

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 78

Introduced by Avery, 28.

Read first time January 10, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government; to amend sections 2-945.01,
2 2-958.02, 54-1158, 54-1161, 54-1162, 54-1163, 54-1165,
3 54-1168, 54-1169, 54-1170, 54-1172, 81-1361, 81-1368,
4 81-3607, and 81-3609, Reissue Revised Statutes of
5 Nebraska, and section 85-1643, Revised Statutes
6 Cumulative Supplement, 2012; to eliminate the Riparian
7 Vegetation Management Task Force, the Nebraska State
8 Airline Authority, the Livestock Auction Market Board,
9 the Athletic Advisory Committee, the Affirmative Action
10 Committee, the Rural Development Commission, and the
11 advisory council for the Private Postsecondary Career
12 School Act; to change and provide powers and duties; to
13 harmonize provisions; to repeal the original sections;
14 and to outright repeal sections 2-967, 2-968, 3-801,
15 3-802, 3-803, 3-804, 3-805, 54-1160, 81-1363, 81-1364,
16 81-1365, 81-1366, 81-3601, 81-3603, 81-3604, and 85-1607,
17 Reissue Revised Statutes of Nebraska and sections

1 81-8,139.01, 81-3602, and 81-3605, Revised Statutes
2 Cumulative Supplement, 2012.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-945.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-945.01 Sections 2-945.01 to ~~2-968-2-966~~ shall be known
4 and may be cited as the Noxious Weed Control Act.

5 Sec. 2. Section 2-958.02, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 2-958.02 (1) From funds available in the Noxious Weed and
8 Invasive Plant Species Assistance Fund, the director may administer a
9 grant program to assist local control authorities and other weed
10 management entities in the cost of implementing and maintaining
11 noxious weed control programs and in addressing special weed control
12 problems as provided in this section.

13 (2) The director shall receive applications by local
14 control authorities and weed management entities for assistance under
15 this subsection and, in consultation with the advisory committee
16 created under section 2-965.01, award grants for any of the following
17 eligible purposes:

18 (a) To conduct applied research to solve locally
19 significant weed management problems;

20 (b) To demonstrate innovative control methods or land
21 management practices which have the potential to reduce landowner
22 costs to control noxious weeds or improve the effectiveness of
23 noxious weed control;

24 (c) To encourage the formation of weed management
25 entities;

1 (d) To respond to introductions or infestations of
2 invasive plants that threaten or potentially threaten the
3 productivity of cropland and rangeland over a wide area;

4 (e) To respond to introductions and infestations of
5 invasive plant species that threaten or potentially threaten the
6 productivity and biodiversity of wildlife and fishery habitats on
7 public and private lands;

8 (f) To respond to special weed control problems involving
9 weeds not included in the list of noxious weeds promulgated by rule
10 and regulation of the director if the director has approved a
11 petition to bring such weeds under the county control program;

12 (g) To conduct monitoring or surveillance activities to
13 detect, map, or determine the distribution of invasive plant species
14 and to determine susceptible locations for the introduction or spread
15 of invasive plant species; and

16 (h) To conduct educational activities.

17 (3) The director shall select and prioritize applications
18 for assistance under subsection (2) of this section based on the
19 following considerations:

20 (a) The seriousness of the noxious weed or invasive plant
21 problem or potential problem addressed by the project;

22 (b) The ability of the project to provide timely
23 intervention to save current and future costs of control and
24 eradication;

25 (c) The likelihood that the project will prevent or

1 resolve the problem or increase knowledge about resolving similar
2 problems in the future;

3 (d) The extent to which the project will leverage federal
4 funds and other nonstate funds;

5 (e) The extent to which the applicant has made progress
6 in addressing noxious weed or invasive plant problems;

7 (f) The extent to which the project will provide a
8 comprehensive approach to the control or eradication of noxious
9 weeds;

10 (g) The extent to which the project will reduce the total
11 population or area of infestation of a noxious weed;

12 (h) The extent to which the project uses the principles
13 of integrated vegetation management and sound science; and

14 (i) Such other factors that the director determines to be
15 relevant.

