

LEGISLATIVE BILL 217

Approved by the Governor February 14, 1978

Introduced by Mills, 44

AN ACT to amend sections 46-664 and 46-666, Revised Statutes Supplement, 1976, relating to ground water; to require control of runoff on a statewide basis; to provide for variances within control areas; to repeal the original sections; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 46-664, Revised Statutes Supplement, 1976, be amended to read as follows:

46-664. (1) In order to conserve ground water supplies and to prevent the inefficient or improper runoff of such ground water, after August 24, 1975 each person who uses ground water irrigation in ~~an area designated as a control area~~ the state shall take action to control or prevent the runoff of water used in such irrigation.

(2) Within ninety days after August 24, 1975, each district shall adopt, following public hearing, notice of which shall be given in the manner provided in section 46-658, rules and regulations necessary to control or prohibit surface runoff of water derived from ground water irrigation. Such rules and regulations shall prescribe (a) standards and criteria delineating what constitutes the inefficient or improper runoff of ground water used in irrigation, (b) procedures to prevent, control, and abate such runoff, (c) measures for the construction, modification, extension, or operation of remedial measures to prevent, control, or abate runoff of ground water used in irrigation, and (d) procedures for the enforcement of this section.

(3) Each district may, upon ten days' notice to the person affected, stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, issue cease and desist orders to enforce any of the provisions of this section or rules and regulations issued pursuant to this section.

Sec. 2. That section 46-666, Revised Statutes Supplement, 1976, be amended to read as follows:

46-666. (1) The district shall by order, after a hearing conducted pursuant to section 46-665, the record

of which shall include the testimony of a representative of the Conservation and Survey Division of the University of Nebraska and the Nebraska Natural Resources Commission, adopt one or more of the following controls, which shall be subject to approval by the director:

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

(b) It may adopt and enforce a system of rotation for use of ground water in the control area;

(c) It may adopt well-spacing requirements more restrictive than those found in Chapter 46, article 6; and

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

(2) If because of varying hydrologic or geologic conditions existing within the control 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) of this section may contain different provisions for different portions of the control area. Any differences in such provisions shall recognize and be directed toward such varying conditions. The provisions of all controls shall be uniform for all portions of the control area which have substantially similar hydrologic and geologic conditions.

{2} (3) If the district determines, following a public hearing conducted pursuant to section 46-665, that depletion 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) 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.

{3} {4} The district shall cause a copy of each order adopted pursuant to this section 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.

{4} {5} Whenever a control area, designated pursuant to section 46-658, encompasses portions of two or more districts, the responsibilities and authorities delegated in this section and section 46-665 shall be exercised jointly and uniformly by agreement of the respective boards of directors of all districts so affected.

{5} {6} If, at the end of one year following a hearing conducted pursuant to section 46-665, the district or districts conducting such hearing have not adopted a specific control or controls pursuant to subsection (1) 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 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.

{6} {7} If the power to adopt a control or controls shall be vested in the director, he 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 discretion, the director may conduct one or more additional public hearings prior to making his determination or selection of controls. Notice of any such additional hearings shall be given in the manner provided in section 46-658.

Sec. 3. That original sections 46-664 and 46-666, Revised Statutes Supplement, 1976, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

LEGISLATIVE BILL 233

Approved by the Governor February 21, 1978

Introduced by Fowler, 27

AN ACT to amend sections 32-226 and 32-438, Reissue Revised Statutes of Nebraska, 1943, and section 32-513, Revised Statutes Supplement, 1976, relating to elections; to require that polling places and voting booths be constructed to provide free access by voters with physical mobility limitations; to require the establishment of standards and criteria of accessibility; to allow waivers as prescribed; to establish a date when all voting places shall be fully accessible by all voters; to provide for filings in forma pauperis; and to repeal the original sections.

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

Section 1. That section 32-226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-226. The election commissioner shall purchase and provide all necessary ballot boxes, registration books, poll books, tally sheets, ballot blanks, stationery and supplies of every description, and other necessary and proper equipment for the registration of voters, the conduct of elections, and for every incidental purpose connected therewith. He shall select and appoint the places of registration, and the polling place for each district and cause the same to be fitted up, warmed, lighted and cleaned. The election commissioner shall take whatever action is necessary to provide that individuals with physical mobility limitations shall have unobstructed access to the polling place and to at least one polling booth in each polling place. At least one polling booth shall be accessible to a person in a wheelchair. The election commissioner shall certify the number of precincts which will be used and the number which are accessible to all voters ninety days prior to each election and (1) by August 1, 1978, not more than thirty per cent of the polling places in a county shall be inaccessible, (2) at any election to be held in 1980, not more than fifteen per cent of the polling places in the county shall be inaccessible, and (3) at any election to be held in 1984 and thereafter, no polling place in the county shall be inaccessible. A waiver of the percentage requirements of this section may be granted upon the showing of the election official's

