

LEGISLATIVE BILL 542

Approved by the Governor February 5, 1972

Introduced by J. W. Burbach, 19th District; Maurice A. Kremer, 34th District; Rudolf C. Kokes, 41st District; Irving F. Wiltse, 1st District; Herb Nore, 22nd District; E. Thome Johnson, 15th District

AN ACT to amend sections 2-1504, 2-1505, and 2-3260, Reissue Revised Statutes of Nebraska, 1943, and section 2-1503, Revised Statutes Supplement, 1971, relating to the Nebraska Soil and Water Conservation Commission; to rename the commission and change the number and manner of selection of members and their terms of office; to provide for an advisory committee; to provide duties; to provide for transition; and to repeal the original sections, and also section 2-1504.01, Revised Statutes Supplement, 1971.

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

Section 1. That section 2-1503, Revised Statutes Supplement, 1971, be amended to read as follows:

2-1503. As used in sections 2-1502 to 2-1567, unless the context otherwise requires:

(1) This act shall mean sections 2-1502 to 2-1567;

(2) District, soil conservation district, or soil and water conservation district shall mean a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act;

(3) Supervisor shall mean one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act;

(4) ~~Commission or Nebraska--Soil--and--Water Conservation--Commission~~ Nebraska Natural Resources Commission shall mean the agency created in section 2-1504;

(5) Petition shall mean a petition filed under the provisions of section 2-1508 for the creation of a district;

(6) Nominating petition shall mean a petition filed under the provisions of section 2-1518 to nominate candidates for the office of supervisor of a soil conservation district;

(7) State shall mean the State of Nebraska;

(8) Agency of this state shall mean the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state;

(9) United States or agencies of the United States shall mean the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America;

(10) Government or governmental shall mean the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them;

(11) Landowner shall mean any person with a legal residence within the district, who shall hold title to any lands lying within a district organized under the provisions of this act;

(12) Land occupier or occupier of land shall mean any person who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as lessee, renter, tenant, or otherwise;

(13) Due notice shall mean legal notice;

(14) Lands, easements, and rights-of-way shall mean lands and rights or interests in lands whereon channel improvements and channel rectifications, water retarding or gully stabilization structures are located, including those areas for flooding and flowage purposes, spoil areas, borrow pits, access roads, and for similar purposes;

(15) Local organization shall mean any soil and water conservation district, watershed conservancy district, watershed district, drainage district, irrigation district, or other public district, county, city or state agency;

(16) Subwatershed shall mean a portion of a watershed project as divided by the commission on a complete hydrologic unit;

(17) Tenant shall mean any occupier or operator or a combination of occupier and operator of agricultural lands lying within a district which is owned by others and who, through the employment of his time, equipment and livestock, derives a majority of his income from a farming or ranching operation;

(18) Elector shall mean any person as defined in section 32-102;

(19) Watershed or watershed conservancy district shall mean a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act for the purposes specified in section 2-1550;

(20) Rechanneling shall mean the channeling of water from one watercourse to another watercourse by means of open ditches; and

(21) Watercourse shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water at least nine months of the year, having a bed and well-defined banks; Provided, that it shall, upon order of the commission, also include any particular depression which would not otherwise be within the definition of watercourse.

Sec. 2. That section 2-1504, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1504. (1) There is hereby established, to serve as the official agency of the state in connection with soil and water conservation, flood prevention, watershed protection, and flood control and to perform the functions conferred upon it in sections 2-1502 to 2-1567 and sections 2-3201 to 2-3264, the Nebraska ~~Soil and Water Conservation~~ Natural Resources Commission.

(2) Until January 1, 1973, the commission shall consist of fourteen members, as follows: The dean or director of the Conservation and Survey Division of the University of Nebraska; the dean of the University of Nebraska College of Agriculture; ~~and Home-Economics~~; the director of the state agricultural extension service; the Director of Water Resources; three members to be appointed by the Governor, one of whom shall represent the irrigation interests of the state, one of whom shall represent the chambers of commerce, and one of whom shall represent municipal and industrial users; and one district supervisor or former district supervisor from the state at large and one district supervisor or former