16 ~~(4) The director shall receive applications for grants~~
17 ~~under this subsection and shall award grants to recipients and~~
18 ~~programs eligible under this subsection. Priority shall be given to~~
19 ~~grant applicants whose proposed programs are consistent with~~
20 ~~vegetation management goals and priorities and plans and policies of~~
21 ~~the Riparian Vegetation Management Task Force created pursuant to~~
22 ~~section 2-968. Beginning in fiscal year 2009-10, it is the intent of~~
23 ~~the Legislature to appropriate two million dollars annually for the~~
24 ~~management of vegetation within the banks of a natural stream or~~
25 ~~within one hundred feet of the banks of a channel of any natural~~

1 ~~stream. Such funds shall only be used to pay for activities and~~
2 ~~equipment as part of vegetation management programs that have as~~
3 ~~their primary objective improving conveyance of streamflow in natural~~
4 ~~streams. Grants from funds appropriated as provided in this~~
5 ~~subsection shall be disbursed only to weed management entities, local~~
6 ~~weed control authorities, and natural resources districts, whose~~
7 ~~territory includes one or more fully appropriated or overappropriated~~
8 ~~river basins as designated by the Department of Natural Resources~~
9 ~~with priority given to fully appropriated river basins that are the~~
10 ~~subject of an interstate compact or decree. The Game and Parks~~
11 ~~Commission shall assist grant recipients in implementing grant~~
12 ~~projects under this subsection, and interlocal agreements under the~~
13 ~~Interlocal Cooperation Act or the Joint Public Agency Act shall be~~
14 ~~utilized whenever possible in carrying out the grant projects. This~~
15 ~~subsection terminates on June 30, 2013.~~

16 ~~(5)-(4)~~ Nothing in this section shall be construed to
17 relieve control authorities of their duties and responsibilities
18 under the Noxious Weed Control Act or the duty of a person to control
19 the spread of noxious weeds on lands owned and controlled by him or
20 her.

21 ~~(6)-(5)~~ The Department of Agriculture may adopt and
22 promulgate necessary rules and regulations to carry out this section.

23 ~~(7)(a)-(6)(a)~~ The director shall apply for a grant from
24 the Nebraska Environmental Trust Fund prior to the application
25 deadline in September of 2009 for grants to be awarded and funded in

1 April of 2010.

2 (b) The director shall apply for a grant from the Natural
3 Resources Conservation Service of the United States Department of
4 Agriculture prior to July 31, 2009.

5 Sec. 3. Section 54-1158, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 54-1158 As used in the Livestock Auction Market Act,
8 unless the context otherwise requires:

9 (1) Accredited veterinarian means a veterinarian duly
10 licensed by the State of Nebraska and approved by the deputy
11 administrator of the United States Department of Agriculture in
12 accordance with 9 C.F.R. part 161 as the regulations existed on
13 September 1, 2001;

14 ~~(2) Board means the Livestock Auction Market Board;~~

15 ~~(3)-(2) Department means the Department of Agriculture;~~

16 ~~(4)-(3) Designated veterinarian means an accredited~~
17 veterinarian who has been designated and authorized by the State
18 Veterinarian to make inspections of livestock at livestock auction
19 markets as may be required by law or regulation whether such
20 livestock is moved in interstate or intrastate commerce;

21 ~~(5)-(4) Director means the Director of Agriculture;~~

22 ~~(6)-(5) Livestock means cattle, calves, swine, sheep, and~~
23 goats;

24 ~~(7)-(6) Livestock auction market means any place,~~
25 establishment, or facility commonly known as a livestock auction

1 market, sales ring, or the like, conducted or operated for
2 compensation as an auction market for livestock, consisting of pens
3 or other enclosures, and their appurtenances, in which livestock are
4 received, held, sold, or kept for sale or shipment;

5 ~~(8)~~ (7) Livestock auction market operator means any
6 person engaged in the business of conducting or operating a livestock
7 auction market, whether personally or through agents or employees;

8 ~~(9)~~ (8) Market license means the license for a livestock
9 auction market authorized to be issued under the act;

10 ~~(10)~~ (9) Person means any individual, firm, association,
11 partnership, limited liability company, or corporation; and

12 ~~(11)~~ (10) State Veterinarian means the veterinarian in
13 charge of the Bureau of Animal Industry within the department or his
14 or her designee, subordinate to the director.

15 Sec. 4. Section 54-1161, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 54-1161 No person shall conduct or operate a livestock
18 auction market unless he or she holds a market license therefor, upon
19 which the current annual market license fee has been paid. Any person
20 making application for a new market license shall do so to the ~~board~~
21 director in writing, verified by the applicant, on a form prescribed
22 by the ~~board, department,~~ showing the following:

23 (1) The name and address of the applicant and, if the
24 applicant is an individual, his or her social security number, with
25 statement of the names and addresses of all persons having any

1 financial interest in the applicant and the amount of such interest;

2 (2) Financial responsibility of the applicant in the form
3 of a statement of all assets and liabilities;

4 (3) A legal description of the property and its exact
5 location with a complete description of the facilities proposed to be
6 used in connection with such livestock auction market;

7 (4) The schedule of charges applicant proposes for all
8 services proposed to be rendered; and

9 (5) A detailed statement of the facts upon which the
10 applicant relies showing the general confines of the trade area
11 proposed to be served by such livestock auction market, the benefits
12 to be derived by the livestock industry, and the services proposed to
13 be rendered.

