

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 224**

Introduced By: Kopplin, 3  
Read first time: January 9, 2007  
Committee:

A BILL

1 FOR AN ACT relating to irrigation; to amend sections 46-602 and  
2 46-706, Revised Statutes Cumulative Supplement, 2006; to  
3 impose a moratorium on new water wells as prescribed; to  
4 repeal the original sections; and to declare an emergency.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 46-602, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           46-602. (1) ~~Each~~ Except as otherwise provided in this  
4 section, each water well completed in this state on or after July 1,  
5 2001, excluding test holes and dewatering wells to be used for less  
6 than ninety days, shall be registered with the Department of Natural  
7 Resources as provided in this section within sixty days after  
8 completion of construction of the water well. On and after July 1,  
9 2006, through June 30, 2008, the department shall not accept  
10 registrations for water wells for irrigation purposes unless the  
11 water well is a replacement water well. The water well contractor as  
12 defined in section 46-1213 constructing the water well, or the owner  
13 of the water well if the owner constructed the water well, shall file  
14 the registration on a form made available by the department and shall  
15 also file with the department the information from the well log  
16 required pursuant to section 46-1241. The department shall, by January  
17 1, 2002, provide water well contractors with the option of filing such  
18 registration forms electronically. No signature shall be required on  
19 forms filed electronically. The fee required by subsection (3) of  
20 section 46-1224 shall be the source of funds for any required fee to a  
21 contractor which provides the on-line services for such registration.  
22 Any discount in the amount paid the state by a credit card, charge  
23 card, or debit card company or a third-party merchant bank for such  
24 registration fees shall be deducted from the portion of the  
25 registration fee collected pursuant to section 46-1224.

26           (2)(a) If the newly constructed water well is a replacement  
27 water well, the registration form shall include (i) the registration

1 number of the water well being replaced, if applicable, and (ii) the  
2 date the original water well was decommissioned or a certification  
3 that the water well will be decommissioned within one hundred eighty  
4 days or a certification that the original water well will be modified  
5 and equipped to pump fifty gallons per minute or less and will be used  
6 only for livestock, monitoring, observation, or any other  
7 nonconsumptive use or de minimus use approved by the applicable  
8 natural resources district.

9 (b) For purposes of this section, replacement water well  
10 means a water well which is constructed to provide water for the same  
11 purpose as the original water well and is operating in accordance with  
12 any applicable permit from the department and any applicable rules and  
13 regulations of the natural resources district and, if the purpose is  
14 for irrigation, the replacement water well delivers water to the same  
15 tract of land served by the original water well and (i) replaces an  
16 abandoned water well within three years after the last operation of  
17 the abandoned water well and the original water well is decommissioned  
18 either before or within one hundred eighty days after such  
19 construction, (ii) replaces a water well that has not been abandoned  
20 but will not be used after construction of the new water well and the  
21 original water well will be decommissioned within one hundred eighty  
22 days after such construction, except that in the case of a municipal  
23 water well, the original municipal water well may be used after  
24 construction of the new water well but shall be decommissioned within  
25 one year after completion of the replacement water well, or (iii) will  
26 continue to be used but will be modified and equipped within one  
27 hundred eighty days after such construction of the replacement water

1 well to pump fifty gallons per minute or less and will be used only  
2 for livestock, monitoring, observation, or any other nonconsumptive or  
3 de minimus use and approved by the applicable natural resources  
4 district.

5 (c) No water well shall be registered as a replacement water  
6 well until the Department of Natural Resources has received a properly  
7 completed notice of decommissioning for the water well being replaced  
8 on a form made available by the department, or properly completed  
9 notice, prepared in accordance with subsection (7) of this section, of  
10 the modification and equipping of the original water well to pump  
11 fifty gallons per minute or less for use only for livestock,  
12 monitoring, observation, or any other nonconsumptive or de minimus use  
13 approved by the applicable natural resources district. Such notices,  
14 as required, shall be completed by (i) the water well contractor as  
15 defined in section 46-1213 who decommissions the water well or  
16 modifies and equips the water well, (ii) the pump installation  
17 contractor as defined in section 46-1209 who decommissions the water  
18 well or modifies and equips the water well, or (iii) the owner if the  
19 owner decommissions a driven sandpoint well which is on land owned by  
20 him or her for farming, ranching, or agricultural purposes or as his  
21 or her place of abode. The Department of Health and Human Services  
22 Regulation and Licensure shall, by rule and regulation, determine  
23 which contractor or owner shall be responsible for such notice in  
24 situations in which more than one contractor or owner may be required  
25 to provide notice under this subsection.

