

LEGISLATIVE BILL 206

Approved by the Governor April 7, 1973

Introduced by Kennedy, 21; Hasebroock, 18

AN ACT to amend sections 2-1572, 2-3217, 2-3227, 2-3252, and 2-3253, Reissue Revised Statutes of Nebraska, 1943, and sections 2-3254 and 33-114, Revised Statutes Supplement, 1972, relating to natural resources; to redefine terms; to provide for bonding of treasurers of natural resources districts; to provide for investments; to provide procedure for project improvement areas for natural resources districts; to provide for collection of fees and assessments for natural resources districts; and to repeal the original sections.

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

Section 1. That section 2-1572, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1572. As used in sections 2-1571 to 2-1574, unless the context otherwise requires:

(1) Commission shall mean the Nebraska Soil--and Water-Conservation Natural Resources Commission;

(2) Drainway shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; Provided, that in the event of doubt as to whether a depression is a watercourse or drainway, it shall be presumed to be a watercourse;

(3) Floodway shall mean the channel of a watercourse or drainway and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainway;

(4) Local funds shall mean those funds provided by a political subdivision of government, or private owners, or combination thereof;

(5) Natural obstruction shall mean any rock, tree, soil, gravel, or similar natural matter that is an

obstruction and has been located within the floodway by a nonhuman cause;

(6) Political subdivision shall mean any county, or any incorporated city or village, or any natural resources district; and

(7) Watercourse shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water at least nine months of the year, having a bed and well-defined banks; Provided, that it shall, upon order of the commission, also include any particular depression which would not otherwise be within the definition of watercourse.

Sec. 2. That section 2-3217, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3217. The board shall elect the officers of the district, including a chairman, vice-chairman, secretary, and treasurer. The offices of secretary and treasurer may be held by one person, and such person need not be a member of the board. The officers and employees of the district authorized to handle funds shall furnish and maintain a corporate surety bond in an amount sufficient to cover not less than fifty thousand dollars, nor more than the amount of all money coming into their possession or control, to be determined by the governing board. Such bond shall be in a form and with sureties approved by the board of directors, and after approval shall be filed with the Secretary of State. The premium on such bond shall be paid by the district.

Sec. 3. That section 2-3227, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3227. Each district ~~shall have the power and authority to~~ 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, or bond, or other indebtedness or for any other purpose, not required for the immediate needs of the district, 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, in loan associations in the State of Nebraska to the extent that deposits therein are insured by the Federal Savings and Loan Insurance Corporation, in its own bonds, or in

treasury notes or bonds of the United States, or 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. Such investment investments in bonds or treasury notes may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same, or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or treasury notes as provided in this section. Sales of any bonds or treasury notes 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 were originally purchased was placed in the 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. 4. That section 2-3252, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3252. Each district shall have the power and authority to establish improvement project areas within the district for the purpose of carrying out projects otherwise authorized by this act for the benefit of landowners within such improvement areas. Such projects project areas may be initiated established and the projects authorized after a hearing by the board, upon its own motion or by petitions, in the manner provided for by sections 2-3253 to 2-3255. The cost of any construction, or capital improvements, or operation and maintenance involved in such projects shall be assessed against the land within the improvement project area on the basis of benefits received recovered by the board by special assessment as provided in sections 2-3252 to 2-3254, instead of by general tax funds levied pursuant to section 2-3225, and any other costs related to such project may also be recovered by similar assessments. The board may shall determine the amount of such special assessments and the period of time over which such special assessments may shall be paid. Where the special such projects result in the provision of continuing services, such as the supply of revenue-producing water for any beneficial use, the persons receiving such special services shall be assessed for the cost of the service received in the manner provided in subsection (2) of section 2-3254. The reimbursable cost of all other projects authorized in accordance with this section and

