

AMENDMENTS TO LB 801

Introduced by Louden, 49.

1 1. Insert the following new sections:

2 Section 1. Section 46-701, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 46-701 Sections 46-701 to 46-754 and sections 3 to 5 of
5 this act shall be known and may be cited as the Nebraska Ground
6 Water Management and Protection Act.

7 Sec. 2. Section 46-706, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 46-706 For purposes of the Municipal and Rural Domestic
10 Ground Water Transfers Permit Act, the Nebraska Ground Water
11 Management and Protection Act, and sections 46-601 to 46-613.02,
12 46-636, 46-637, and 46-651 to 46-655, unless the context otherwise
13 requires:

14 (1) Person means a natural person, a partnership,
15 a limited liability company, an association, a corporation, a
16 municipality, an irrigation district, an agency or a political
17 subdivision of the state, or a department, an agency, or a bureau
18 of the United States;

19 (2) Ground water means that water which occurs in or
20 moves, seeps, filters, or percolates through ground under the
21 surface of the land;

22 (3) Contamination or contamination of ground water means
23 nitrate nitrogen or other material which enters the ground water

1 due to action of any person and causes degradation of the quality
2 of ground water sufficient to make such ground water unsuitable for
3 present or reasonably foreseeable beneficial uses;

4 (4) District means a natural resources district operating
5 pursuant to Chapter 2, article 32;

6 (5) Illegal water well means (a) any water well operated
7 or constructed without or in violation of a permit required by
8 the Nebraska Ground Water Management and Protection Act, (b) any
9 water well not in compliance with rules and regulations adopted and
10 promulgated pursuant to the act, (c) any water well not properly
11 registered in accordance with sections 46-602 to 46-604, or (d)
12 any water well not in compliance with any other applicable laws of
13 the State of Nebraska or with rules and regulations adopted and
14 promulgated pursuant to such laws;

15 (6) To commence construction of a water well means the
16 beginning of the boring, drilling, jetting, digging, or excavating
17 of the actual water well from which ground water is to be
18 withdrawn;

19 (7) Management area means any area so designated by a
20 district pursuant to section 46-712 or 46-718, by the Director
21 of Environmental Quality pursuant to section 46-725, or by
22 the Interrelated Water Review Board pursuant to section 46-719.
23 Management area includes a control area or a special ground water
24 quality protection area designated prior to July 19, 1996;

25 (8) Management plan means a ground water management plan
26 developed by a district and submitted to the Director of Natural
27 Resources for review pursuant to section 46-711;

1 (9) Ground water reservoir life goal means the finite or
2 infinite period of time which a district establishes as its goal
3 for maintenance of the supply and quality of water in a ground
4 water reservoir at the time a ground water management plan is
5 adopted;

6 (10) Board means the board of directors of a district;

7 (11) Acre-inch means the amount of water necessary to
8 cover an acre of land one inch deep;

9 (12) Subirrigation or subirrigated land means the natural
10 occurrence of a ground water table within the root zone of
11 agricultural vegetation, not exceeding ten feet below the surface
12 of the ground;

13 (13) Best management practices means schedules of
14 activities, maintenance procedures, and other management practices
15 utilized for purposes of irrigation efficiency, to conserve or
16 effect a savings of ground water, or to prevent or reduce present
17 and future contamination of ground water. Best management practices
18 relating to contamination of ground water may include, but not
19 be limited to, irrigation scheduling, proper rate and timing
20 of fertilizer application, and other fertilizer and pesticide
21 management programs. In determining the rate of fertilizer
22 application, the district shall consult with the University of
23 Nebraska or a certified crop advisor certified by the American
24 Society of Agronomy;

25 (14) Point source means any discernible, confined, and
26 discrete conveyance, including, but not limited to, any pipe,
27 channel, tunnel, conduit, well, discrete fissure, container,

1 rolling stock, vessel, other floating craft, or other conveyance,
2 over which the Department of Environmental Quality has regulatory
3 authority and from which a substance which can cause or contribute
4 to contamination of ground water is or may be discharged;

5 (15) Allocation, as it relates to water use for
6 irrigation purposes, means the allotment of a specified total
7 number of acre-inches of irrigation water per irrigated acre per
8 year or an average number of acre-inches of irrigation water per
9 irrigated acre over any reasonable period of time;

10 (16) Rotation means a recurring series of use and nonuse
11 of irrigation wells on an hourly, daily, weekly, monthly, or yearly
12 basis;

13 (17) Water well has the same meaning as in section
14 46-601.01;

15 (18) Surface water project sponsor means an irrigation
16 district created pursuant to Chapter 46, article 1, a reclamation
17 district created pursuant to Chapter 46, article 5, or a public
18 power and irrigation district created pursuant to Chapter 70,
19 article 6;

20 (19) Beneficial use means that use by which water may be
21 put to use to the benefit of humans or other species;

