thirty days after April 17, 2014. The eleven
7 additional appointments shall be for staggered four-year terms, as
8 determined by the Governor. The Governor shall also set the terms of the
9 current members of the commission appointed under such subdivision and
10 serving on April 17, 2014, to staggered four-year terms. Future
11 appointments shall be for four-year terms. Members whose terms have
12 expired shall continue to serve until their successors have been
13 appointed. In the case of a vacancy, the Governor shall appoint a
14 successor for the unexpired term. Members may be removed for cause.
15 Initial appointees shall begin serving immediately following notice of
16 appointment, except that the member appointed representing municipal
17 users of water from the class of city or a village that is being
18 represented by the current member representing municipal users of water
19 and the members representing surface water irrigators and ground water
20 irrigators shall not begin serving until the term of the current member
21 representative of the category expires or such member resigns or is
22 otherwise removed; and

23 (b) In appointing such members, the Governor shall:

24 (i) Create a broad-based commission which has knowledge of, has
25 experience with, and is representative of Nebraska's water use and
26 economy;

27 (ii) Give recognition to the importance of both water quantity and
28 water quality; and

29 (iii) Appoint members who represent diverse geographic regions of
30 the state, including urban and rural areas, and represent, to the extent
31 possible, the racial and ethnic diversity of the state.

1 (6) After the members have been appointed as required under this
2 section, the commission shall revise or adopt and promulgate rules and
3 regulations as necessary to administer the Water Sustainability Fund
4 pursuant to sections 2-1506 to 2-1513.

5 Sec. 2. Section 13-2001, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 13-2001 Sections 13-2001 to 13-2043 and section 4 of this act shall
8 be known and may be cited as the Integrated Solid Waste Management Act.

9 Sec. 3. Section 13-2003, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 13-2003 For purposes of the Integrated Solid Waste Management Act,
12 the definitions found in sections 13-2004 to 13-2016.01 and section 4 of
13 this act shall be used.

14 Sec. 4. Container means a bag, cup, can, pouch, package, container,
15 bottle, or other packaging that is (1) designed to be reusable,
16 recyclable, or single-use, (2) made of cloth, paper, plastic, including
17 foamed or expanded plastic, cardboard, corrugated material, aluminum,
18 glass, or postconsumer recycled or similar material or substrates,
19 including coated, laminated, or multilayer substrates, and (3) designed
20 for consuming, protecting, or transporting merchandise, food, or
21 beverages from or at a food service or retail facility.

22 Sec. 5. Section 13-2017, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 13-2017 It is the policy of this state:

25 (1) To encourage the development of integrated solid waste
26 management programs, including waste volume reduction and recycling
27 programs and education, at the local governmental level through
28 incentives, technical assistance, grants, and other practical measures;

29 (2) To support and encourage the development of new uses and markets
30 for recycled goods, placing emphasis on the development in Nebraska of
31 businesses relating to waste reduction and recycling;

1 (3) To provide education concerning the components of integrated
2 solid waste management, at the elementary level through the high school
3 level and through community organizations, to enhance the success of
4 local programs requiring public involvement;~~and~~

5 (4) To support and encourage manufacturing methods which are
6 environmentally sustainable, technologically safe, and ecologically sound
7 and which enhance waste reduction by creating products which have longer
8 usage life and which are adaptable to secondary uses through processes
9 such as pyrolysis or biomass, require less input material, and decrease
10 resource consumption; and -

11 (5) To encourage uniform regulation of containers in order to avoid
12 the burden on retailers of having to comply with varying regulatory
13 policies in multiple jurisdictions.

14 Sec. 6. Section 13-2023, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 13-2023 (1) A county, municipality, or agency may, by ordinance or
17 resolution, adopt regulations governing collection, source separation,
18 storage, transportation, transfer, processing, treatment, and disposal of
19 solid waste within its solid waste jurisdiction area as necessary to
20 protect the public health and welfare and the environment. Regulations
21 authorized by this section shall be equal to or more stringent than the
22 provisions of the Integrated Solid Waste Management Act and rules and
23 regulations adopted and promulgated by the council as authorized by the
24 act. Any person who violates any such regulation shall be subject to a
25 noncompliance fee not to exceed five hundred dollars.