14 Such application shall be accompanied by the annual fee
15 as prescribed in section 54-1165.

16 Sec. 5. Section 54-1162, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 54-1162 Upon the filing of the application as provided in
19 section 54-1161, the director shall fix a reasonable time for the
20 hearing at a place designated by him or her at which time a hearing
21 shall be held on the proposed location of the livestock auction
22 market. The director forthwith shall cause a copy of such
23 application, together with notice of the time and place of hearing,
24 to be served by mail not less than fifteen days prior to such
25 hearing, upon the following:

1 (1) All duly organized statewide livestock associations
2 in the state who have filed written requests with the ~~board~~
3 department to receive notice of such hearings and such other
4 livestock associations as in the opinion of the director would be
5 interested in such application; and

6 (2) All livestock auction market operators in the state.

7 The director shall give further notice of such hearing by
8 publication of the notice thereof once in a daily or weekly newspaper
9 circulated in the city or village where such hearing is to be held,
10 as in the opinion of the director will give reasonable public notice
11 of such time and place of hearing to persons interested therein.

12 Sec. 6. Section 54-1163, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 54-1163 The hearing required by section 54-1162 shall be
15 heard by ~~two or more members of the board. If the board determines,~~
16 the director and the State Veterinarian. If the director and the
17 State Veterinarian determine, after such hearing, that the proposed
18 livestock auction market would beneficially serve the livestock
19 economy, ~~it the department~~ shall issue a market license to the
20 applicant. In determining whether or not the application should be
21 granted or denied, ~~the board shall give~~ reasonable consideration
22 shall be given to:

23 (1) The ability of the applicant to comply with the
24 federal Packers and Stockyards Act, 1921, 7 U.S.C. 181 et seq., as
25 amended;

1 (2) The financial stability, business integrity, and
2 fiduciary responsibility of the applicant;

3 (3) The adequacy of the facilities described to permit
4 the performance of market services proposed in the application;

5 (4) The present needs for market services or additional
6 services as expressed by livestock growers and feeders in the
7 community; and

8 (5) Whether the proposed livestock auction market would
9 be permanent and continuous.

10 Sec. 7. Section 54-1165, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 54-1165 Every livestock auction market operator shall pay
13 annually, on or before August 1, a market license fee of one hundred
14 fifty dollars to the ~~board~~department for each livestock auction
15 market operated by him or her, which payment shall constitute a
16 renewal for one year. Fees so paid shall be remitted to the State
17 Treasurer for credit to the Livestock Auction Market Fund for ~~the use~~
18 ~~of the board in paying~~ the expenses of administration of the
19 Livestock Auction Market Act.

20 Sec. 8. Section 54-1168, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 54-1168 Every market license holder under the Livestock
23 Auction Market Act shall keep an accurate record of all transactions
24 conducted in the ordinary course of his or her business. Such records
25 shall be available for examination of the ~~board,~~director, or ~~its~~his

1 or her duly authorized representative, in respect to a market license
2 issued under such act.

3 Sec. 9. Section 54-1169, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 54-1169 (1) The board—department may, upon its own
6 motion, whenever it has reason to believe ~~the provisions of the~~
7 Livestock Auction Market Act ~~have~~ has been violated, or upon verified
8 complaint of any person in writing, investigate the actions of any
9 market license holder, and if ~~it—the department~~ finds probable cause
10 to do so, shall file a complaint against the market license holder
11 which shall be set down for hearing before the ~~board—~~ director and the
12 State Veterinarian upon fifteen days' notice served upon such market
13 license holder either by personal service upon him or her or by
14 registered or certified mail or telegram prior to such hearing.

