

LEGISLATIVE BILL 656

Approved by the Governor April 14, 1998

Introduced by Beutler, 28

AN ACT relating to natural resources; to amend section 2-1588, Reissue Revised Statutes of Nebraska; to state intent; to define a term; to provide for funding for the operation of the Niobrara Scenic River Local Management Council; to provide powers and duties; to change project eligibility requirements for assistance from the Nebraska Resources Development Fund; to repeal the original section; and to declare an emergency.

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

Section 1. The Legislature finds that the Niobrara River corridor is a local, state, and national treasure and that the natural diversity of the river corridor should be preserved through maximizing cooperation between local landowners and other Nebraska citizens, as well as local, state, and federal governments. The federal Niobrara Scenic River Designation Act of 1991, Public Law 102-50, designated a part of the river corridor as a component of the national wild and scenic rivers system, and the United States Department of the Interior, National Parks Service, issued a General Management Plan and Final Environmental Impact Statement outlining management alternatives for the federally designated portion of the river corridor. The preferred management alternative suggests creation of a council pursuant to the Interlocal Cooperation Act to coordinate planning and management for the relevant portions of the river corridor in Cherry, Brown, Rock, and Keya Paha counties. Due to the fact that all the people of Nebraska have a stake in continued good stewardship of the land and natural resources of the Niobrara River corridor, it is appropriate that the Legislature provide financial resources to assist the council in its efforts.

Sec. 2. For purposes of sections 1 to 4 of this act, council means the Niobrara Scenic River Local Management Council formed pursuant to the Interlocal Cooperation Act to carry out the intent stated in section 1 of this act.

Sec. 3. The Legislature recognizes that the council can provide important planning and management coordination for the federally designated portions of the Niobrara River corridor if the conditions in this section are met, and it is the intent of the Legislature to appropriate one hundred thousand dollars in fiscal year 1998-99, fifty thousand dollars in fiscal year 1999-00, and twenty-five thousand dollars in fiscal year 2000-01 for the operation of the council if: (1) The membership of the council includes representatives of the county boards in Cherry, Brown, Rock, and Keya Paha counties, the Middle Niobrara Natural Resources District, the Lower Niobrara Natural Resources District, the Game and Parks Commission, the United States Fish and Wildlife Service, and the National Parks Service; (2) each zoning-related ordinance or resolution adopted by any of the four counties includes provisions for at least thirty days' notice by the county to the council prior to the final public hearing and final vote by the county on any zoning changes or revisions within the federally designated portions of the Niobrara River corridor; and (3) the council submits nonbinding opinions on all zoning-related ordinances or resolutions noticed under subdivision (2) of this section prior to the final public hearing or final vote on the change or revision. The funding provided in this section shall not be used for acquisition or leasing of title or easements to land. All appropriations of the nonfederal share of the costs of the council shall be administratively located within the Game and Parks Commission.

Sec. 4. (1) Any state or state-assisted activity or undertaking proposed within the federal boundaries of a river corridor designated pursuant to the federal Niobrara Scenic River Designation Act of 1991 or the federal Wild and Scenic Rivers Act of 1968, as amended, shall be consistent with the purpose of the federal acts, including the river corridor's free-flowing condition and scenic, geological, biological, agricultural, historic, and prehistoric resources.

(2) The head of any state or local agency having direct or indirect jurisdiction over a proposed state or state-assisted undertaking within the designated federal boundary of the Niobrara River corridor and the head of any agency having authority to license or permit any undertaking in such area shall at the earliest feasible time prepare a detailed proposal and submit it to the council for its review.

(3) The council shall review the proposal and consult with the agency. If, within thirty days after such review and consultation, the council finds that the proposed action is not consistent with the purposes of this section, the agency shall not proceed with the action until after a justification for the action has been submitted to the Governor and approved by the Governor in writing. The justification shall include the following elements: The anticipated current, future, and cumulative effects on the scenic and natural resources of the designated river corridors; the social and economic necessity for the proposed action; all possible alternatives to the proposed action including a no-action alternative; the comparative benefits of proposed alternative actions; and the mitigation measures outlined in the proposed action.

Sec. 5. Section 2-1588, Reissue Revised Statutes of Nebraska, is amended to read:

2-1588. Any money in the Nebraska Resources Development Fund may be allocated by the Nebraska Natural Resources Commission in accordance with sections 2-1586 to 2-1595 for utilization by the commission, by any state office, agency, board, or commission, or by any political subdivision of the State of Nebraska which has the authority to develop the state's water and related land resources. Such money may be allocated in the form of grants or loans or for acquiring state interests in water and related land resources programs and projects undertaken within the state. The allocation of funds to a program or project in one form shall not of itself preclude additional allocations in the same or any other form to the same program or project. Funds may also be allocated to assist natural resources districts in the preparation of management plans as provided in section 46-656.12. Funds so allocated shall not be subject to sections 2-1589 to 2-1595.

Only projects with estimated total costs of less than ~~fourteen~~ seventeen million dollars, which shall not include operation and maintenance costs, shall be eligible for assistance from the Nebraska Resources Development Fund. If cost overruns during project construction cause the cost of a project to exceed ~~fourteen~~ seventeen million dollars, the commission may continue to participate in the project and may allocate additional funds to ensure project completion.

No project, including all related phases, segments, parts, or divisions, shall receive more than ten million dollars from the fund.

On July 1, 1994, and each year thereafter, the Director of Natural Resources shall adjust the project cost and payment limitation of this section by an amount equal to the average percentage change in the federal Department of Commerce, Bureau of the Census, Composite Construction Cost Index for the prior three years.

Prior to September 1 of each even-numbered year, a biennial report shall be made to the Governor and the Clerk of the Legislature describing the work accomplished by the use of such development fund during the immediately preceding two-year period. The report shall include a complete financial statement. Each member of the Legislature shall receive a copy of such report upon making a request for it to the director.

Sec. 6. Original section 2-1588, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.