

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 535

Introduced by Stuthman, 22.

Read first time January 21, 2009

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources; to amend sections 2-1504,
2 2-3229, 2-3234, and 2-3254.07, Reissue Revised Statutes
3 of Nebraska; to change membership of the Nebraska Natural
4 Resources Commission; to change provisions relating to
5 natural resources districts' programs, projects, powers,
6 and duties; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-1504, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-1504 (1) The Nebraska Natural Resources Commission
4 is established. The commission shall advise the department as
5 requested by the director and shall perform such other functions as
6 are specifically conferred on the commission by law. The commission
7 shall have no jurisdiction over matters pertaining to water rights.

8 (2) The commission shall consist of the following
9 members, all of whom shall have attained the age of majority:

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

20 (b) One additional resident of each river basin which
21 encompasses one or more cities of the metropolitan class. Each such
22 additional basin member shall be a resident of a natural resources
23 district which encompasses one or more cities of the metropolitan
24 class and shall be selected in the same manner, at the same time,
25 and for a four-year term having the same term sequence as provided

1 for the other member from such basin; and

2 (c) ~~Three~~ Fifteen members to be appointed by the
3 Governor, subject to confirmation by the Legislature, who shall
4 serve at the pleasure of the Governor. Of the members appointed
5 by the Governor, one shall represent municipal users of water,
6 one shall represent surface water irrigators, ~~and~~ one shall
7 represent ground water irrigators, and twelve members representing
8 the business community.

9 (3) Successors to the members of the commission
10 representing river basins shall be selected for four-year terms
11 at individual caucuses of the natural resources district directors
12 residing in the river basin from which the member is selected. Such
13 caucuses shall be held for each basin within ten days following
14 the first Thursday after the first Tuesday of the year the term
15 of office of the member from that basin expires. The dates and
16 locations for such caucuses shall be established by the commission.
17 Terms of office shall follow the sequence originally determined
18 by the river basin representatives to the commission at their
19 first meeting on the third Thursday after the first Tuesday in
20 January 1975. All river basin members shall take office on the
21 third Thursday after the first Tuesday in January following their
22 selection and any vacancy shall be filled for the unexpired term by
23 a caucus held within thirty days following the date such vacancy is
24 created. Each member of the commission representing a river basin
25 shall qualify by filing with the other members of the commission an

1 acceptance in writing of his or her selection.

2 Sec. 2. Section 2-3229, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 2-3229 The purposes of natural resources districts shall
5 be to develop and execute, through the exercise of powers and
6 authorities granted by law, plans, facilities, works, and programs
7 relating to (1) erosion prevention and control, (2) prevention of
8 damages from flood water and sediment, (3) flood prevention and
9 control, (4) soil conservation, (5) water supply for any beneficial
10 uses, (6) development, management, utilization, and conservation of
11 ground water and surface water, (7) pollution control, (8) solid
12 waste disposal and sanitary drainage, (9) drainage improvement and
13 channel rectification, (10) development and management of fish and
14 wildlife habitat, (11) development and management of recreational
15 and park facilities, and (12) forestry and range management.

16 As to development and management of fish and wildlife
17 habitat and development and management of recreational and park
18 facilities, such plans, facilities, works, and programs shall be in
19 conformance with any outdoor recreation plan for Nebraska and any
20 fish and wildlife plan for Nebraska as developed by the Game and
21 Parks Commission.

22 All programs and projects of natural resources districts
23 shall first be shown to be wanted by a majority of the residents
24 of the watershed, if a general program or project, or the project
25 area, if a special program or project. If the residents approve,

1 then surveys may be used for general programs or projects to
2 determine potential utilization of the program or project. Any
3 surveys used shall be consistent with state and federal agency
4 statistics and shall not include the same population areas to
5 justify more than one of the same kind of project in a fifty-year
6 period of time. All projects shall be bid in total, not by part,
7 and all expenses shall be included when determining a rate of
8 return for a project.

9 Sec. 3. Section 2-3234, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 2-3234 (1) Except as provided in subsection (2) of this
12 section, each ~~Each~~ district shall have the power and authority
13 to exercise the power of eminent domain when necessary to carry
14 out its authorized purposes within the limits of the district
15 or outside its boundaries. Exercise of eminent domain shall
16 be governed by the provisions of sections 76-704 to 76-724,
17 except that whenever any district seeks to acquire the right to
18 interfere with the use of any water being used for power purposes
19 in accordance with sections 46-204, 70-668, 70-669, and 70-672
20 and is unable to agree with the user of such water upon the
21 compensation to be paid for such interference, the procedure to
22 condemn property shall be followed in the manner set forth in
23 sections 76-704 to 76-724 and no other property shall be included
24 in such condemnation. No district shall contract for delivery of
25 water to persons within the corporate limits of any village, city,

1 or metropolitan utilities district, nor in competition therewith
2 outside such corporate limits, except by consent of and written
3 agreement with the governing body of such political subdivision.
4 A village, city, or metropolitan utilities district may negotiate
5 and, if necessary, exercise the power of eminent domain for the
6 acquisition of water supply facilities of the district which are
7 within its boundaries.

8 (2) Eminent domain powers shall not be used until all
9 other requirements for a dam or any other improvement project have
10 been complied with.

11 Sec. 4. Section 2-3254.07, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 2-3254.07 The following conditions shall apply when the
14 board issues warrants or improvement project area bonds to fund the
15 special benefit portion of a project:

16 (1) Neither the members of the board nor any person
17 executing the warrants or bonds shall be liable personally thereon
18 by reason of their issuance;

19 (2) The warrants or bonds shall be a debt of the district
20 only and shall state this on their face;

21 (3) Warrants and bonds of the district are declared to be
22 issued for an essential public and governmental purpose and to be
23 public instruments, and together with interest and income thereon,
24 shall be exempt from all taxes;

25 (4) Bonds shall be authorized by a majority vote of the

1 residents of the watershed. If the bonds are authorized, the board
2 ~~which~~ shall determine the manner and place of their execution. The
3 bonds may be issued in one or more series and shall bear such
4 a date, be payable upon demand or mature at such a time, bear
5 interest at such a rate, be in such a denomination, be in such
6 form, be payable at such a place, and be subject to redemption
7 prior to maturity upon such a term and with such notice, as the
8 board may direct; and

9 (5) Bonds and warrants issued pursuant to sections 2-3252
10 and 2-3254.01 to 2-3254.07 may be sold in any manner and for such
11 price as the board of directors may determine.

12 Sec. 5. Original sections 2-1504, 2-3229, 2-3234, and
13 2-3254.07, Reissue Revised Statutes of Nebraska, are repealed.