

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 513
Final Reading

Introduced by Carlson, 38.

Read first time January 23, 2013

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Nebraska Ground Water Management and
2 Protection Act; to amend section 46-708, Reissue Revised
3 Statutes of Nebraska, and section 46-707, Revised
4 Statutes Cumulative Supplement, 2012; to change notice
5 provisions for cease and desist orders; and to repeal the
6 original sections.

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

1 Section 1. Section 46-707, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 46-707 (1) Regardless of whether or not any portion of a
4 district has been designated as a management area, in order to
5 administer and enforce the Nebraska Ground Water Management and
6 Protection Act and to effectuate the policy of the state to conserve
7 ground water resources, a district may:

8 (a) Adopt and promulgate rules and regulations necessary
9 to discharge the administrative duties assigned in the act;

10 (b) Require such reports from ground water users as may
11 be necessary;

12 (c) Require the reporting of water uses and irrigated
13 acres by landowners and others with control over the water uses and
14 irrigated acres for the purpose of certification by the district;

15 (d) Require meters to be placed on any water wells for
16 the purpose of acquiring water use data;

17 (e) Require decommissioning of water wells that are not
18 properly classified as active status water wells as defined in
19 section 46-1204.02 or inactive status water wells as defined in
20 section 46-1207.02;

21 (f) Conduct investigations and cooperate or contract with
22 agencies of the United States, agencies or political subdivisions of
23 this state, public or private corporations, or any association or
24 individual on any matter relevant to the administration of the act;

25 (g) Report to and consult with the Department of

1 Environmental Quality on all matters concerning the entry of
2 contamination or contaminating materials into ground water supplies;
3 and

4 (h) Issue cease and desist orders, following ~~ten~~three
5 days' notice to the person affected stating the contemplated action
6 and in general the grounds for the action and following reasonable
7 opportunity to be heard, to enforce any of the provisions of the act
8 or of orders or permits issued pursuant to the act, to initiate suits
9 to enforce the provisions of orders issued pursuant to the act, and
10 to restrain the construction of illegal water wells or the withdrawal
11 or use of water from illegal water wells.

12 Before any rule or regulation is adopted pursuant to this
13 subsection, a public hearing shall be held within the district.
14 Notice of the hearing shall be given as provided in section 46-743.

15 (2) In addition to the powers enumerated in subsection
16 (1) of this section, a district may impose an immediate temporary
17 stay for a period of one hundred eighty days on the construction of
18 any new water well and on any increase in the number of acres
19 historically irrigated, without prior notice or hearing, upon
20 adoption of a resolution by the board finding that such temporary
21 immediate stay is necessary. The district shall hold at least one
22 public hearing on the matter within the district during such one
23 hundred eighty days, with the notice of the hearing given as provided
24 in section 46-743, prior to making a determination as to imposing a
25 permanent stay or conditions in accordance with subsections (1) and

1 (6) of section 46-739. Within forty-five days after a hearing
2 pursuant to this subsection, the district shall decide whether to
3 exempt from the immediate temporary stay the construction of water
4 wells for which permits were issued prior to the date of the
5 resolution commencing the stay but for which construction had not
6 begun prior to such date. If construction of such water wells is
7 allowed, all permits that were valid when the stay went into effect
8 shall be extended by a time period equal to the length of the stay
9 and such water wells shall otherwise be completed in accordance with
10 section 46-738. Water wells listed in subsection (3) of section
11 46-714 and water wells of public water suppliers are exempt from this
12 subsection.

13 (3) In addition to the powers enumerated in subsections
14 (1) and (2) of this section, a district may assess a fee against a
15 person requesting a variance to cover the administrative cost of
16 consideration of the variance, including, but not limited to, costs
17 of copying records and the cost of publishing a notice in a legal
18 newspaper of general circulation in the county or counties of the
19 district, radio announcements, or other means of communication deemed
20 necessary in the area where the property is located.

21 Sec. 2. Section 46-708, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 46-708 (1) In order to conserve ground water supplies and
24 to prevent the inefficient or improper runoff of such ground water,
25 each person who uses ground water irrigation in the state shall take

1 action to control or prevent the runoff of water used in such
2 irrigation.

3 (2) Each district shall adopt, following public hearing,
4 notice of which shall be given in the manner provided in section
5 46-743, rules and regulations necessary to control or prohibit
6 surface runoff of water derived from ground water irrigation. Such
7 rules and regulations shall prescribe (a) standards and criteria
8 delineating what constitutes the inefficient or improper runoff of
9 ground water used in irrigation, (b) procedures to prevent, control,
10 and abate such runoff, (c) measures for the construction,
11 modification, extension, or operation of remedial measures to
12 prevent, control, or abate runoff of ground water used in irrigation,
13 and (d) procedures for the enforcement of this section.

14 (3) Each district may, upon ~~ten~~ three days' notice to the
15 person affected, stating the contemplated action and in general the
16 grounds therefor, and upon reasonable opportunity to be heard, issue
17 cease and desist orders to enforce any of the provisions of this
18 section or rules and regulations issued pursuant to this section.

19 Sec. 3. Original section 46-708, Reissue Revised Statutes
20 of Nebraska, and section 46-707, Revised Statutes Cumulative
21 Supplement, 2012, are repealed.