15 (2) The director shall have the power to administer
16 oaths, certify to all official acts, and subpoena ~~and bring before~~
17 ~~the board~~ any person in this state as a witness, to compel the
18 producing of books and papers, and to take the testimony of any
19 person on deposition in the same manner as is prescribed by law in
20 the procedure before the courts of this state in civil cases.
21 Processes issued by the director shall extend to all parts of the
22 state and may be served by any person authorized to serve processes.
23 Each witness who shall appear by the order of the director at any
24 hearing ~~before the board~~ shall receive for such attendance the same
25 fees allowed by law to witnesses in civil cases appearing in the

1 district court and mileage at the same rate provided in section
2 81-1176, which amount shall be paid by the party at whose request
3 such witness is subpoenaed. When any witness has not been required to
4 attend at the request of any party, but has been subpoenaed by the
5 director, his or her fees and mileage shall be paid by the director
6 in the same manner as other expenses ~~of the board~~ are paid under the
7 Livestock Auction Market Act.

8 (3) All powers of the director as provided in this
9 section shall likewise be applicable to hearings held on applications
10 for the issuance of a market license.

11 (4) Formal finding by the ~~board~~ director and the State
12 Veterinarian after due hearing that any market license holder: ~~(1)~~
13 ~~Has~~ (a) has ceased to conduct a livestock auction market business,
14 (b) ~~;~~ ~~(2)~~ has been guilty of fraud or misrepresentation as to the
15 titles, charges, number, brands, weights, proceeds of sale, or
16 ownership of livestock, (c) ~~;~~ ~~(3)~~ has violated any of the provisions
17 of the Livestock Auction Market Act, ~~;~~ or ~~(4)~~ (d) has violated any of
18 the rules or regulations adopted and ~~published by the board,~~
19 promulgated under the act, shall be sufficient cause for the
20 suspension or revocation of the market license of the offending
21 livestock auction market operator.

22 Sec. 10. Section 54-1170, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 54-1170 The ~~board~~ director shall keep a complete
25 transcript of all proceedings and evidence presented in any hearing

1 ~~before it. under the Livestock Auction Market Act.~~ The applicant for
2 a market license, any protestant formally appearing in the hearing
3 ~~before the board~~ for such market license, the holder of any market
4 license suspended or revoked, or any party to a transfer application
5 may appeal the order, ~~of the board,~~ and the appeal shall be in
6 accordance with the Administrative Procedure Act.

7 Sec. 11. Section 54-1172, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 54-1172 Salaries and expenses of employees, costs of
10 hearings, and all other costs of ~~the board in the~~ administration of
11 the Livestock Auction Market Act shall be paid from the Livestock
12 Auction Market Fund which is hereby created. Any money in the
13 Livestock Auction Market Fund available for investment shall be
14 invested by the state investment officer pursuant to the Nebraska
15 Capital Expansion Act and the Nebraska State Funds Investment Act.

16 Sec. 12. Section 81-1361, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 81-1361 Each agency shall submit a plan for that agency
19 to the office ~~and the Affirmative Action Committee~~ for review and
20 shall work with the administrator to insure effectiveness of the
21 plan. Each agency shall annually update its plan based on guidelines
22 developed by the administrator.

23 Sec. 13. Section 81-1368, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-1368 Each agency plan shall be reviewed by the office

1 and approved or disapproved after submission. In every case when
2 noncompliance is indicated, efforts shall be made to secure
3 compliance through a corrective action plan. A specific commitment
4 shall be put forth in writing. The commitment shall indicate the
5 precise action to be taken and dates for completion. The time period
6 allowed shall be no longer than thirty calendar days to effect the
7 desired change. If an agency's plan does not comply with the rules
8 and regulations adopted and promulgated by the office or if the
9 agency's goals and timetables are not being met, the office shall
10 meet with the director of the agency to discuss the deficiencies. ~~If~~
11 ~~an agreement cannot be reached in the informal meeting, the agency's~~
12 ~~noncompliance shall be reviewed by the Affirmative Action Committee.~~
13 Agency directors shall take responsibility for all noncompliance
14 within their particular agency. In all cases when such corrective
15 action plan does not resolve the noncompliance, the ~~Affirmative~~
16 ~~Action Committee~~ office shall report such noncompliance to the
17 Governor. Such report shall be in writing and shall be made available
18 to the news media at the same time that it is submitted to the
19 Governor. The Governor shall take appropriate action to resolve the
20 noncompliance elements and issues which were cited by the office, ~~and~~
21 ~~the Affirmative Action Committee.~~

22 Sec. 14. Section 81-3607, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-3607 The Nebraska Development Network Program is
25 created in the ~~Rural Development Commission.~~ ~~The commission~~

1 Department of Economic Development. The department shall administer
2 the program and may contract for services to carry out the purposes
3 of the Nebraska Development Network Program.

