

LEGISLATIVE BILL 1106

Approved by the Governor April 10, 1984

Introduced by Schmit, 23, for the Governor

AN ACT relating to natural resources; to amend sections 2-1503, 2-3263, 2-3269, 2-3270, 2-3272, and 37-435, Reissue Revised Statutes of Nebraska, 1943, sections 2-3265, 2-3271, 2-3283, 2-3286 to 2-3289, and 46-209, Revised Statutes Supplement, 1982, and sections 2-1504, 2-1507, and 46-673.01, Revised Statutes Supplement, 1983; to state and restate intent; to define terms; to create a board; to provide for certain consultation and the review of certain projects as prescribed; to provide for a Director of Natural Resources; to create a fund and provide for its use; to change provisions relating to the Nebraska Resources Development Fund; to provide for instream appropriations; to provide limitations; to provide for certain financial assistance; to change provisions relating to the state water planning and review process; to require ground water management plans; to provide powers and duties; to appropriate funds; to harmonize provisions; to adopt the Nebraska Water Project Revenue Bonding Act; to eliminate an advisory board; to provide an operative date; and to repeal the original sections, and also section 2-3268, Revised Statutes Supplement, 1982.

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

Section 1. It is the intent of the Legislature that an organizational structure be established within state government to identify, propose, support, advocate, resolve conflicts regarding, and expedite water development projects in the state in the most efficient manner possible. The Legislature further intends that the Water Management Board be the entity for such purposes.

Sec. 2. There is hereby created the Water Management Board. The board shall consist of five members including the Director of the Conservation and Survey Division of the University of Nebraska, the Director of the Game and Parks Commission, the Director of Natural Resources, and two members who shall have demonstrated experience in the field of natural resources and who shall be appointed by the Governor. One of the two appointed members shall have expertise in the field of water project development and management. The Director of Natural

Resources shall serve as chairperson of the board.

The Water Management Board shall be located within the Nebraska Natural Resources Commission which shall provide office space and staff support for the board. A majority of the members of the board shall constitute a quorum for the purpose of transacting business and every act of a majority of the members shall be deemed an act of the board.

Sec. 3. Each member of the Water Management Board who is not a state employee shall receive a per diem of seventy-five dollars per day for each day engaged in the performance of duties of the board, but no such member shall receive more than two thousand dollars in any year. Each member of the board shall be reimbursed for actual and necessary expenses incurred in the discharge of duties of the board as provided in sections 84-306.01 to 84-306.05 for state employees.

Sec. 4. The Water Management Board shall:

(1) Determine if a project is consistent with state goals for water resource use as developed by the Nebraska Natural Resources Commission;

(2) Determine if a project is technically, environmentally, financially, and economically feasible;

(3) Attempt to resolve conflicts regarding a project by providing planning assistance and, if necessary, placing conditions on design components and operating policies; and

(4) Determine if a project is in the state's interest.

Sec. 5. The Water Management Board shall, in reviewing a project, consult and make determinations with the Game and Parks Commission if such project is subject to the requirements of the Nongame and Endangered Species Conservation Act. Such consultation between the board and the commission shall satisfy the consultation requirements of the act.

Sec. 6. The Water Management Board shall adopt and promulgate rules and regulations for determining the technical, financial, and economic feasibility and environmental acceptability of a project. Until the board adopts and promulgates such rules and regulations, the board shall use the applicable rules and regulations of the advisory board for the Nebraska Resources Development Fund in effect immediately prior to the operative date of this act.

Sec. 7. The Director of Natural Resources shall, as part of his or her planning and review duties and responsibilities pursuant to sections 38 to 42 of this act, on or before July 1, 1985, formulate state goals for water resource use. The goals shall be sufficiently detailed to enable the Water Management Board to determine whether projects which come before the board meet state goals.

Sec. 8. Any sponsor of a project costing more

than ten million dollars who is seeking a feasibility study, state financial support from the Nebraska Water Management Fund, advocacy for a water resource project, or other state water resource planning assistance shall submit an application to the Water Management Board.

Any project sponsor who has filed for a water right prior to the operative date of this act may file an application with the board for board action pursuant to sections 4 to 6 of this act. No fee shall be required for such an application.

