

LEGISLATIVE BILL 36

Approved by the Governor March 2, 1983

Introduced by Wagner, 41

AN ACT to amend sections 2-1507, 2-3204, and 2-3228, Reissue Revised Statutes of Nebraska, 1943, and section 2-1504, Revised Statutes Supplement, 1982, relating to natural resources; to modify election procedures and duties of the Natural Resources Commission; to modify powers of natural resources districts; to eliminate obsolete language; and to repeal the original sections, and also sections 2-1507.01, 2-1507.02, 2-1529, and 2-1571 to 2-1574, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 2-1504, Revised Statutes Supplement, 1982, be amended to read as follows:

2-1504. (1) There is hereby established, to serve as the official agency of the state in connection with soil and water conservation, flood prevention, watershed protection, and flood control and to perform the functions conferred upon it in sections 2-1502 to 2-1574 and as otherwise provided by law, the Nebraska Natural Resources Commission.

(2) The Nebraska Natural Resources Commission shall consist of the following members:

(a) One natural resources district director or former district director from each of the following river basins, with delineations being those on the Nebraska river basin map officially adopted by the commission and on file in the commission office: (i) The Niobrara River, White River, and Hat Creek basin, (ii) the North Platte River basin, (iii) the South Platte River basin, (iv) the middle Platte River basin, (v) the lower Platte River basin, (vi) the Loup River basin, (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin, (ix) the Republican River basin, (x) the Little Blue River basin, (xi) the Big Blue River basin, and (xii) the Nemaha River basin;

(b) ~~One~~ One additional member from each river basin which encompasses one or more cities of the metropolitan class. Each ~~7~~ and each such additional basin

member shall be a director or former director of a natural resources district which encompasses one or more cities of the metropolitan class, and shall be selected in the same manner, at the same time, and for a four-year term having the same term sequence, as provided for the other member from such basin; and

(c) ~~Three~~ three members to be appointed by the Governor, subject to confirmation by the Legislature, who shall serve at the pleasure of the Governor. Of the members appointed by the Governor, one shall represent municipal users of water, one shall represent surface water irrigators, and one shall represent ground water irrigators.

Successors to the members of the commission representing river basins shall be selected for four-year terms at individual caucuses of the natural resources district directors residing in the river basin from which the member is selected. Such caucuses shall be held for by each basin within ten days following on the first second Thursday after the first Tuesday of the year the term of office of the commission member from that basin expires. The dates and locations for such caucuses shall be established by the commission. Terms of office shall follow the sequence originally determined by the river basin representatives to the commission at their first meeting on the third Thursday after the first Tuesday in January, 1975. ~~Appointive members shall serve at the pleasure of the Governor.~~ All river basin members shall take office on the third Thursday after the first Tuesday in January following their selection. Any and any vacancy on the commission shall be filled for the unexpired term in the same manner as successors are named or, in the case of any river basin representative, by a caucus held on the second Thursday after the first Tuesday of the month following the month in which within thirty days following the date such vacancy is created. Each member of the commission representing a river basin shall qualify by filing with the other members of the commission an acceptance in writing of his or her selection.

Sec. 2. That section 2-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:
2-1507. In addition to the duties and powers otherwise conferred by law upon the Nebraska Natural Resources Commission, it shall have the following duties and powers: (1) To offer such assistance as may be appropriate to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs; (2) to keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions, and to facilitate an interchange of advice and experience between such

subdivisions, and cooperation between them; (3) to coordinate the programs of such subdivisions so far as this may be done by advice and consultation; (4) to secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such subdivisions; (5) to disseminate information throughout the state concerning the activities and programs of such subdivisions; (6) to plan, develop, and encourage the implementing of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations; (7) when necessary for the proper administration of the functions of the department, to rent or lease space outside the State Capitol; and (8) to assist such local governmental organizations as villages, towns, cities, counties, and natural resources districts, in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains. (9) to hold hearings on all watershed or flood control programs as developed by responsible subdivisions of government; (10) to acquire in the name of the State of Nebraska such lands, rights-of-way and easements as it may determine are necessary to accomplish rechanneling measures authorized by section 2-1507-01 and which it finds are required by public health, safety, and welfare, by condemnation, if necessary, according to the procedure set forth in sections 76-704 to 76-724; and (11) to contract with persons, firms, or corporations for assistance in planning, preparation of studies and right-of-way acquisition. Such hearings shall be held within sixty days from the date such programs are received by the commission. At such hearings, the commission shall review such programs and make such recommendations as to encourage the comprehensive resource development needs of the area and to assist in the development of a plan that is desirable, practicable, feasible and necessary in the interest of health, safety and public welfare.

Sec. 3. That section 2-3204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3204. (1) The commission shall establish appropriate rules and regulations for all commission hearings and other procedures authorized by this act. All such hearings and procedures shall be subject to the provisions of Chapter 84, article 9.

(2) Appeals from commission determinations and orders entered pursuant to this act shall be taken to the district court of the county in which the appealing party resides. Such appeals shall be initiated by filing a petition within sixty days after the final order by the commission. The court, in its discretion, may permit other interested persons to intervene. The review shall

be conducted as a de novo proceeding by the court without a jury. The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the commission decision is:

- (a) In violation of constitutional provisions;
- (b) In excess of the statutory authority or jurisdiction of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or
- (f) Arbitrary or capricious.

Sec. 4. 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; use grants, state appropriations, gifts, and bequests for the purposes of this act ;

(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 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 per cent 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, workmen's 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 the provisions of

this act;

(6) Adopt rules and regulations to carry out the purposes of this act; 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. 5. That original sections 2-1507, 2-3204, and 2-3228, Reissue Revised Statutes of Nebraska, 1943, and section 2-1504, Revised Statutes Supplement, 1982, and also sections 2-1507.01, 2-1507.02, 2-1529, and 2-1571 to 2-1574, Reissue Revised Statutes of Nebraska, 1943, are repealed.