4 Sec. 15. Section 81-3609, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-3609 The Legislature finds and declares:

7 (1) That it is a benefit to the state and in the best
8 interest of the citizens of Nebraska to deliver economic and
9 community development services in an integrated and coordinated
10 system through increased community, state, and federal cooperation
11 and collaboration;

12 (2) That the Partnership for Rural Nebraska is recognized
13 as a strategic partnership between the State of Nebraska, the
14 University of Nebraska, and the United States Department of
15 Agriculture, the purpose of which is to provide a formal structure of
16 organizational collaboration and delivery of rural economic and
17 community development resources and programs to Nebraska's rural
18 communities;

19 (3) That the Partnership for Rural Nebraska has earned
20 national recognition as a model for cooperative and collaborative
21 delivery of services; and

22 (4) That it encourages the continued participation of the
23 State of Nebraska, through the Department of Economic Development,
24 ~~the Rural Development Commission,~~ and the University of Nebraska, in
25 the Partnership for Rural Nebraska.

1 Sec. 16. Section 85-1643, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 85-1643 (1) The Private Postsecondary Career Schools Cash
4 Fund is created. All fees collected pursuant to the Private
5 Postsecondary Career School Act shall be remitted to the State
6 Treasurer for credit to the fund. The fund shall be used only for the
7 purpose of administering the act. No fees shall be subject to refund.

8 (2) Except as provided in subsection (4) of this section,
9 fees collected pursuant to the act shall be the following:

10 (a) Initial application for authorization to operate, two
11 hundred dollars plus twenty dollars per program of study offered;

12 (b) Renewal application for authorization to operate, one
13 hundred dollars plus twenty dollars per program of study offered,
14 except that the board may establish a variable fee schedule based
15 upon the prior school year's gross tuition revenue as provided by the
16 school pursuant to section 85-1656;

17 (c) Approval to operate a branch facility, one hundred
18 dollars;

19 (d) Late submission of application, fifty dollars;

20 (e) Initial agent's permit, fifty dollars;

21 (f) Agent's permit renewal, twenty dollars;

22 (g) Accreditation or reaccreditation, one hundred
23 dollars;

24 (h) Initial authorization to award an associate degree,
25 one hundred dollars;

- 1 (i) Significant program change, fifty dollars;
- 2 (j) Change of name or location, twenty-five dollars; and
- 3 (k) Additional new program, one hundred dollars.
- 4 (3) Fees for out-of-state schools may include, but shall
- 5 not exceed, the following:
- 6 (a) Certificate of approval to recruit, five hundred
- 7 dollars annually;
- 8 (b) Initial agent's permit, one hundred dollars; and
- 9 (c) Agent's permit renewal, forty dollars.
- 10 (4)(a) ~~The board shall consult with the advisory council~~
- 11 ~~established pursuant to section 85-1607 regarding any increase in~~
- 12 ~~fees under the act.~~ Beginning with fiscal year 2006-07 and each year
- 13 thereafter, the board ~~in consultation with the advisory council~~ shall
- 14 establish fees sufficient to cover the total cost of administration,
- 15 except that such fees shall not exceed one hundred ten percent of the
- 16 previous year's total cost. Such fees shall be set out in the rules
- 17 and regulations adopted and promulgated by the board.
- 18 (b) Total cost of administration shall be determined by
- 19 an annual audit of:
- 20 (i) Salaries and benefits or portions thereof for those
- 21 department employees who administer the act;
- 22 (ii) Operating costs such as rent, utilities, and
- 23 supplies;
- 24 (iii) Capital costs such as office equipment, computer
- 25 hardware, and computer software;

1 (iv) Costs for travel by employees of the department,
2 including car rental, gas, and mileage charges; and

3 (v) Other reasonable and necessary costs as determined by
4 the board.

5 Sec. 17. Original sections 2-945.01, 2-958.02, 54-1158,
6 54-1161, 54-1162, 54-1163, 54-1165, 54-1168, 54-1169, 54-1170,
7 54-1172, 81-1361, 81-1368, 81-3607, and 81-3609, Reissue Revised
8 Statutes of Nebraska, and section 85-1643, Revised Statutes
9 Cumulative Supplement, 2012, are repealed.

10 Sec. 18. The following sections are outright repealed:
11 Sections 2-967, 2-968, 3-801, 3-802, 3-803, 3-804, 3-805, 54-1160,
12 81-1363, 81-1364, 81-1365, 81-1366, 81-3601, 81-3603, 81-3604, and
13 85-1607, Reissue Revised Statutes of Nebraska and sections
14 81-8,139.01, 81-3602, and 81-3605, Revised Statutes Cumulative
15 Supplement, 2012.