

LEGISLATIVE BILL 325

Approved by the Governor March 29, 1991

Introduced by Morrissey, 1; R. Johnson, 34; Smith, 33; Landis, 46; Horgan, 4; Robinson, 16; Wehrbein, 2; Rasmussen, 20; Conway, 17; Beutler, 28; Coordsen, 32; Rogers, 41; Will, 8; Nelson, 35; Hall, 7; Hillman, 48; Schellpeper, 18; Dierks, 40; Lynch, 13; Baack, 47; Moore, 24; Elmer, 38; Wesely, 26; Robak, 22; Warner, 25; Bernard-Stevens, 42; Hartnett, 45; Ashford, 6; Cudaback, 36; Crosby, 29; Schimek, 27; Beyer, 3; Kristensen, 37; Hefner, 19; Lamb, 43

AN ACT relating to waste management; to amend sections 81-15,161 and 81-15,166, Revised Statutes Supplement, 1990; to change powers and duties of the Director of Environmental Control and the Environmental Control Council regarding certain grants; to extend the deadline for completion of the comprehensive solid waste management plan; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 81-15,161, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,161. (1) Allocations from the Waste Reduction and Recycling Incentive Fund may be made as grants to a political subdivision when it is found that the reduction or recycling program or project proposed by the political subdivision appears to benefit the general public, to further the goals of waste reduction and recycling, and to be consistent with proper waste management practices. A political subdivision may file an application with the Department of Environmental Control for a grant from the fund. Each application shall be filed in a manner and form prescribed by the department.

(2) An application for a grant from the fund shall: (a) Describe the nature and purpose of the proposed program or project; (b) set forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic,

and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the department; (c) state whether money other than that for which the application is made will be used to help in meeting program or project costs and whether such money is available or has been sought for this purpose; (d) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands; (e) show that the applicant possesses all necessary authority to undertake or participate in the proposed program or project; and (f) demonstrate the probable environmental and ecological consequences that may result from such proposed program or project. Upon receipt of an application the Director of Environmental Control shall evaluate and investigate all aspects of the proposed program or project and the proposed schedule for the development and completion of such program or project, determine the eligibility of the program or project for funding, and make appropriate recommendations to the Environmental Control Council. As a part of his or her investigation, the director shall consider whether the plan for development of the program or project is satisfactory. If the director determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the director shall return the application to the applicant and may make recommendations to the applicant which the director considers necessary to make the plan or the application satisfactory.

(3) The director shall within a reasonable time, not to exceed six months, after receipt of such application report to the council the results of his or her evaluation and investigation and shall recommend approval or rejection of funding for the program or project. The director shall indicate what form of allocation he or she deems appropriate. The council shall act in accordance with the director's recommendations unless action to the contrary is approved by each council member eligible to vote on the specific recommendation under consideration. No council member shall be eligible to participate in the action of the council concerning an application for funding to any entity in which such council member has any interest. If the council approves the recommendation of the director, the director shall allocate the funds. The grant shall be for a specific dollar amount of funds, and the funds shall be used only for the purpose

specified in the grant. The director may set any terms for the administration of the funds as he or she deems necessary and any penalties to be imposed upon the recipient if it fails to comply with any requirements of the grant.

(4) It is the intent of the Legislature that allocations from the fund shall be made in an equitable manner which maximizes the benefits of the fund. When awarding grants, the council shall balance the needs of: (a) All geographic areas of the state; (b) all sizes and classes of communities; and (c) all manner and scale of programs and projects. The council shall also give consideration to eligible programs and projects which would specifically employ disabled or handicapped persons.

(5) If after review of the recommendation by the director the council determines that an application for a grant is satisfactory and qualified to be approved, before the final approval of such application may be given and the funds allocated the council shall enter into an agreement in the name of the state with the applicant and any other entity it deems to be involved in the program or project to which funds shall be applied. All agreements entered into pursuant to this section shall include, but not be limited to, a specification of the amount of funds involved, the specific purpose for which the allocation is made, the terms of administration of the allocated funds, and any penalties to be imposed upon the applicant if it fails to apply the funds in accordance with the agreement. The council shall adopt and promulgate rules and regulations to carry out this section and section 81-15,160.

Sec. 2. That section 81-15,166, Revised Statutes Supplement, 1990, be amended to read as follows:

81-15,166. The Department of Environmental Control, with the advice and consent of the Environmental Control Council, shall contract for the preparation of a comprehensive solid waste management plan. Such plan shall be contracted for and prepared within one year after July 10, 1990 on or before December 15, 1991.

It is the intent of the Legislature that in preparation of the plan the state consider the following hierarchy of criteria: (1) Volume reduction at the source; (2) recycling, reuse, and vegetative waste composting; (3) incineration with energy resource recovery; (4) incineration for volume reduction; and (5) land disposal.

It is the intent of the Legislature that the plan be used as a guide to assist political subdivisions in the planning and implementation of their individual, joint, or regional solid waste management systems. The state comprehensive solid waste management plan shall not supersede or impair plans, agreements, or contracts initiated by political subdivisions prior to July 10, 1990 December 15, 1991.

The Environmental Control Council shall adopt and promulgate rules and regulations for solid waste management options which comply with Environmental Protection Agency rules and guidelines, including rules and guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste Amendments to Subtitle D of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

Sec. 3. That original sections 81-15,161 and 81-15,166, Revised Statutes Supplement, 1990, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.