

## LEGISLATIVE BILL 415

Approved by the Governor April 28, 1971

Introduced by Donald Elrod, 35th District; Maurice A. Kremer, 34th District; Gerald A. Stromer, 36th District

AN ACT to amend sections 2-1503 and 2-1507, Reissue Revised Statutes of Nebraska, 1943, relating to agriculture; to define terms; to provide additional powers for the Nebraska Soil and Water Conservation Commission; to define additional terms; to set up the Rechanneling Flood Control Fund; 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 2-1503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1503. As used in sections 2-1502 to 2-1567, unless the context otherwise requires:

(1) This act shall mean sections 2-1502 to 2-1567;

(2) District, soil conservation district, or soil and water conservation district shall mean a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act;

(3) Supervisor shall mean one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act;

(4) Commission or Nebraska Soil and Water Conservation Commission shall mean the agency created in section 2-1504;

(5) Petition shall mean a petition filed under the provisions of section 2-1508 for the creation of a district;

(6) Nominating petition shall mean a petition filed under the provisions of section 2-1518 to nominate candidates for the office of supervisor of a soil conservation district;

(7) State shall mean the State of Nebraska;

(8) Agency of this state shall mean the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state;

(9) United States or agencies of the United States shall mean the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America;

(10) Government or governmental shall mean the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them;

(11) Landowner shall mean any person with a legal residence within the district, who shall hold title to any lands lying within a district organized under the provisions of this act;

(12) Land occupier or occupier of land shall mean any person who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as lessee, renter, tenant, or otherwise;

(13) Due notice shall mean legal notice;

(14) Lands, easements, and rights-of-way shall mean lands and rights or interests in lands whereon channel improvements and channel rectifications, water retarding or gully stabilization structures are located, including those areas for flooding and flowage purposes, spoil areas, borrow pits, access roads, and for similar purposes;

(15) Local organization shall mean any soil and water conservation district, watershed conservancy district, watershed district, drainage district, irrigation district, or other public district, county, city or state agency;

(16) Subwatershed shall mean a portion of a watershed project as divided by the commission on a complete hydrologic unit;

(17) Tenant shall mean any occupier or operator or a combination of occupier and operator of agricultural lands lying within a district which is

owned by others and who, through the employment of his time, equipment and livestock, derives a majority of his income from a farming or ranching operation;

(18) Elector shall mean any person as defined in section 32-102; and

(19) Watershed or watershed conservancy district shall mean a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act for the purposes specified in section 2-1550;

(20) Rechanneling shall mean the channeling of water from one watercourse to another watercourse by means of open ditches; and

(21) Watercourse shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water at least nine months of the year, having a bed and well-defined banks: Provided, that it shall, upon order of the commission, also include any particular depression which would not otherwise be within the definition of watercourse.

Sec. 2. That section 2-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1507. In addition to the duties and powers conferred upon the Nebraska Soil and Water Conservation Commission by sections 2-1502 to 2-1567 and sections 1 to 64 of this act, it shall have the following duties and powers: (1) To offer such assistance as may be appropriate to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development and use in the carrying out of any of their powers and programs; (2) to keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions, and to facilitate an interchange of advice and experience between such subdivisions, and cooperation between them; (3) to coordinate the programs of such subdivisions so far as this may be done by advice and consultation; (4) to secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such subdivisions; (5) to disseminate information throughout the state concerning the activities and programs of such subdivisions, and to assist in the formation of natural resources districts; (6) to assist and coordinate the programs of the various

watershed organizations; (7) to plan, develop, and encourage the implementing of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations; (8) when necessary for the proper administration of the functions of the department, to rent or lease space outside the State Capitol; (9) to assist such local governmental organizations as villages, towns, cities, counties, watershed districts, and watershed conservancy districts, in securing, planning and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains; and (10) to hold hearings on all watershed or flood control programs as developed by responsible subdivisions of government; (11) to acquire in the name of the State of Nebraska such lands, rights-of-way and easements as it may determine are necessary to accomplish rechanneling measures authorized by section 3 of this act and which it finds are required by public health, safety, and welfare, by condemnation, if necessary, according to the procedure set forth in sections 76-704 to 76-724; and (12) to contract with persons, firms, or corporations for assistance in planning, preparation of studies and right-of-way acquisition. Such hearings shall be held within sixty days from the date such programs are received by the commission. At such hearings, the commission shall review such programs and make such recommendations as to encourage the comprehensive resource development needs of the area and to assist in the development of a plan that is desirable, practicable, feasible and necessary in the interest of health, safety and public welfare.

Sec. 3. When the commission finds from data developed by the United States Army Corps of Engineers or other agency that public health, safety and welfare requires rechanneling of a watercourse (1) to prevent loss of life and property because of flooding, or (2) to protect for agricultural purposes land which because of high water table has become or is about to become swampy or marshy, the commission shall do the planning and conduct engineering studies necessary to determine the most suitable route for such rechanneling in cooperation with the United States Army Corps of Engineers and such other agencies as it shall require; Provided, that such planning and engineering studies shall not be undertaken unless the United States Army Corps of Engineers or other agency determines such plan to be economically feasible.



Sec. 4. The Rechanneling Flood Control Fund is hereby created and shall be credited with such sums as the Legislature shall from time to time appropriate. Such fund shall be expended for the purposes set out in subdivisions (11) and (12) of section 2-1507 and section 3 of this act and for any other purposes relating to rechanneling flood control.

Sec. 5. That original sections 2-1503 and 2-1507, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.