26 (3) For a series of two or more water wells completed and  
27 pumped into a common carrier as part of a single site plan for

1 irrigation purposes, a registration form and a detailed site plan  
2 shall be filed for each water well. The registration form shall  
3 include the registration numbers of other water wells included in the  
4 series if such water wells are already registered.

5 (4) A series of water wells completed for purposes of  
6 installation of a ground heat exchanger for a structure for utilizing  
7 the geothermal properties of the ground shall be considered as one  
8 water well. One registration form and a detailed site plan shall be  
9 filed for each such series.

10 (5) One registration form shall be required along with a  
11 detailed site plan which shows the location of each such water well in  
12 the site and a log from each such water well for water wells  
13 constructed as part of a single site plan for (a) monitoring ground  
14 water, obtaining hydrogeologic information, or extracting contaminants  
15 from the ground, (b) water wells constructed as part of remedial  
16 action approved by the Department of Environmental Quality pursuant to  
17 section 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners  
18 who have a permit issued pursuant to the Industrial Ground Water  
19 Regulatory Act and also have an underground injection control permit  
20 issued by the Department of Environmental Quality.

21 (6) The Department of Natural Resources shall be notified by  
22 the owner of any change in the ownership of a water well required to  
23 be registered under this section. Notification shall be in such form  
24 and include such evidence of ownership as the Director of Natural  
25 Resources by rule and regulation directs. The department shall use  
26 such notice to update the registration on file. The department shall  
27 not collect a fee for the filing of the notice.

1           (7) The water well contractor or pump installation  
2 contractor responsible therefor shall notify the department within  
3 sixty days on a form provided by the department of any pump  
4 installation or any modifications to the construction of the water  
5 well or pump, after the initial registration of the well. For a change  
6 of use resulting in modification and equipping of an original water  
7 well which is being replaced in accordance with subsection (2) of this  
8 section, the water well contractor or pump installation contractor  
9 shall notify the department within sixty days on a form provided by  
10 the department of the water well and pump modifications and equipping  
11 of the original water well. A water well owner shall notify the  
12 department within sixty days on a form provided by the department of  
13 any other changes or any inaccuracies in recorded water well  
14 information, including, but not limited to, changes in use. The  
15 department shall not collect a fee for the filing of the notice.

16           (8) Whenever a water well becomes an illegal water well as  
17 defined in section 46-706, the owner of the water well shall either  
18 correct the deficiency that causes the well to be an illegal water  
19 well or shall cause the proper decommissioning of the water well in  
20 accordance with rules and regulations adopted pursuant to the Water  
21 Well Standards and Contractors' Licensing Act. The water well  
22 contractor who decommissions the water well, the pump installation  
23 contractor who decommissions the water well, or the owner if the owner  
24 decommissions a driven sandpoint well which is on land owned by him or  
25 her for farming, ranching, or agricultural purposes or as his or her  
26 place of abode, shall provide a properly completed notice of  
27 abandonment to the Department of Natural Resources within sixty days.

1 The Department of Health and Human Services Regulation and Licensure  
2 shall, by rule and regulation, determine which contractor or owner  
3 shall be responsible for such notice in situations in which more than  
4 one contractor or owner may be required to provide notice under this  
5 subsection. The Department of Natural Resources shall not collect a  
6 fee for the filing of the notice.

7 (9) Except for water wells which are used solely for  
8 domestic purposes and were constructed before September 9, 1993, and  
9 for test holes and dewatering wells used for less than ninety days,  
10 each water well which was completed in this state before July 1, 2001,  
11 and which is not registered on that date shall be an illegal water  
12 well until it is registered with the Department of Natural Resources.  
13 Such registration shall be completed by a water well contractor or by  
14 the current owner of the water well, shall be on forms provided by the  
15 department, and shall provide as much of the information required by  
16 subsections (1) through (5) of this section for registration of a new  
17 water well as is possible at the time of registration.