district supervisor from each of the following districts: (a) Cedar, Dixon, Dakota, Wayne, Thurston, Stanton, Cuming, Burt, Colfax, Dodge, Washington, Douglas, Butler, Saunders, Sarpy, Seward, Lancaster, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson counties; (b) Gage, Saline, Jefferson, Polk, York, Fillmore, Thayer, Hamilton, Clay, Nuckolls, Hall, Adams, Webster, Buffalo, Kearney, Franklin, Dawson, Phelps, Gosper, Harlan, and Furnas counties; (c) Knox, Antelope, Pierce, Wheeler, Boone, Madison, Platte, Greeley, Nance, Sherman, Howard, Merrick, Cherry, Keya Paha, Brown, Rock, Boyd, Holt, Grant, Hooker, Thomas, Blaine, Loup, Garfield, McPherson, Logan, Custer, and Valley counties; and (d) Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, Deuel, Arthur, Keith, Lincoln, Perkins, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow counties; one member of the Nebraska state irrigation association to be elected at their convention, and a director or former director of a watershed conservancy district, watershed district or watershed planning board to be elected at the convention of the Nebraska association of soil and water conservation districts. The district supervisors in attendance at the annual state conference of district supervisors shall elect by secret informal written ballot the district supervisors or former district supervisors to be members of the commission. The district supervisors from each of the four districts provided by this section in attendance at the annual state conference of district supervisors shall caucus and nominate no less than two nominees for each position to be filled on the commission. These nominees shall be presented to the supervisors in attendance at the annual conference for election. The nominee from each of the districts receiving the highest vote shall be declared elected and shall serve on the commission. The term of all elective officers on the commission shall be for two years commencing on January 1 of the year following their election. Succeeding the election of a member of the commission from each of the districts, the supervisors in attendance at the annual conference of supervisors shall nominate and elect one member to the commission at large. The one district supervisor or former district supervisor nominated and elected at large receiving the highest vote shall be declared elected.

(3) Effective January 1, 1973, the commission shall consist of fourteen members, as follows: The dean or director of the Conservation and Survey Division of the University of Nebraska; the dean of the University of the Nebraska College of Agriculture; ~~and Home--Economics~~; the director of the state agricultural extension service; the Director of Water Resources; four members to be

appointed by the Governor, one of whom shall represent pump irrigation interests of the state, one of whom shall represent the chambers of commerce, and one of whom shall represent municipal industrial users, and one member to represent gravity irrigation interests of the state; one natural resources district director or former district director from each of the following river basins, with basin delineations being those on the Nebraska river basin map officially adopted by the commission and on file in the commission office: (a) The Niobrara, White River, and Hat Creek basin, (b) the North Platte, South Platte, and Middle Platte River basins, (c) the Loup and lower Platte River basins, (d) the Elkhorn and upper Missouri tributaries basins, and (e) the Republican, Little Blue, Big Blue, and Nemaha river basins; and one member to be elected at large. Notwithstanding the terms for which they were elected, the terms of members elected pursuant to subsection (2) of this section shall expire on January 1, 1973. Commission members representing natural resources districts shall be elected at the annual state conference of district directors in 1972 and shall take office on January 1, 1973. District directors from each river basin in attendance at the conference in 1972 shall caucus and nominate no less than two candidates for membership on the commission. All directors in attendance shall then elect the members of the commission. The nominee from each river basin receiving the most votes shall be elected. Of those members elected, the three receiving the most votes shall serve for four years, and the remaining two members for two years. Following election of the five members from each basin, the at-large member shall be elected for a term of four years. As terms of members elected in 1972 expire, their successors shall be elected in the same manner, for terms of four years.

(4) Commencing the third Thursday after the first Tuesday in January, 1975, the Nebraska Natural Resources Commission shall consist of fifteen members, as follows: One natural resources district director or former district director from each of the following river basins, with delineations being those on the Nebraska river basin map officially adopted by the commission and on file in the commission office: (a) The Niobrara, White River and Hat Creek basin, (b) the North Platte River basin, (c) the South Platte River basin, (d) the middle Platte River basin, (e) the lower Platte River basin, (f) the Loup River basin, (g) the Elkhorn River basin, (h) the Missouri tributaries basin, (i) the Republican River basin, (j) the Little Blue River basin, (k) the Big Blue River basin, and (l) the Nemaha River basin, and three members to be appointed by the Governor subject to confirmation by the Legislature. Of the

