

## LEGISLATIVE BILL 351

Approved by the Governor April 27, 2005

Introduced by Preister, 5

AN ACT relating to the Environmental Quality Council; to amend section 81-1503, Reissue Revised Statutes of Nebraska; to change membership provisions; to repeal the original section; and to declare an emergency.

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

Section 1. Section 81-1503, Reissue Revised Statutes of Nebraska, is amended to read:

81-1503. (1) (a) The Environmental Quality Council is hereby created. ~~The~~

(b) Until the effective date of this act, the council shall consist of sixteen members to be appointed by the Governor with the advice and consent of the Legislature as follows:

~~(a)~~ (i) One representative of the food products manufacturing industry;

~~(b)~~ (ii) One representative of conservation;

~~(c)~~ (iii) One representative of the agricultural processing industry;

~~(d)~~ (iv) One representative of the automotive or petroleum industry;

~~(e)~~ (v) One representative of the chemical industry;

~~(f)~~ (vi) One representative of heavy industry;

~~(g)~~ (vii) One representative of the power generating industry;

~~(h)~~ (viii) One representative of agriculture actively engaged in crop production;

~~(i)~~ (ix) One representative of labor;

~~(j)~~ (x) One professional engineer experienced in control of air and water pollution and solid wastes;

~~(k)~~ (xi) One physician knowledgeable in the health aspects of air, water, and land pollution;

~~(l)~~ (xii) One representative from county government;

~~(m)~~ (xiii) Two representatives from municipal government, one of whom shall represent cities other than those of the primary or metropolitan class;

~~(n)~~ (xiv) One representative of the livestock industry; and

~~(o)~~ (xv) One representative of the public at large.

(c) On and after the effective date of this act, the council shall consist of seventeen members to be appointed by the Governor with the advice and consent of the Legislature as follows:

(i) One representative of the food products manufacturing industry;

(ii) One representative of conservation;

(iii) One representative of the agricultural processing industry;

(iv) One representative of the automotive or petroleum industry;

(v) One representative of the chemical industry;

(vi) One representative of heavy industry;

(vii) One representative of the power generating industry;

(viii) One representative of agriculture actively engaged in crop production;

(ix) One representative of labor;

(x) One professional engineer experienced in control of air and water pollution and solid wastes;

(xi) One physician knowledgeable in the health aspects of air, water, and land pollution;

(xii) One representative from county government;

(xiii) Two representatives from municipal government, one of whom shall represent cities other than those of the primary or metropolitan class;

(xiv) One representative of the livestock industry;

(xv) One representative of minority populations; and

(xvi) One biologist.

(d) (i) Except as otherwise provided in this subdivision, members of the council serving on the effective date of this act shall continue to serve on the council as representatives of the entity they were appointed to represent until their current terms of office expire and their successors are appointed and confirmed. The member representing the public at large shall serve until the member representing minority populations is appointed.

(ii) The Governor shall appoint members pursuant to subdivisions

(1) (c) (xv) and (1) (c) (xvi) of this section within ninety days after the effective date of this act.

(2) Members shall serve for terms of four years. All appointments shall be subject to confirmation by the Legislature when initially made. As the term of an appointee to the council expires, the succeeding appointee shall be a representative of the same segment of the public as the previous appointee. In the case of appointees to vacancies occurring from unexpired terms, each successor shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed. All members shall be citizens and residents of the State of Nebraska.

(3) Members may be removed by the Governor for inefficiency, neglect of duty, or misconduct in office but only after delivering to the member a copy of the charges and affording him or her an opportunity to be publicly heard in person or by counsel, in his or her own defense, upon not less than ten days' notice. Such hearing shall be held before the Governor. When a member is removed, the Governor shall file, in the office of the Secretary of State, a complete statement of all charges made against such member and the findings thereon, together with a complete record of the proceedings.

(4) The council shall elect from its members a chairperson and a vice-chairperson, who shall hold office at the pleasure of the council. The vice-chairperson shall serve as chairperson in case of the absence or disability of the chairperson. The director shall serve as secretary of the council and shall keep all records of meetings of and actions taken by the council. He or she shall be promptly advised as to such actions by the chairperson.

(5) The members of the council, while engaged in the performance of their official duties, shall receive a per diem of forty dollars while so serving, including travel time. In addition, members of the council shall receive reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(6) The council shall hold at least four meetings, once each calendar quarter, at a time and place fixed by the council and shall keep a record of its proceedings which shall be open to the public for inspection. Special meetings may be called by the chairperson. Such special meetings must be called by him or her upon receipt of a written request signed by two or more members of the council. Written notice of the time and place of all meetings shall be mailed in advance to the office of each member of the council by the secretary. A majority of the members of the council shall constitute a quorum.

(7) The council shall submit to the Governor a list of names from which he or she shall appoint the Director of Environmental Quality who shall be experienced in air, water, and land pollution control and who may be otherwise an employee of state government. The director shall be responsible for administration of the department and all standards, rules, and regulations adopted pursuant to Chapter 81, article 15, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act. All such standards, rules, and regulations shall be adopted by the council after consideration of the recommendations of the director. All grants to political subdivisions under the control of the department shall be made by the director in accordance with priorities established by the council. A majority of the members of the council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of all members of the council shall be necessary for the adoption of standards, rules, and regulations.

(8) Before the director enters upon the duties of his or her office, he or she shall take and subscribe to the constitutional oath of office and shall, in addition thereto, swear and affirm that he or she holds no other public office nor any position under any political committee or party, that he or she has not during the two years immediately prior to his or her appointment received a significant portion of his or her income directly or indirectly from permitholders or applicants for a permit under the Environmental Protection Act, and that he or she will not receive such income during his or her term as director, except that such requirements regarding income prior to the term of office shall not apply to employees of any agency of the State of Nebraska or any political subdivision which may be a permitholder under the Environmental Protection Act. Such oath and affirmation shall be filed with the Secretary of State.

Sec. 2. Original section 81-1503, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.