26 (2) A county, municipality, or agency shall not adopt, enforce, or
27 otherwise administer an ordinance or resolution that prohibits the use of
28 or that sets standards, fees, prohibitions, or requirements regarding the
29 sale, use, or marketing of containers. This subsection shall not apply to
30 county, municipality, or agency recycling or solid waste collection
31 programs, except that in no event shall such programs prohibit or have

1 the effect of prohibiting the sale, use, or marketing of any containers.

2 Sec. 7. Section 70-1605, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 70-1605 No public or private utility company, other than a municipal
5 utility owned and operated by a village, furnishing water, natural gas,
6 or electricity at retail in this state shall discontinue service to any
7 domestic subscriber for nonpayment of any past-due account unless the
8 utility company first gives notice to any subscriber whose service is
9 proposed to be terminated. Such notice shall be given in person, by
10 first-class mail, or by electronic delivery, except that electronic
11 delivery shall only be used if the subscriber has specifically elected to
12 receive such notices by electronic delivery. If notice is given by first-
13 class mail or electronic delivery, such notice shall be conspicuously
14 marked as to its importance. Service shall not be discontinued for at
15 least seven days after notice is sent or given. Holidays and weekends
16 shall be excluded from the seven days. A public or private utility
17 company shall not charge a fee for the discontinuance or reconnection of
18 utility service that exceeds the reasonable costs of providing such
19 service.

20 Sec. 8. Section 70-1606, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 70-1606 (1) The notice required by section 70-1605 shall contain
23 the following information:

24 (a) (1) The reason for the proposed disconnection;

25 (b) (2) A statement of intention to disconnect unless the domestic
26 subscriber either pays the bill or reaches an agreement with the utility
27 regarding payment of the bill;

28 (c) (3) The date upon which service will be disconnected if the
29 domestic subscriber does not take appropriate action;

30 (d) (4) The name, address, and telephone number of the utility's
31 employee or department to whom the domestic subscriber may address any

1 inquiry or complaint;

2 (e) (5) The domestic subscriber's right, prior to the disconnection
3 date, to request a conference regarding any dispute over such proposed
4 disconnection;

5 (f) (6) A statement that the utility may not disconnect service
6 pending the conclusion of the conference;

7 (g) (7) A statement to the effect that disconnection shall ~~may~~ be
8 postponed or prevented upon presentation of a duly licensed physician's,
9 physician assistant's, or advanced practice registered nurse's
10 certificate, which shall certify that a domestic subscriber or resident
11 within such subscriber's household has an existing illness or handicap
12 which would cause such subscriber or resident to suffer an immediate and
13 serious health hazard by the disconnection of the utility's service to
14 that household. Such certificate shall be filed with the utility within
15 five days of receiving notice under this section, excluding holidays and
16 weekends, and will prevent the disconnection of the utility's service for
17 a period of at least thirty days from such filing. Only one postponement
18 of disconnection shall be required ~~allowed~~ under this subdivision for
19 each incidence of nonpayment of any past-due account;

20 (h) (8) The cost that will be borne by the domestic subscriber for
21 restoration of service;

22 (i) (9) A statement that the domestic subscriber may arrange with
23 the utility for an installment payment plan;

24 (j) (10) A statement to the effect that those domestic subscribers
25 who are welfare recipients may qualify for assistance in payment of their
26 utility bill and that they should contact their caseworker in that
27 regard; and

28 (k) (11) Any additional information not inconsistent with this
29 section which has received prior approval from the board of directors or
30 administrative board of any utility.

31 (2) A public or private utility company, other than a municipal

1 utility owned and operated by a village, shall make the service
2 termination information required under subdivisions (d), (e), (f), (g),
3 (i), (j), and (k) of subsection (1) of this section readily accessible to
4 the public on the web site of the utility company and available by mail
5 upon request.

6 Sec. 9. The Legislature finds and declares that the State of
7 Nebraska experienced a historic flood event in 2019. This flood event
8 significantly impacted numerous communities and individual Nebraskans.
9 Coordination and communication between state and local entities
10 implementing flood mitigation strategies is essential to maximize federal
11 funds for flood mitigation efforts.

12 Sec. 10. The Department of Natural Resources shall develop a state
13 flood mitigation plan as a stand-alone document to be annexed into the
14 state hazard mitigation plan maintained by the Nebraska Emergency
15 Management Agency. Such plan shall be structured in accordance with
16 Federal Emergency Management Agency guidelines, and shall be
17 comprehensive, collaborative, and statewide in scope with opportunities
18 for input from diverse stakeholders.

