

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 862

FINAL READING

Introduced by Christensen, 44; Carlson, 38.

Read first time January 11, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources; to amend sections
2 2-3226.01 and 2-3226.05, Revised Statutes Cumulative
3 Supplement, 2008, and section 46-739.01, Revised Statutes
4 Supplement, 2009; to change provisions relating to
5 river-flow enhancement bonds; to change provisions
6 relating to an occupation tax as prescribed; to provide
7 exceptions to approval requirements for transfers of
8 certified water uses or irrigated acres or participation
9 in certain incentive programs; and to repeal the original
10 sections.

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

1 Section 1. Section 2-3226.01, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 2-3226.01 (1) In order to implement its duties and
4 obligations under the Nebraska Ground Water Management and
5 Protection Act and in addition to other powers authorized by law,
6 the board of a district with jurisdiction that ~~includes a river~~
7 ~~subject to an interstate compact among three or more states and~~
8 ~~that also includes one or more irrigation districts within the~~
9 ~~compact~~ is part of a river basin for which the district has, in
10 accordance with section 46-715, adopted an integrated management
11 plan which references section 2-3226.04 and explicitly states its
12 intent in the plan to utilize qualified projects described in
13 section 2-3226.04 may issue negotiable bonds and refunding bonds
14 of the district and entitled river-flow enhancement bonds, with
15 terms determined appropriate by the board, payable by (a) funds
16 granted to such district by the state or federal government for
17 one or more qualified projects, (b) the occupation tax authorized
18 by section 2-3226.05, or (c) the levy authorized by section 2-3225.
19 The district may issue the bonds or refunding bonds directly,
20 or such bonds may be issued by any joint entity as defined
21 in section 13-803 whose member public agencies consist only of
22 qualified natural resources districts or by any joint public
23 agency as defined in section 13-2503 whose participating public
24 agencies consist only of qualified natural resources districts, in
25 connection with any joint project which is to be owned, operated,

1 or financed by the joint entity or joint public agency for the
2 benefit of its member natural resources districts. For the payment
3 of such bonds or refunding bonds, the district may pledge one or
4 more permitted payment sources.

5 (2) Within forty-five days after receipt of a written
6 request by the Natural Resources Committee of the Legislature, the
7 qualified natural resources districts shall submit a written report
8 to the committee containing an explanation of existing or planned
9 activities for river-flow enhancement, the revenue source for
10 implementing such activities, and a description of the estimated
11 benefit or benefits to the district or districts.

12 (3) Beginning on April 1, 2008, if a district uses the
13 proceeds of a bond issued pursuant to this section for the purposes
14 described in subdivision (1) of section 2-3226.04 or the state
15 uses funds for those same purposes, the agreement to acquire water
16 rights by purchase or lease pursuant to such subdivision shall
17 identify (a) the method of payment, (b) the distribution of funds
18 by the party or parties receiving payments, (c) the water use or
19 rights subject to the agreement, and (d) the water use or rights
20 allowed by the agreement. If any irrigation district is party
21 to the agreement, the irrigation district shall allocate funds
22 received under such agreement among its users or members in a
23 reasonable manner, giving consideration to the benefits received
24 and the value of the rights surrendered for the specified contract
25 period.

1 Sec. 2. Section 2-3226.05, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 2-3226.05 (1) ~~The district~~ A district with an integrated
4 management plan as described in subsection (1) of section 2-3226.01
5 may levy an occupation tax upon the activity of irrigation of
6 agricultural lands within such district on an annual basis, not to
7 exceed ten dollars per irrigated acre, the proceeds of which may
8 be used for ~~the purpose of~~ (a) repaying principal and interest on
9 any bonds or refunding bonds issued pursuant to section 2-3226.01
10 for one or more projects under section 2-3226.04, (b) ~~or for~~ the
11 repayment of financial assistance received by the district pursuant
12 to section 2-3226.07, or (c) payment of all or any part of the
13 costs and expenses of one or more qualified projects described
14 in section 2-3226.04. If such district has more than one river
15 basin as described in section 2-1504 within its jurisdiction,
16 such district shall confine such occupation tax authorized in this
17 section to the geographic area affected by an integrated management
18 plan adopted in accordance with section 46-715.