18 (10) Water wells which are or were used solely for injecting  
19 any fluid other than water into the underground water reservoir, which  
20 were constructed before July 16, 2004, and which have not been  
21 properly decommissioned on or before July 16, 2004, shall be  
22 registered on or before July 1, 2005.

23 Sec. 2. Section 46-706, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 46-706. For purposes of the Municipal and Rural Domestic  
26 Ground Water Transfers Permit Act, the Nebraska Ground Water  
27 Management and Protection Act, and sections 46-601 to 46-613.02,

1 46-636, 46-637, and 46-651 to 46-655, unless the context otherwise  
2 requires:

3 (1) Person means a natural person, a partnership, a limited  
4 liability company, an association, a corporation, a municipality, an  
5 irrigation district, an agency or a political subdivision of the  
6 state, or a department, an agency, or a bureau of the United States;

7 (2) Ground water means that water which occurs in or moves,  
8 seeps, filters, or percolates through ground under the surface of the  
9 land;

10 (3) Contamination or contamination of ground water means  
11 nitrate nitrogen or other material which enters the ground water due  
12 to action of any person and causes degradation of the quality of  
13 ground water sufficient to make such ground water unsuitable for  
14 present or reasonably foreseeable beneficial uses;

15 (4) District means a natural resources district operating  
16 pursuant to Chapter 2, article 32;

17 (5) Illegal water well means (a) any water well operated or  
18 constructed without or in violation of a permit required by the  
19 Nebraska Ground Water Management and Protection Act, (b) any water  
20 well not in compliance with rules and regulations adopted and  
21 promulgated pursuant to the act, (c) any water well not properly  
22 registered in accordance with sections 46-602 to 46-604, ~~or~~ (d), a  
23 water well constructed for irrigation purposes on or after July 1,  
24 2006, and on or before June 30, 2006, unless it is a replacement  
25 water well as defined in section 46-602, and (e) any water well not  
26 in compliance with any other applicable laws of the State of Nebraska  
27 or with rules and regulations adopted and promulgated pursuant to such

1 laws;

2 (6) To commence construction of a water well means the  
3 beginning of the boring, drilling, jetting, digging, or excavating of  
4 the actual water well from which ground water is to be withdrawn;

5 (7) Management area means any area so designated by a  
6 district pursuant to section 46-712 or 46-718, by the Director of  
7 Environmental Quality pursuant to section 46-725, or by the  
8 Interrelated Water Review Board pursuant to section 46-719. Management  
9 area includes a control area or a special ground water quality  
10 protection area designated prior to July 19, 1996;

11 (8) Management plan means a ground water management plan  
12 developed by a district and submitted to the Director of Natural  
13 Resources for review pursuant to section 46-711;

14 (9) Ground water reservoir life goal means the finite or  
15 infinite period of time which a district establishes as its goal for  
16 maintenance of the supply and quality of water in a ground water  
17 reservoir at the time a ground water management plan is adopted;

18 (10) Board means the board of directors of a district;

19 (11) Acre-inch means the amount of water necessary to cover  
20 an acre of land one inch deep;

21 (12) Subirrigation or subirrigated land means the natural  
22 occurrence of a ground water table within the root zone of  
23 agricultural vegetation, not exceeding ten feet below the surface of  
24 the ground;

25 (13) Best management practices means schedules of  
26 activities, maintenance procedures, and other management practices  
27 utilized for purposes of irrigation efficiency, to conserve or effect

1 a savings of ground water, or to prevent or reduce present and future  
2 contamination of ground water. Best management practices relating to  
3 contamination of ground water may include, but not be limited to,  
4 irrigation scheduling, proper rate and timing of fertilizer  
5 application, and other fertilizer and pesticide management programs.  
6 In determining the rate of fertilizer application, the district shall  
7 consult with the University of Nebraska or a certified crop advisor  
8 certified by the American Society of Agronomy;