19 Sec. 11. The Department of Natural Resources shall convene a plan
20 development group which shall be housed and staffed for administrative
21 purposes within such department. The Department of Natural Resources
22 shall engage with federal, state, and local agency and community
23 stakeholders in the development of the state flood mitigation plan,
24 including, but not limited to, the Department of Transportation, the
25 Department of Environment and Energy, the Department of Economic
26 Development, the Department of Agriculture, the Nebraska Emergency
27 Management Agency, natural resources districts, the United States
28 Department of Agriculture, the United States Army Corps of Engineers, the
29 United States Geological Survey, the Federal Emergency Management Agency,
30 the University of Nebraska, representatives of counties, municipalities,
31 and other political subdivisions, and the Natural Resources Committee of

1 the Legislature. The Department of Natural Resources may engage other
2 sources to provide technical expertise as needed.

3 Sec. 12. The Department of Natural Resources shall:

4 (1) Evaluate the flood issues that occurred in 2019, and identify
5 cost-effective flood mitigation strategies that should be adopted to
6 reduce the disruption of lives and livelihoods and prioritize making
7 Nebraska communities more resilient;

8 (2) Identify opportunities to implement flood hazard mitigation
9 strategies with the intent to reduce the impact of flood events;

10 (3) Work to improve knowledge and understanding of available
11 recovery resources while identifying potential gaps in current disaster
12 program delivery;

13 (4) Identify potential available funding sources that can be
14 accessed to improve the resilience of the state through flood mitigation
15 and post-flood disaster recovery. The funding sources shall include, but
16 not be limited to, assistance from (a) the Federal Emergency Management
17 Agency's Flood Mitigation Assistance Grant Program, Building Resilient
18 Infrastructure and Communities Grant Program, Hazard Mitigation Grant
19 Program, Public Assistance Program, and Individual Assistance Program,
20 (b) the United States Department of Housing and Urban Development's
21 Community Development Block Grant Program and Community Development Block
22 Grant Disaster Recovery Program, and (c) programs of the United States
23 Department of Agriculture's Natural Resources Conservation Service.
24 Identification of such funding sources shall be in addition to grants and
25 cost-sharing programs available through other agencies that support flood
26 hazard mitigation planning in communities;

27 (5) Compile a centralized list of critical infrastructure and state-
28 owned facilities and identify those with the highest risk of flooding. In
29 compiling such list, the Department of Natural Resources shall consult
30 and collaborate with other state and local agencies that have information
31 that identifies vulnerable facilities;

1 (6) Evaluate state laws, rules, regulations, policies, and programs
2 related to flood hazard mitigation and development in flood hazard-prone
3 areas to support the state's administration of the Federal Emergency
4 Management Agency's National Flood Insurance Program, Community Rating
5 System, and Risk Mapping, Assessment, and Planning Program;

6 (7) Examine existing law and, if necessary, recommend statutory or
7 administrative changes to help ensure collaboration and coordination
8 between state and local entities in statewide flood mitigation planning;
9 and

10 (8) Hold two public hearings, one prior to the first state flood
11 mitigation plan development meeting and one prior to the completion of
12 such plan. Notice of each hearing shall be published at least thirty days
13 prior to the hearing date.

14 Sec. 13. The state flood mitigation plan shall be completed and
15 reported to the Governor and electronically to the Legislature on or
16 before December 31, 2021.

17 Sec. 14. Original sections 13-2001, 13-2003, 13-2017, 13-2023,
18 70-1605, and 70-1606, Reissue Revised Statutes of Nebraska, and section
19 2-1504, Revised Statutes Cumulative Supplement, 2018, are repealed.

20 2. On page 1, strike beginning with "regulation" in line 1 through
21 line 4 and insert "environment and energy; to amend sections 13-2001,
22 13-2003, 13-2017, 13-2023, 70-1605, and 70-1606, Reissue Revised Statutes
23 of Nebraska, and section 2-1504, Revised Statutes Cumulative Supplement,
24 2018; to change provisions relating to Nebraska Natural Resources
25 Commission membership and the Integrated Solid Waste Management Act; to
26 define a term; to restate policy; to prohibit regulation of containers as
27 prescribed; to change provisions relating to utility discontinuance and
28 reconnection; to require the Department of Natural Resources to develop a
29 state flood mitigation plan; to harmonize provisions; and to repeal the
30 original sections."