19 (2) Acres classified by the county assessor as irrigated
20 shall be subject to such district's occupation tax unless, on or
21 before July 1, 2007, and on or before March 1 in each subsequent
22 year, the record owner certifies to the district the nonirrigation
23 status of such acres.

24 (3) Any such occupation tax shall remain in effect so
25 long as the natural resources district has bonds outstanding which

1 have been issued stating such occupation tax as an available source
2 for payment and for the purpose of paying all or any part of the
3 costs and expenses of one or more projects authorized pursuant to
4 section 2-3226.04.

5 (4) Such occupation taxes shall be certified to,
6 collected by, and accounted for by the county treasurer at the
7 same time and in the same manner as general real estate taxes,
8 and such occupation taxes shall be and remain a perpetual lien
9 against such real estate until paid. Such occupation taxes shall
10 become delinquent at the same time and in the same manner as
11 general real property taxes. The county treasurer shall publish and
12 post a list of delinquent occupation taxes with the list of real
13 property subject to sale for delinquent property taxes provided
14 for in section 77-1804. In addition, the list shall be provided to
15 natural resources districts which levied the delinquent occupation
16 taxes. The list shall include the record owner's name, the parcel
17 identification number, and the amount of delinquent occupation tax.
18 For services rendered in the collection of the occupation tax, the
19 county treasurer shall receive the fee provided for collection of
20 general natural resources district money under section 33-114.

21 (5) Such lien shall be inferior only to general taxes
22 levied by political subdivisions of the state. When such occupation
23 taxes have become delinquent and the real property on which the
24 irrigation took place has not been offered at any tax sale, the
25 district may proceed in district court in the county in which the

1 real estate is situated to foreclose in its own name the lien
2 in the same manner and with like effect as a foreclosure of a
3 real estate mortgage, except that sections 77-1903 to 77-1917 shall
4 govern when applicable.

5 Sec. 3. Section 46-739.01, Revised Statutes Supplement,
6 2009, is amended to read:

7 46-739.01 (1) Notwithstanding any other provision of law,
8 no district shall approve a transfer of certified water uses
9 or certified irrigated acres or allow a ground water user or
10 landowner to participate in a financial or other incentive program
11 established pursuant to subsection (8) of section 46-739 unless
12 the person seeking such transfer or participation in such program
13 has submitted to the district a report of title issued by an
14 attorney or a registered abstractor, on a form prescribed by the
15 district, reflecting (a) the owner and legal description of the
16 land from which the certified water uses or certified irrigated
17 acres are to be transferred or which is the subject of such program
18 and (b) the existence of all liens, evidenced by the filing of
19 a mortgage, trust deed, or other equivalent consensual security
20 interest, against the land from which the certified water uses
21 or certified irrigated acres are to be transferred or which is
22 the subject of such program and the name and address of each
23 such lienholder, if any. If the report of title reflects the
24 existence of any lien evidenced by the filing of a mortgage, trust
25 deed, or other equivalent consensual security interest, written

1 consent to such transfer or participation in such program shall be
2 obtained from each such lienholder. The district may assess a fee
3 against the person seeking such transfer or participation in such
4 program to recoup its costs in reviewing the report of title. This
5 subsection does not apply to a transfer of certified water uses or
6 certified irrigated acres resulting from: A one-time transfer of
7 four acres or less; participation in a financial or other incentive
8 program that involves the transfer, purchase, or retirement of four
9 acres or less; or a transfer that involves one landowner on a
10 single tract of land in which there is no reduction or increase in
11 certified water uses or certified irrigated acres and the transfer
12 involves an improvement in irrigation efficiency.

13 (2) Approval of a transfer of certified water uses or
14 certified irrigated acres or authorization of a ground water user
15 or landowner to participate in such financial or other incentive
16 program by a district shall not affect the rights of any lienholder
17 who is not reflected in the report of title and from whom the
18 required consent was not obtained. Such a lienholder may bring an
19 action against the person seeking such transfer or participation
20 in such program for damages or injunctive or other relief for any
21 injury done to the lienholder's interest in land or use of ground
22 water resulting from such transfer or participation.

23 (3) This section does not limit the right to resort to
24 other means of review, redress, or relief provided by law.

25 Sec. 4. Original sections 2-3226.01 and 2-3226.05,

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- 1 Revised Statutes Cumulative Supplement, 2008, and section
- 2 46-739.01, Revised Statutes Supplement, 2009, are repealed.