as determined by the board of directors shall be assessed against the land within the improvement project area on the basis of benefits received in the manner provided in subsection (3) of section 2-3254. When a special purpose district is merged with a natural resources district as provided by sections 2-3207 to 2-3212, the board may, without complying with the procedures outlined in sections 2-3252 to 2-3254, establish an improvement project area to carry out the functions of such special purpose district and may adopt as its own any fee or assessment schedule or schedules previously adopted pursuant to law by such special purpose district and in force and effect at the time of such merger. Any fees or assessments which are due or which become due under such adopted schedule or schedules shall be collected by the district in the manner provided by section 2-3254. The board shall determine special assessments in such a manner that the district recovers the reimbursable cost of all such special projects. Projects of a general benefit to a district may be developed and executed without the establishment of a project improvement area.

Sec. 5. That section 2-3253, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3253. (1) A hearing on a proposed improvement project area and the proposed project may be initiated by petition of landowners. All petitions filed with the board of the natural resources district must contain:

- (a) A statement of the problem involved;
- (b) A presentation of the project proposed;
- (c) A description of the area to be affected by the project, and as defined by the Nebraska Soil and Water Conservation Commission; and
- (d) A request for a hearing.

(2) If there are twenty or less landowners in this defined area, then the signatures of at least one-fourth must be on the petition. If there are more than twenty, then the signature of ten landowners shall be sufficient. Any petition regarding a project which would provide a revenue-producing continuing service shall contain so many signatures of landowners as shall in the board's discretion indicate enough interest to generate sufficient revenue to recover any reimbursable costs should a project be authorized.

Sec. 6. That section 2-3254, Revised Statutes Supplement, 1972, be amended to read as follows:

2-3254. (1) Within--thirty--days--after--such--a petition--has--been--filed--with--the--natural--resources district,--the The board shall cause--due--notice--to--be given--of 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 the state water plan and to the purposes and requirements of this act sections 2-3201 to 2-3262, 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, apportion 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 this act 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, specifications, proposed operating budgets, schedules of unit fees and benefit units, rules and regulations and estimates of cost for the project shall be filed with the secretary of the district and the Director of Water Resources, and the Department of Health if such project involves the supply of water for domestic use. 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. 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 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.

(2) The board of directors having first, with the aid of such engineer, surveyor and other assistants as it may have chosen, made detailed plans of the public work to be done; (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 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.

(3) (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 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 copy of the apportionment so far as the lands or lots are concerned, and a statement of the total number of units of benefit in the district; notice that the report required in this subsection has been filed and notice shall also be sent to parties 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 per cent of the estimated total assessments shall file with the board within thirty days of the final publication of the apportionment such notice written objections to the project proposed, said such project and work in

connection therewith shall be suspended, and--said such project shall not be done in said 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 chairman 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. 7. That section 33-114, Revised Statutes Supplement, 1972, be amended to read as follows:

33-114. Each county treasurer shall receive for and on behalf of the county for services rendered to other governmental subdivisions and agencies, where fees for services rendered by him are not otherwise specifically provided, the following fees: (1) On all money collected by him for each fiscal year, not over six thousand dollars, ten per cent; for all sums over six thousand dollars and not over ten thousand dollars, four per cent; on all sums over ten thousand dollars, two per cent; (2) for the collection of all sums of money, general or bonded, of drainage, irrigation, watershed, or watershed-conservancy or natural resources districts, one half-of-one per cent of such sums so collected; and (3)



for the collection of all sums of money for municipal taxes, general or special, including money for bond sinking fund, bond interest fund or special assessments for municipal improvements and school money, one per cent of the sums so collected. On all sums collected, such percentage shall be allowed but once. In computing the amount collected for the purpose of charging percentage, all sums from whatever fund derived shall be included together, except the school fund. The treasurer shall be paid in the same proportion from the respective funds of the state collected by him whether the same be in money or state warrants.

Sec. 8. That original sections 2-1572, 2-3217, 2-3227, 2-3252, and 2-3253, Reissue Revised Statutes of Nebraska, 1943, and sections 2-3254 and 33-114, Revised Statutes Supplement, 1972, are repealed.