9 (14) Point source means any discernible, confined, and  
10 discrete conveyance, including, but not limited to, any pipe, channel,  
11 tunnel, conduit, well, discrete fissure, container, rolling stock,  
12 vessel, other floating craft, or other conveyance, over which the  
13 Department of Environmental Quality has regulatory authority and from  
14 which a substance which can cause or contribute to contamination of  
15 ground water is or may be discharged;

16 (15) Allocation, as it relates to water use for irrigation  
17 purposes, means the allotment of a specified total number of  
18 acre-inches of irrigation water per irrigated acre per year or an  
19 average number of acre-inches of irrigation water per irrigated acre  
20 over any reasonable period of time;

21 (16) Rotation means a recurring series of use and nonuse of  
22 irrigation wells on an hourly, daily, weekly, monthly, or yearly  
23 basis;

24 (17) Water well has the same meaning as in section  
25 46-601.01;

26 (18) Surface water project sponsor means an irrigation  
27 district created pursuant to Chapter 46, article 1, a reclamation

1 district created pursuant to Chapter 46, article 5, or a public power  
2 and irrigation district created pursuant to Chapter 70, article 6;

3 (19) Beneficial use means that use by which water may be put  
4 to use to the benefit of humans or other species;

5 (20) Consumptive use means the amount of water that is  
6 consumed under appropriate and reasonably efficient practices to  
7 accomplish without waste the purposes for which the appropriation or  
8 other legally permitted use is lawfully made;

9 (21) Dewatering well means a well constructed and used  
10 solely for the purpose of lowering the ground water table elevation;

11 (22) Emergency situation means any set of circumstances that  
12 requires the use of water from any source that might otherwise be  
13 regulated or prohibited and the agency, district, or organization  
14 responsible for regulating water use from such source reasonably and  
15 in good faith believes that such use is necessary to protect the  
16 public health, safety, and welfare, including, if applicable,  
17 compliance with federal or state water quality standards;

18 (23) Good cause shown means a reasonable justification for  
19 granting a variance for a consumptive use of water that would  
20 otherwise be prohibited by rule or regulation and which the granting  
21 agency, district, or organization reasonably and in good faith  
22 believes will provide an economic, environmental, social, or public  
23 health and safety benefit that is equal to or greater than the benefit  
24 resulting from the rule or regulation from which a variance is sought;

25 (24) Historic consumptive use means the amount of water that  
26 has previously been consumed under appropriate and reasonably  
27 efficient practices to accomplish without waste the purposes for which

1 the appropriation or other legally permitted use was lawfully made;

2 (25) Monitoring well means a water well that is designed and  
3 constructed to provide ongoing hydrologic or water quality information  
4 and is not intended for consumptive use;

5 (26) Order, except as otherwise specifically provided,  
6 includes any order required by the Nebraska Ground Water Management  
7 and Protection Act, by rule or regulation, or by a decision adopted by  
8 a district by vote of the board of directors of the district taken at  
9 any regularly scheduled or specially scheduled meeting of the board;

10 (27) Overall difference between the current and fully  
11 appropriated levels of development means the extent to which existing  
12 uses of hydrologically connected surface water and ground water and  
13 conservation activities result in the water supply available for  
14 purposes identified in subsection (3) of section 46-713 to be less  
15 than the water supply available if the river basin, subbasin, or reach  
16 had been determined to be fully appropriated in accordance with  
17 section 46-714;

18 (28) Test hole means a hole designed solely for the purposes  
19 of obtaining information on hydrologic or geologic conditions; and

20 (29) Variance means (a) an approval to deviate from a  
21 restriction imposed under subsection (1), (2), (9), or (10) of section  
22 46-714 or (b) the approval to act in a manner contrary to existing  
23 rules or regulations from a governing body whose rule or regulation is  
24 otherwise applicable.

25 Sec. 3. Original sections 46-602 and 46-706, Revised  
26 Statutes Cumulative Supplement, 2006, are repealed.

27 Sec. 4. Since an emergency exists, this act takes effect

1 when passed and approved according to law.