members appointed by the Governor, one shall represent municipal users of water, one shall represent surface water irrigators, and one shall represent ground water irrigators. Notwithstanding the terms for which they were elected, the terms of members elected pursuant to subsection (2) of this section shall expire on the third Thursday after the first Tuesday in January, 1975. The members of the commission representing river basins shall be selected at individual caucuses of the natural resources district directors residing in the river basin from which the member is selected. Such caucuses shall be held by each basin on the second Thursday after the first Tuesday of the year the term of office of the commission member from that basin expires. In 1975 a caucus shall be held by each basin to select the river basin representatives to the commission and those members shall at their first meeting on the third Thursday after the first Tuesday in January, 1975, by such method as they may choose, divide themselves into two groups of six each and designate one group to serve for a term of two years and one group to serve for a term of four years. Their successors shall thereafter be selected for a term of four years each. The initial appointive members of the commission shall be appointed by the Governor-elect on or before January 1, 1975, subject to removal if not confirmed by the Legislature. The initial appointive members and all subsequent appointive members shall serve at the pleasure of the Governor. All members shall take office on the third Thursday after the first Tuesday in January, 1975. Any vacancy on the commission shall be filled for the unexpired term in the same manner as successors are named. Each member of the commission representing a river basin shall qualify by filing with the other members of the commission an acceptance in writing of his selection.

~~(4)-Each elective member of the commission shall qualify by filing with the other members of the commission an acceptance in writing of his election to office. In event of the failure to qualify, death, resignation, or removal from the state of any member elected as provided by this section, the other members of the commission, by a majority vote thereof, shall appoint a representative of the proper organization to fill the unexpired portion of the term of such elected member. The commission may invite the Secretary of Agriculture, Secretary of Defense, and Secretary of Interior of the United States of America and the Governor, each to appoint one person to serve with the commission as an advisor of the commission. The commission may reimburse the actual expenses necessarily incurred by the advisor appointed by the Governor while performing duties in connection with this act.~~

Sec. 3. That section 2-1505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1505. The commission shall designate its a chairman, a vice-chairman, and such other officers as it may desire and may, from time to time, change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Each of the members of the commission shall receive a per diem of twenty dollars per day for each day in the performance of his duties on the commission, but no member shall receive more than seven hundred fifty dollars in any one year, and in addition shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties on the commission. The commission shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property, and shall provide for an annual audit of the accounts of receipts and disbursements.

Sec. 4. The Nebraska Natural Resources Commission shall establish a technical advisory committee to assist it in the performance of its duties. The committee shall consist of the dean or director of the conservation and survey division of the University of Nebraska, the dean of the University of Nebraska College of Agriculture, the director of the state agricultural extension service, the Director of Water Resources, a representative of the office of the Governor, a representative of the Department of Health, a representative of the Department of Environmental Control, a representative of the Department of Economic Development, a representative of the Department of Roads, a representative of the Game and Parks Commission, one representative each from the United States Army Corps of Engineers, Department of Agriculture, and Department of the Interior if named to so serve by their respective secretaries.

Sec. 5. The Nebraska Natural Resources Commission shall encourage the soil and water conservation districts to merge into their natural resources district and shall give such assistance as may be necessary to accomplish such mergers.

Sec. 6. That section 2-3260, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3260. Whenever the words Nebraska Soil and Water Conservation Commission, Nebraska soil and water conservation commission, or Nebraska soil and water conservation committee, or commission appear in chapters hereinafter listed in this section, they shall, after ~~December-25,-1969, the effective date of this act,~~ be construed to mean and apply to the Nebraska--Soil--and Water-Conservation-Commission Nebraska Natural Resources Commission, or commission created by section 2-1504. The chapters wherein such words appear are Chapters 2, 31, 46, 49, and 85. The Revisor of Statutes shall make appropriate changes in the statutes necessitated by such redesignation.

Sec. 7. That original sections 2-1504, 2-1505, and 2-3260, Reissue Revised Statutes of Nebraska, 1943, section 2-1503, Revised Statutes Supplement, 1971, and also section 2-1504.01, Revised Statutes Supplement, 1971, are repealed.