

LEGISLATIVE BILL 506

Approved by the Governor April 18, 1983

Introduced by Haberman, 44

AN ACT to amend section 46-666, Revised Statutes Supplement, 1982, relating to ground water; to change provisions relating to controls adopted by a natural resources district; to repeal the original section; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. That section 46-666, Revised Statutes Supplement, 1982, be amended to read as follows:

46-666. (1) A district in which a control area has been designated pursuant to subdivision (1) (a) of section 46-658 shall by order adopt one or more of the following controls for the control area:

(a) It may determine the permissible total withdrawal of ground water for each day, month, or year, and allocate such withdrawal among the ground water users;

(b) It may adopt a system of rotation for use of ground water;

(c) It may adopt well-spacing requirements more restrictive than those found in sections 46-609 and 46-651;

(d) It may require the installation of devices for measuring ground water withdrawals from wells; and

(e) It may adopt such other reasonable regulations as are necessary to carry out the intent of this act.

(2) A district in which a control area has been designated pursuant to subdivision (1) (b) of section 46-658 shall by order adopt one or more of the following controls for the area:

(a) It may adopt any of the controls listed in subsection (1) of this section; and

(b) It may require water users to implement irrigation scheduling programs to schedule, to the extent reasonably possible, the application of water in amounts which will not move below the root zone.

(3) In adopting, amending, or repealing any

control authorized by subsection (1) or (2) of this section or sections 46-673.08 to 46-673.12, the district's considerations shall include, but not be limited to, whether it reasonably appears that such action will mitigate or eliminate the condition which led to designation of the control or management area, will encourage a high degree of water use efficiency, or will improve the administration of the area.

(4) The adoption, amendment, or repeal of any authorized control in a control area shall be subject to the approval of the director. The director may hold a public hearing to consider testimony regarding such controls prior to the issuance of an order approving or disapproving the adoption, amendment, or repeal of such controls. The director shall consult with the district and fix a time, place, and date for such hearing. In approving the adoption, amendment, or repeal of an authorized control in a control area, the director's considerations shall include, but not be limited to, those enumerated in subsection (3) of this section.

(5) If because of varying ground water uses, different irrigation distribution systems, or climatic, hydrologic, geologic, or soil conditions existing within a control or management area, the uniform application throughout such area of one or more controls would fail to carry out the intent of this act in a reasonably effective and equitable manner, the controls adopted by the district pursuant to subsection (1) or (2) of this section or sections 46-673.08 to 46-673.12 may contain different water allocations for different irrigation distribution systems on the condition that such different water allocations shall be authorized for no more than five years from the time such allocations are adopted, and different provisions for different categories of ground water use or portions of the control or management area. Any differences in such provisions shall recognize and be directed toward such varying ground water uses, distribution irrigation systems, or conditions. The provisions of all controls for different categories of ground water use shall be uniform for all portions of the area which have substantially similar climatic, hydrologic, geologic, and soil conditions.

(6) If the district determines, following a public hearing conducted pursuant to section 46-665, that depletion or pollution of the ground water supply in the control area or any portion thereof is so excessive that the public interest cannot be protected solely through implementation of reasonable controls adopted pursuant to subsection (1) or (2) of this section, it may, with the approval of the director, close the control area or portion thereof to the issuance of any additional permits for a period of one

calendar year. Such areas may be further closed thereafter by a similar procedure for additional one-year periods. Any such area may be reopened at any time the district shall determine that conditions warrant new permits, at which time the director shall consider all previously submitted applications for permits in the order in which they were received.

(7) The district shall cause a copy of each order adopted pursuant to this section or sections 46-673.08 to 46-673.12 to be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved, the last publication of which shall be not less than ten days prior to the date set for the effective date of such order.

(8) Whenever a control or management area encompasses portions of two or more districts, the responsibilities and authorities delegated in this section, section 46-665, and sections 46-673.08 to 46-673.12 shall be exercised jointly and uniformly by agreement of the respective boards of all districts so affected.

(9) If, at the end of eighteen months following the designation of a control area pursuant to section 46-658, the district or districts encompassed in whole or in part by a control area have not adopted a specific control or controls pursuant to subsection (1) or (2) of this section, the power to specify such controls shall vest in the director who shall, within ninety days thereafter, adopt by rule and regulation such control or controls as he or she shall deem necessary for carrying out the intent of this act. Subject to section 46-667, the enforcement of controls adopted pursuant to this section shall be the responsibility of the district or districts involved.

(10) If the power to adopt a control or controls in a control area shall be vested in the director, he or she shall be provided with a copy of all information, testimony, and data available to the district or districts as a result of the public hearing for the adoption of a control or controls. At his or her discretion, the director may conduct one or more additional public hearings prior to making his or her determination or selection of controls. Notice of any such additional hearings shall be given in the manner provided in section 46-658.

Sec. 2. That original section 46-666, Revised Statutes Supplement, 1982, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.