22 (20) Consumptive use means the amount of water that is
23 consumed under appropriate and reasonably efficient practices to
24 accomplish without waste the purposes for which the appropriation
25 or other legally permitted use is lawfully made;

26 (21) Dewatering well means a well constructed and used
27 solely for the purpose of lowering the ground water table

1 elevation;

2 (22) Emergency situation means any set of circumstances
3 that requires the use of water from any source that might
4 otherwise be regulated or prohibited and the agency, district,
5 or organization responsible for regulating water use from such
6 source reasonably and in good faith believes that such use is
7 necessary to protect the public health, safety, and welfare,
8 including, if applicable, compliance with federal or state water
9 quality standards;

10 (23) Good cause shown means a reasonable justification
11 for granting a variance for a consumptive use of water that
12 would otherwise be prohibited by rule or regulation and which the
13 granting agency, district, or organization reasonably and in good
14 faith believes will provide an economic, environmental, social, or
15 public health and safety benefit that is equal to or greater than
16 the benefit resulting from the rule or regulation from which a
17 variance is sought;

18 (24) Historic consumptive use means the amount of water
19 that has previously been consumed under appropriate and reasonably
20 efficient practices to accomplish without waste the purposes for
21 which the appropriation or other legally permitted use was lawfully
22 made;

23 (25) Monitoring well means a water well that is designed
24 and constructed to provide ongoing hydrologic or water quality
25 information and is not intended for consumptive use;

26 (26) Order, except as otherwise specifically provided,
27 includes any order required by the Nebraska Ground Water Management

1 and Protection Act, by rule or regulation, or by a decision adopted
2 by a district by vote of the board of directors of the district
3 taken at any regularly scheduled or specially scheduled meeting of
4 the board;

5 (27) Overall difference between the current and fully
6 appropriated levels of development means the extent to which
7 existing uses of hydrologically connected surface water and ground
8 water and conservation activities result in the water supply
9 available for purposes identified in subsection (3) of section
10 46-713 to be less than the water supply available if the
11 river basin, subbasin, or reach had been determined to be fully
12 appropriated in accordance with section 46-714;

13 (28) Test hole means a hole designed solely for the
14 purposes of obtaining information on hydrologic or geologic
15 conditions; ~~and~~

16 (29) Variance means (a) an approval to deviate from a
17 restriction imposed under subsection (1), (2), (9), or (10) of
18 section 46-714 or (b) the approval to act in a manner contrary to
19 existing rules or regulations from a governing body whose rule or
20 regulation is otherwise applicable; ~~and-~~

21 (30) Measuring device means a device approved by the
22 department used to measure the total volume of water pumped or
23 diverted annually. For surface water diversions, the device shall
24 be approved by the department. For ground water wells, the device
25 shall be approved by the district where the well is located.

26 Sec. 3. To properly identify the amount of water being
27 pumped from certain water wells and from surface water diversion

1 works located within the state for the preservation of the
2 waters of the state for all beneficial uses, including domestic,
3 agricultural, and manufacturing uses:

4 (1) Every district shall in either their integrated
5 management plan, if one is required, or if an integrated management
6 plan is not required, in their ground water management plan,
7 include a provision requiring measuring devices to be installed
8 on certain water wells within the district before June 30, 2012.
9 This section applies to water wells used for any purpose that are
10 capable of pumping fifty gallons per minute or more or are combined
11 with or used for the same project with other water wells that
12 together pump more than fifty gallons per minute; and

13 (2) The Department of Natural Resources shall require
14 appropriate measuring devices to be installed on surface water
15 diversion works before June 30, 2012.

16 Sec. 4. Beginning on June 30, 2012, every district shall
17 report at a minimum of once every two years to the Department
18 of Natural Resources, on a form prescribed by the department, the
19 amount of water pumped from water wells within the district that
20 are subject to section 3 of this act. The Director of Natural
21 Resources may require more frequent reporting. The report, at a
22 minimum, shall:

23 (1) Provide information on such water wells;

24 (2) Contain the amount of water pumped by each individual
25 water well;

26 (3) Provide aggregate information for each group of
27 water wells, including domestic wells, irrigation wells, industrial

1 wells, municipal wells, and municipal and industrial combined
2 wells;

3 (4) Provide any notation as to whether there were any
4 problems with the measuring device during the reporting period;

5 (5) Provide the registration number of the water well;
6 and

7 (6) Describe the location of each water well in the
8 manner determined by the department.

9 Sec. 5. Beginning on June 30, 2014, and, at a minimum,
10 once every two years, the Department of Natural Resources shall
11 report to the Legislature as to the total amount of water pumped by
12 water wells subject to section 3 of this act and from surface water
13 diversion works, identifying the amounts by river basin.

14 2. On page 9, line 11, after "Original" insert "sections
15 46-701 and 46-706, Revised Statutes Cumulative Supplement, 2006,
16 and".

17 3. Renumber the remaining sections accordingly.