good faith efforts to comply with the provisions of this section and may be granted only with the written approval of the Secretary of State. The Secretary of State shall, by rule or regulation, develop criteria or standards for good faith compliance and waivers. An approved waiver shall be valid for only one election. Prior to a request for a waiver from the Secretary of State, the county clerk or election commissioner shall submit to the county board at a public meeting a list of all precincts needing a waiver. The waiver provisions of this section shall automatically terminate on January 1, 1984. For the purposes of this section, election shall mean any primary, municipal, joint, or general election and shall include any school election. The polling place or places shall be located in the most public, orderly, and convenient place or places available therefor, and the expense thereof shall be a county charge. The expense of holding and conducting, separately, any city, municipality, metropolitan utilities district, school district, or other political subdivision election shall be charged to and paid by the city, municipality, metropolitan utilities district, school district, or other political subdivision holding the election. In the event that all or any two or more of the last-named elections are held jointly, then the election commissioner is hereby empowered to definitely fix and certify to each of such bodies joining in such joint election the portion of the total expense which each shall bear, and upon such certification the city, municipality, metropolitan utilities district, school district, or other political subdivision shall contribute and pay to the county treasurer the share so certified. The county board shall draw warrants in payment of the election expense.

Sec. 2. That section 32-438, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-438. (1) Except as provided in section 32-226 and in subsection (2) of this section, the county boards of the several counties shall designate the polling places and the county shall provide each polling place designated by them with a sufficient number of places, booths or compartments, which shall be furnished with such supplies and conveniences as shall enable the voter conveniently to prepare his or her ballot for voting and in which electors may secretly mark their ballots. In precincts required by law to have the counting election board, the county shall provide an enclosed compartment for the use of the counting board.

(2) When there is no structure within the precinct suitable for use as a polling place, the county board may designate a polling place outside the precinct and convenient thereto which shall be supplied with supplies and conveniences and provided with voting booths or compartments and an enclosed compartment for use of the counting board as are other polling places.

(3) All polling places shall be so modified or relocated to architecturally barrier-free buildings to provide unobstructed access to such polling places by individuals with physical mobility limitations. At least one polling booth shall be so constructed as to provide easy access for individuals with physical mobility limitations, and shall accommodate a wheelchair. The modifications required by this section may be of a temporary nature to provide such unobstructed access only on voting day. The county clerk shall certify the number of precincts which will be used and the number which are accessible to all voters ninety days prior to each election and (1) by August 1, 1978, not more than thirty per cent of the polling places in a county shall be inaccessible, (2) at any election to be held in 1980, not more than fifteen per cent of the polling places in the county shall be inaccessible, and (3) at any election to be held in 1984 and thereafter, no polling place in the county shall be inaccessible. A waiver of the percentage requirements of this section may be granted upon the showing of the county clerk's good faith efforts to comply with the provisions of this section and may be granted only with the written approval of the Secretary of State. The provisions of section 32-226 regarding waiver standards and criteria shall apply to this section. For the purposes of this section, election shall mean any primary, municipal, joint, or general election and shall include any school election.

(4) Standards for polling places shall include any applicable standards developed by the Public Buildings Safety Advisory Committee for access to public buildings, under the provisions of sections 72-1101 to 72-1124.

(5) In any publication in which information is given of the location of polling places, special notations shall be made as to which polling places are accessible.

Sec. 3. That section 32-513, Revised Statutes Supplement, 1976, be amended to read as follows:

32-513. Prior to the filing of any nomination papers, there shall be paid to the county treasurer or

city treasurer in case of municipal officers for the use of the general fund of the county or city of the candidate's residence, by or on behalf of each candidate, a filing fee as follows: For the office of United States Senator, for state officers, including members of the Legislature, members of Congress, county officers, including county superintendent of public instruction, district superintendent of public instruction, and municipal officers, a sum equal to one per cent of the annual salary such candidate will receive if he is elected and qualifies for the office he files for as a candidate; for directors of public power and irrigation districts in those districts receiving annual gross revenue of forty million dollars or more, twenty-five dollars, and in those districts receiving annual gross revenue of less than forty million dollars, ten dollars; and reclamation districts, ten dollars. No nominating papers shall be filed until the proper treasurer's receipt, showing the payment of such filing fee, shall be presented to the officer with whom the nominating paper is to be filed. No certificate of nomination or certificate of election shall be issued to any candidate who is nominated or elected by write-in votes until the filing fee required for such office is paid and the receipt is filed with the person issuing the certificate, which filing fee shall be paid within ten days after the canvass of the votes. A filing fee of twenty-five dollars shall be required from candidates for Regents of the University of Nebraska and the State Board of Education. There shall be no filing fee for any candidate filing for an office in which a per diem is paid rather than a salary or for which there is a salary of less than five hundred dollars per year. No filing fee shall be required of any candidate completing an affidavit in support of request to file for public office in forma pauperis. A pauper, for purposes of this section, is defined as one whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the cost of his requirements, and whose reserve of cash or other available resources does not exceed the maximum available resources that an eligible individual may own.

The term available resources includes every type of property or interest in property that an individual owns and may convert into cash, with the exception of:

- (1) Real property used as a home;
- (2) Household goods of a moderate value used in the home; and

(3) Assets to a maximum value of three thousand dollars used by a recipient in a planned effort directed towards self-support.

Sec. 4. That original sections 32-226 and 32-43A, Reissue Revised Statutes of Nebraska, 1943, and section 32-513, Revised Statutes Supplement, 1976, are repealed.