

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 160**

FINAL READING

Introduced by Gay, 14; Cornett, 45.

Read first time January 12, 2009

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources districts; to amend  
2 sections 2-3234 and 2-3290.01, Revised Statutes  
3 Cumulative Supplement, 2008; to provide for issuance of  
4 flood protection and water quality enhancement bonds as  
5 prescribed; to provide powers and duties; to provide for  
6 public access as prescribed; to harmonize provisions; to  
7 provide a duty for the Revisor of Statutes; and to repeal  
8 the original sections.

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

1           Section 1. In addition to other powers authorized by law,  
2 the board of directors of a natural resources district encompassing  
3 a city of the metropolitan class, upon an affirmative vote of  
4 two-thirds of the members of the board of directors, may issue  
5 negotiable bonds and refunding bonds of the district, entitled  
6 flood protection and water quality enhancement bonds, with terms  
7 determined appropriate by the board of directors, payable from  
8 an annual special flood protection and water quality enhancement  
9 bond levy upon the taxable value of all taxable property in the  
10 district. Such special bond levy is includable in the computation  
11 of other limitations upon the district's tax levy and shall not  
12 exceed one cent on each one hundred dollars of taxable valuation  
13 annually on all of the taxable property within the district without  
14 approval by a majority of registered voters of the district at an  
15 election in accordance with the Election Act called by the board  
16 of directors and held in conjunction with a statewide primary or  
17 general election.

18           Sec. 2. (1) The proceeds of bonds issued pursuant  
19 to section 1 of this act shall be used to pay costs of  
20 design, rights-of-way acquisition, and construction of multipurpose  
21 projects and practices for storm water management within the  
22 natural resources district issuing such bonds, including flood  
23 control and water quality. For purposes of this section, flood  
24 control and water quality projects and practices include, but are  
25 not limited to, low-impact development best management measures,

1 flood plain buyout, dams, reservoir basins, and levees. The  
2 proceeds of bonds issued pursuant to section 1 of this act  
3 shall not be used to fund combined sewer separation projects in  
4 a city of the metropolitan class. No project for which bonds are  
5 issued under section 1 of this act shall include a reservoir or  
6 water quality basin having a permanent pool greater than four  
7 hundred surface acres. Any project having a permanent pool greater  
8 than twenty surface acres shall provide for public access.

9 (2) A district shall only convey real property that is  
10 acquired for a project described in subsection (1) of this section  
11 by eminent domain proceedings pursuant to sections 76-704 to 76-724  
12 to a political subdivision or an agency of state or federal  
13 government.

14 (3) (a) Prior to the issuing of bonds pursuant to section  
15 1 of this act or expending funds of a natural resources district  
16 encompassing a city of the metropolitan class to pay costs of  
17 a reservoir or water quality basin project or projects greater  
18 than twenty surface acres, a county board of the affected county  
19 may pass a resolution stating that it does not approve of the  
20 construction of such reservoir or water quality basin project or  
21 projects within its exclusive zoning jurisdiction. The county board  
22 shall hold a public hearing and shall vote on the resolution within  
23 ninety days after notice from the board of directors of the natural  
24 resources district of its intent to issue bonds.

25 (b) No proceeds from bonds issued pursuant to section 1

1 of this act or funds of a natural resources district encompassing  
2 a city of the metropolitan class may be used to pay costs of a  
3 reservoir or water quality basin project or projects greater than  
4 twenty surface acres if the county board of the affected county  
5 passes such a resolution.

6 (c) Sections 1 to 5 of this act do not (i) limit  
7 the authority of a natural resources district with regard to  
8 reservoirs, water quality basin projects, or other projects of  
9 less than twenty surface acres or (ii) prohibit use of funds of  
10 a natural resources district for preliminary studies or reports  
11 necessary, in the discretion of the board of directors of the  
12 natural resources district, to determine whether a reservoir or  
13 water quality basin project should be presented to a county board  
14 pursuant to this section.

15 (4) Proceeds of bonds issued pursuant to section 1 of  
16 this act shall not be used to fund any project in any city or  
17 county (a) located within a watershed in which is located a city  
18 of the metropolitan class and (b) which is party to an agreement  
19 under the Interlocal Cooperation Act, unless such city or county  
20 has adopted a storm water management plan approved by the board of  
21 directors of the natural resources district encompassing a city of  
22 the metropolitan class.

23 (5) A natural resources district encompassing a city  
24 of the metropolitan class shall only issue bonds for projects  
25 in cities and counties that have adopted zoning regulations

1 or ordinances that comply with state and federal flood plain  
2 management rules and regulations.

