

## LEGISLATIVE BILL 832

Approved by the Governor April 9, 2004

Introduced by Schrock, 38

AN ACT relating to the Nebraska Environmental Trust Act; to amend sections 81-15,173, 81-15,175, and 81-15,176, Revised Statutes Supplement, 2002; to provide powers and duties for the board; to change and eliminate provisions relating to funding priorities; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 81-15,173, Revised Statutes Supplement, 2002, is amended to read:

81-15,173. The board shall have and may exercise the following powers and duties:

- (1) Adopt bylaws to govern the proceedings of the board;
- (2) Keep records, conduct hearings, and adopt and promulgate rules and regulations to carry out its duties and implement the Nebraska Environmental Trust Act;
- (3) Contract with the Game and Parks Commission for administrative support; ~~and with governmental agencies for technical assistance;~~
- (4) Contract with governmental and private agencies to receive services and technical assistance;
- (5) Contract with governmental and private agencies to provide services and technical assistance;
- (6) Establish environmental ~~priorities~~ categories for use of the funds and develop an appropriate rating system for each category;
- ~~(5)~~ (7) Establish ad hoc advisory boards and subcommittees;
- ~~(6)~~ (8) Sponsor or assist environmental proposals pertaining to the environmental ~~priorities~~ categories of the board, including issuing grants to agencies, organizations, and persons engaged in the purposes of the trust;
- ~~(7)~~ (9) Cooperate with or assist any unit of the state, any political subdivision, or any private, public, or federal agency, foundation, or person in furtherance of the purposes of the trust;
- ~~(8)~~ (10) Acquire and dispose of personal property in furtherance of the purposes of the trust; and
- ~~(9)~~ (11) Apply for or accept any gift, grant, bequest, royalty, or donation, designate the fund to which it will be credited, and expend the proceeds in furtherance of the purposes of the trust.

Sec. 2. Section 81-15,175, Revised Statutes Supplement, 2002, is amended to read:

81-15,175. (1) The board may make an annual allocation each fiscal year from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund as provided in section 81-15,174.01. The board shall make annual allocations from the Nebraska Environmental Trust Fund and may make annual allocations each fiscal year from the Nebraska Environmental Endowment Fund for projects which conform to the environmental ~~priorities~~ categories of the board established pursuant to section 81-15,176 and to the extent the board determines those projects to have merit. The board shall establish ~~an annual calendar~~ a calendar annually for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(2) The board shall establish a ~~rating system~~ rating systems for ranking proposals which meet the board's environmental ~~priorities~~ categories and other criteria. The rating ~~system~~ systems shall include, but not be limited to, the following considerations:

- (a) Conformance with ~~priorities~~ categories established pursuant to section 81-15,176;
- (b) Amount of funds committed from other funding sources;
- (c) Encouragement of public-private partnerships;
- (d) Geographic mix of projects over time;
- (e) Cost-effectiveness and economic impact;
- (f) Direct environmental impact; and
- (g) Environmental benefit to the general public and the long-term nature of such public benefit.

(3) The board may establish a subcommittee to rate grant

applications. If the board uses a subcommittee, the subcommittee shall (a) use the rating ~~system~~ systems established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval. A motion to deviate from the subcommittee's recommendations must specify the reason for doing so and be adopted with an affirmative vote of not fewer than eight members of the board.

(4) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(5) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

(6) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor.

Sec. 3. Section 81-15,176, Revised Statutes Supplement, 2002, is amended to read:

81-15,176. (1) Subject to subsection (3) of this section, the board shall establish environmental ~~priorities~~ for categories of projects eligible for funding by the trust. The board, after allowing opportunity for public comment, shall designate as ~~priorities~~ categories those environmental goals which most affect the natural physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and areas of aesthetic or scenic values. In designating environmental ~~priorities~~ categories, the board shall attempt to focus on the areas which promise the greatest opportunities for effective action to achieve and preserve the future environmental quality in the state. The board shall establish ~~priorities~~ categories for five-year periods beginning July 1, 1995. The board may establish annual priorities within the five-year categories. ~~except that the board may make annual modifications to refine and clarify its priorities.~~ The board shall provide for public involvement in developing the ~~priorities~~ categories for such five-year periods, ~~including~~ and any priorities within these categories, including, but not limited to, public meetings in each of the three congressional districts.

(2) The board shall establish criteria for determining the eligibility of projects for grant assistance, which criteria shall include the following:

(a) The grants shall not provide direct assistance to regulatory programs or to implement actions mandated by regulations except remediation;

(b) No more than sixty percent of grant allocations in any year shall assist remediation of soils or ground water, and no grants for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized;

(c) The grants shall not pay for projects which provide primarily private benefits or relieve private liability for environmental damage;

(d) The grants shall not pay for projects which have direct beneficiaries who could afford the costs of the benefits without experiencing serious financial hardship;

(e) The grants should assist those projects which offer the greatest environmental benefits relative to cost;

(f) The grants should assist those projects which provide clear and direct environmental benefits;

(g) The grants should assist those projects which will make a real contribution to achieving the board's environmental ~~priorities~~ categories;

(h) The grants should assist those projects which offer the greatest public benefits; and

(i) The grants shall not pay for land or easements acquired without the full and express consent of the landowner.

(3) Until the first five-year ~~priorities~~ categories become effective on July 1, 1995, the board shall observe the following ~~priorities~~ categories for allocating grants:

(a) Critical habitat areas, including wetlands acquisition, preservation, and restoration and acquisition and easements of areas critical

to rare or endangered species;

(b) Surface water quality, including actions to preserve lakes and streams from degradation;

(c) Ground water quality, including fostering best management practices as defined in section 46-656.07, actions to preserve ground water from degradation, and remediation of soils or ground water; and

(d) Development of recycling markets and reduction of solid waste volume and toxicity.

(4) The board may refine and clarify these initial ~~priorities~~ categories.

Sec. 4. Original sections 81-15,173, 81-15,175, and 81-15,176, Revised Statutes Supplement, 2002, are repealed.