

LEGISLATIVE BILL 1241

Approved by the Governor April 12, 1996

Introduced by Beutler, 28

AN ACT relating to natural resources; to amend sections 2-3290, 46-1233, 46-1238, and 46-1239, Reissue Revised Statutes of Nebraska, sections 46-1201, 46-1203, and 46-1240, Revised Statutes Supplement, 1994, and section 46-1405, Revised Statutes Supplement, 1995; to provide for fees for access to public lands as prescribed; to define and redefine terms; to provide for penalties and injunctive relief against employers using unlicensed individuals under the Water Well Standards and Contractors' Licensing Act; to change provisions relating to cost sharing for decommissioning illegal water wells; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 2-3290, Reissue Revised Statutes of Nebraska, is amended to read:

2-3290. A district which owns, leases, or has an easement on land may allow the land to be used by the public for recreational purposes and may adopt and promulgate rules and regulations governing the use of such land as provided in sections 2-3292 to 2-32,100 unless the district does not have the right to use such land for recreational purposes. For purposes of sections 2-3234.01 and 2-3290 to 2-32,101, unless the context otherwise requires, recreation area shall mean land owned or leased by a district, or on which a district has an easement, which the district authorizes to be used by the public for recreational purposes.

In addition to the authority provided in section 2-3292 to establish and collect fees, a district may establish and collect permit fees for public access to such land.

Sec. 2. Section 46-1201, Revised Statutes Supplement, 1994, is amended to read:

46-1201. Sections 46-1201 to 46-1241 and section 4 of this act shall be known and may be cited as the Water Well Standards and Contractors' Licensing Act.

Sec. 3. Section 46-1203, Revised Statutes Supplement, 1994, is amended to read:

46-1203. For purposes of the Water Well Standards and Contractors' Licensing Act, unless the context otherwise requires, the definitions found in sections 46-1205 to 46-1216 and section 4 of this act shall be used.

Sec. 4. Person shall mean any: Individual; partnership; limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision; public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity.

Sec. 5. Section 46-1233, Reissue Revised Statutes of Nebraska, is amended to read:

46-1233. After October 1, 1986, no No water well shall be constructed or pump or pumping equipment installed by a person business engaged in the construction of water wells or installation of pumps and pumping equipment unless the construction or installation is carried out or supervised by a licensed water well contractor, water well drilling supervisor, pump installation contractor, or pump installation supervisor. For purposes of this section, supervision shall mean the ready availability of the person licensed or certified pursuant to the Water Well Standards and Contractors' Licensing Act for consultation and direction of the activities of any person not licensed or certified who assists in the construction of a water well or the installation of pump and pumping equipment. Contact with the licensed contractor or certified supervisor by telecommunication shall be sufficient to show ready availability.

Sec. 6. Section 46-1238, Reissue Revised Statutes of Nebraska, is amended to read:

46-1238. Any person who fails to employ or use at least one individual appropriately licensed or certified and available, in accordance with section 46-1233, or any person who engages, without a license or certificate for such activities, (1) in the construction of water wells, (2) in the installation of pumps and pumping equipment, or (3) in the measuring of ground water levels, the collection of ground water samples from existing

water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices, without first obtaining a license or certificate for such activities from the department as provided in the Water Well Standards and Contractors' Licensing Act or rules and regulations adopted and promulgated pursuant to the act, in addition to the other penalties provided in the ~~act~~ Water Well Standards and Contractors' Licensing Act, may be enjoined from continuing such activities.

Sec. 7. Section 46-1239, Reissue Revised Statutes of Nebraska, is amended to read:

46-1239. Any person who fails to employ or use at least one individual appropriately licensed or certified and available, in accordance with section 46-1233, or any person subject to licensure or certification under the Water Well Standards and Contractors' Licensing Act who engages, without a license or certificate for such activities, in the construction of water wells or in the installation of pumps and pumping equipment without first obtaining a license or certificate from the department as provided in the act or rules and regulations adopted and promulgated pursuant to the act shall be guilty of a Class II misdemeanor or subject to a civil penalty of not more than one thousand dollars for each day the violation occurs.

Sec. 8. Section 46-1240, Revised Statutes Supplement, 1994, is amended to read:

46-1240. Any person who engages in or any person who employs or uses a person who engages in (1) in the construction of water wells, (2) in the installation of pumps and pumping equipment, or (3) in the measuring of ground water levels, the collection of ground water samples from existing water wells, or the inspection of installed water well equipment, pumping systems, or chemigation regulation devices or who fails to decommission or decommissions an illegal water well without complying with the standards adopted and promulgated pursuant to the Water Well Standards and Contractors' Licensing Act shall be guilty of a Class III misdemeanor or subject to a civil penalty of not more than five hundred dollars for each day an intentional violation occurs and may be enjoined from continuing such activity, including a mandatory injunction.

Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall, within thirty days from receipt, remit the civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 9. Section 46-1405, Revised Statutes Supplement, 1995, is amended to read:

46-1405. Any natural resources district cost-sharing program for decommissioning illegal water wells may qualify for funding pursuant to section 46-1404 if the program:

- (1) Applies only to water wells properly decommissioned by licensed water well contractors and pump installation contractors;
- (2) Applies to all water wells in the district;
- (3) Is available for at least thirty water wells per year; and
- (4) Provides at least ~~seventy-five~~ sixty percent of the costs of decommissioning, up to a maximum of three hundred dollars for all water wells other than hand-dug water wells which shall be eligible for up to a maximum of seven hundred dollars.

Sec. 10. Original sections 2-3290, 46-1233, 46-1238, and 46-1239, Reissue Revised Statutes of Nebraska, sections 46-1201, 46-1203, and 46-1240, Revised Statutes Supplement, 1994, and section 46-1405, Revised Statutes Supplement, 1995, are repealed.