3           Sec. 3. For the purpose of making partial payments, the  
4 board of directors of a natural resources district issuing bonds  
5 pursuant to section 1 of this act may issue warrants having terms  
6 as determined appropriate by the board, payable from the proceeds  
7 of such bonds.

8           Sec. 4. The board of directors of a natural resources  
9 district issuing bonds pursuant to section 1 of this act may agree  
10 to pay fees to fiscal agents in connection with the placement of  
11 warrants or bonds of the district. Such warrants and bonds shall  
12 be subject to the same conditions as provided by section 2-3254.07  
13 for improvement project area bonds and such other conditions as the  
14 board of directors determines appropriate.

15           Sec. 5. The authority to issue bonds for qualified  
16 projects granted in section 1 of this act terminates on December  
17 31, 2019, except that (1) any bonds already issued and outstanding  
18 for qualified projects as of such date are permitted to remain  
19 outstanding and the district shall retain all powers of taxation  
20 provided for in section 1 of this act to provide for the payment  
21 of principal and interest on such bonds and (2) refunding bonds  
22 may continue to be issued and outstanding as of December 31,  
23 2019, including extension of principal maturities if determined  
24 appropriate.

25           Sec. 6. Section 2-3234, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2           2-3234 ~~Each~~ Except as provided in section 2 of this  
3 act, each district shall have the power and authority to exercise  
4 the power of eminent domain when necessary to carry out its  
5 authorized purposes within the limits of the district or outside  
6 its boundaries. Exercise of eminent domain shall be governed by the  
7 provisions of sections 76-704 to 76-724, except that whenever any  
8 district seeks to acquire the right to interfere with the use of  
9 any water being used for power purposes in accordance with sections  
10 46-204, 70-668, 70-669, and 70-672 and is unable to agree with  
11 the user of such water upon the compensation to be paid for such  
12 interference, the procedure to condemn property shall be followed  
13 in the manner set forth in sections 76-704 to 76-724 and no other  
14 property shall be included in such condemnation. No district shall  
15 contract for delivery of water to persons within the corporate  
16 limits of any village, city, or metropolitan utilities district,  
17 nor in competition therewith outside such corporate limits, except  
18 by consent of and written agreement with the governing body of such  
19 political subdivision. A village, city, or metropolitan utilities  
20 district may negotiate and, if necessary, exercise the power of  
21 eminent domain for the acquisition of water supply facilities of  
22 the district which are within its boundaries.

23           Sec. 7. Section 2-3290.01, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25           2-3290.01 (1) A district shall permit public use of

1 those portions of a water project located on lands owned by  
2 the district and on land over which the district has a lease  
3 or an easement permitting use thereof for public recreational  
4 purposes. All recreational users of such portions of a water  
5 project shall abide by the applicable rules and regulations adopted  
6 and promulgated by the board.

7 (2) The district shall provide public access for  
8 recreational use at designated access points at any water  
9 project. Recreational users, whether public or private, shall  
10 abide by all applicable rules and regulations for use of the  
11 water project adopted and promulgated by the district or the  
12 political subdivision in which the water project is located. Public  
13 recreational users may only access the water project through such  
14 designated access points. Nothing in this subsection shall require  
15 public access when the portion of the project cost paid by the  
16 natural resources district with public funds does not exceed twenty  
17 percent of the total cost of the project.

18 (3) For purposes of this section, water project means  
19 a project with cooperators or others, as authorized in section  
20 2-3235, that results in construction of a reservoir or other body  
21 of water having a permanent pool suitable for recreational purposes  
22 greater than one hundred fifty surface acres, the construction  
23 of which commenced after July 14, 2006. Water project shall  
24 not mean soil conservation projects, wetlands projects, projects  
25 described in section 2 of this act, or other district projects with

1 cooperators or others that do not have a recreational purpose.

2 (4) For projects funded under section 2 of this act that  
3 result in a reservoir or other body of water having a permanent  
4 pool suitable for recreational purposes greater than twenty surface  
5 acres, the district shall provide public access for recreational  
6 use at designated access points and shall include access to the  
7 land area a minimum distance of one hundred feet from the permanent  
8 pool. Recreational users, whether public or private, shall abide  
9 by all applicable rules, regulations, ordinances, or resolutions  
10 for use of the project adopted by the district or the political  
11 subdivision in which the project is located. Public recreational  
12 users may only access the project through such designated access  
13 points.

14 Sec. 8. The Revisor of Statutes shall assign sections 1  
15 to 5 of this act within Chapter 2, article 32.

16 Sec. 9. Original sections 2-3234 and 2-3290.01, Revised  
17 Statutes Cumulative Supplement, 2008, are repealed.