

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 498

Introduced by Louden, 49.

Read first time January 18, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to water; to amend sections 46-676.01, 46-677,
2 and 46-706, Reissue Revised Statutes of Nebraska; to
3 change provisions relating to in situ uranium mining; to
4 harmonize provisions; and to repeal the original
5 sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-676.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 46-676.01 The Industrial Ground Water Regulatory Act does
4 not apply to (1) any public water supplier providing, or intending to
5 provide, ground water for industrial purposes, (2) ~~nor does the act~~
6 ~~apply to any person who is using, or intends to use, ground water for~~
7 industrial purposes that is supplied by a public water supplier, or
8 (3) any in-situ recovery facility recirculating water from an
9 exempted aquifer designated pursuant to rules and regulations of the
10 Department of Environmental Quality.

11 Sec. 2. Section 46-677, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 46-677 (1) Except as provided in sections 46-676.01 and
14 46-678.01:

15 (a) Any person who desires to withdraw and transfer
16 ground water from aquifers located within the State of Nebraska for
17 industrial purposes shall, prior to commencing construction of any
18 water wells, obtain from the director a permit to authorize such
19 withdrawal and transfer of such ground water; and

20 (b) Any person who prior to April 23, 1993, has withdrawn
21 ground water from aquifers located in the State of Nebraska for
22 industrial purposes may file an application for a permit to authorize
23 the transfer of such ground water at any time.

24 (2) For purposes of this section, industrial purposes
25 includes manufacturing, in situ uranium mining, commercial, and power

1 generation uses of water and commercial use includes, but is not
2 limited to, maintenance of the turf of a golf course.

3 Sec. 3. Section 46-706, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 46-706 For purposes of the Municipal and Rural Domestic
6 Ground Water Transfers Permit Act, the Nebraska Ground Water
7 Management and Protection Act, and sections 46-601 to 46-613.02,
8 46-636, 46-637, and 46-651 to 46-655, unless the context otherwise
9 requires:

10 (1) Person means a natural person, a partnership, a
11 limited liability company, an association, a corporation, a
12 municipality, an irrigation district, an agency or a political
13 subdivision of the state, or a department, an agency, or a bureau of
14 the United States;

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

18 (3) Contamination or contamination of ground water means
19 nitrate nitrogen or other material which enters the ground water due
20 to action of any person and causes degradation of the quality of
21 ground water sufficient to make such ground water unsuitable for
22 present or reasonably foreseeable beneficial uses;

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

25 (5) Illegal water well means (a) any water well operated

1 or constructed without or in violation of a permit required by the
2 Nebraska Ground Water Management and Protection Act, (b) any water
3 well not in compliance with rules and regulations adopted and
4 promulgated pursuant to the act, (c) any water well not properly
5 registered in accordance with sections 46-602 to 46-604, or (d) any
6 water well not in compliance with any other applicable laws of the
7 State of Nebraska or with rules and regulations adopted and
8 promulgated pursuant to such laws;

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

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

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

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

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

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

3 (12) Subirrigation or subirrigated land means the natural
4 occurrence of a ground water table within the root zone of
5 agricultural vegetation, not exceeding ten feet below the surface of
6 the ground;

7 (13) Best management practices means schedules of
8 activities, maintenance procedures, and other management practices
9 utilized for purposes of irrigation efficiency, to conserve or effect
10 a savings of ground water, or to prevent or reduce present and future
11 contamination of ground water. Best management practices relating to
12 contamination of ground water may include, but not be limited to,
13 irrigation scheduling, proper rate and timing of fertilizer
14 application, and other fertilizer and pesticide management programs.
15 In determining the rate of fertilizer application, the district shall
16 consult with the University of Nebraska or a certified crop advisor
17 certified by the American Society of Agronomy;

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

25 (15) Allocation, as it relates to water use for

1 irrigation purposes, means the allotment of a specified total number
2 of acre-inches of irrigation water per irrigated acre per year or an
3 average number of acre-inches of irrigation water per irrigated acre
4 over any reasonable period of time;

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

8 (17) Water well has the same meaning as in section
9 46-601.01;

10 (18) Surface water project sponsor means an irrigation
11 district created pursuant to Chapter 46, article 1, a reclamation
12 district created pursuant to Chapter 46, article 5, or a public power
13 and irrigation district created pursuant to Chapter 70, article 6;

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

16 (20) Consumptive use means the amount of water that is
17 consumed under appropriate and reasonably efficient practices to
18 accomplish without waste the purposes for which the appropriation or
19 other legally permitted use is lawfully made. Consumptive use does
20 not include water withdrawn for purposes of in situ uranium mining
21 which water is subsequently reinjected into the underlying aquifer
22 from which it was withdrawn;

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

25 (22) Emergency situation means any set of circumstances

1 that requires the use of water from any source that might otherwise
2 be regulated or prohibited and the agency, district, or organization
3 responsible for regulating water use from such source reasonably and
4 in good faith believes that such use is necessary to protect the
5 public health, safety, and welfare, including, if applicable,
6 compliance with federal or state water quality standards;

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

15 (24) Historic consumptive use means the amount of water
16 that has previously been consumed under appropriate and reasonably
17 efficient practices to accomplish without waste the purposes for
18 which the appropriation or other legally permitted use was lawfully
19 made;

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

23 (26) Order, except as otherwise specifically provided,
24 includes any order required by the Nebraska Ground Water Management
25 and Protection Act, by rule or regulation, or by a decision adopted

1 by a district by vote of the board of directors of the district taken
2 at any regularly scheduled or specially scheduled meeting of the
3 board;

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

12 (28) Test hole means a hole designed solely for the
13 purposes of obtaining information on hydrologic or geologic
14 conditions;

15 (29) Variance means (a) an approval to deviate from a
16 restriction imposed under subsection (1), (2), (8), or (9) of section
17 46-714 or (b) the approval to act in a manner contrary to existing
18 rules or regulations from a governing body whose rule or regulation
19 is otherwise applicable;

20 (30) Certified irrigated acres means the number of acres
21 or portion of an acre that a natural resources district has approved
22 for irrigation from ground water in accordance with law and with
23 rules adopted by the district; and

24 (31) Certified water uses means beneficial uses of ground
25 water for purposes other than irrigation identified by a district

1 pursuant to rules adopted by the district.

2 Sec. 4. Original sections 46-676.01, 46-677, and 46-706,

3 Reissue Revised Statutes of Nebraska, are repealed.