Sec. 9. The Conservation and Survey Division of the University of Nebraska, the Department of Agriculture, the Department of Economic Development, the Department of Environmental Control, and other state agencies and natural resources districts and other political subdivisions shall furnish opinions, studies, data, research, or other information which has been compiled by or is in the possession of such agencies or political subdivisions when requested to do so by the Water Management Board.

Sec. 10. (1) An application filed with the board pursuant to section 8 of this act or a request made pursuant to section 46-209 shall be reviewed in a nonjudicial setting.

(2) If the board determines that the project meets the criteria specified in sections 4 to 6 of this act, the board in cooperation with the project sponsors shall assume acquisition of state interest and take such actions as are necessary for the planning implementation, financing, water right approval, or federal advocacy regarding the project.

(3) If the board determines that the project is not economically feasible for state financial assistance, but meets all of the other criteria of sections 4 to 6 of this act, the sponsor may proceed to acquire water rights without state support.

(4) If the board determines that, regardless of economic feasibility, the project does not meet all of the other criteria specified in sections 4 to 6 of this act, the board shall oppose the granting of any water right or state financing for the project.

Sec. 11. 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 2-1570 Chapter 2, article 15, and section 12 of this act, unless the context otherwise requires:

(1) Commission or Nebraska Natural Resources Commission shall mean the agency created in section 2-1504;

(2) State shall mean the State of Nebraska;

(3) 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;

(4) 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;

(5) 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;

(6) Lands, easements, and rights-of-way shall mean lands and rights or interests in lands whereon channel improvements, and channel rectifications, or 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;

(7) Local organization shall mean any natural resources district, drainage district, irrigation district, or other public district, county, city, or state agency;

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

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

(10) 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 and shall, upon order of the commission, also include any particular depression which would not otherwise be within the definition of watercourse; and~~

(11) Director shall mean the Director of Natural Resources as provided in section 12 of this act.

Sec. 12. The position of Director of Natural Resources is hereby created. The commission shall, within forty-five days after the operative date of this act, submit to the Governor a list of at least five names from which the Governor shall appoint the Director of Natural Resources who shall serve at the pleasure of the Governor. The Governor shall make the appointment within forty-five days after receipt of such list. If the commission fails to submit the list within the allotted time period, the Governor shall make the appointment within ninety days after the operative date of this act. If the Governor fails to make the appointment within forty-five days after receipt of such list, the appointment shall be made by the commission within ninety days after the operative date of this act. The same time limits and procedures shall apply whenever a vacancy in the position occurs. The director shall be experienced in natural resources conservation,

development, and use and shall not hold any other public office or any position for any political committee or party.

The director shall be responsible for the administrative functions and policies of the commission, including personnel policies, budget, expenditures, duties required under sections 2-3282 to 2-3284 and 2-3286 to 2-3289, and such duties as may be delegated by the commission. The director shall administer all rules and regulations adopted by the commission. The commission shall have only such powers and duties as are specifically given to the commission by statute.

Before the director assumes the duties of office, he or she shall take and subscribe to the constitutional oath of office and shall swear or affirm that he or she does not hold any other public office or any position for any political committee or party. Such oath or affirmation shall be filed with the Secretary of State.

Sec. 13. That section 2-1504, Revised Statutes Supplement, 1983, be amended to read as follows:

2-1504. (1) There is hereby established, to serve as the official agency of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control and to perform the functions conferred upon it in ~~sections 2-1502 to 2-1574~~ Chapter 2, article 15, and as otherwise provided by law, the Nebraska Natural Resources Commission.

(2) The Nebraska Natural Resources Commission shall consist of the following members, all of whom shall have attained the age of majority:

(a) One resident of each of the following river basins, with delineations being those on the Nebraska river basin map officially adopted by the commission and on file in the commission office: (i) The Niobrara River, White River, and Hat Creek basin, (ii) the North Platte River basin, (iii) the South Platte River basin, (iv) the middle Platte River basin, (v) the lower Platte River basin, (vi) the Loup River basin, (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin, (ix) the Republican River basin, (x) the Little Blue River basin, (xi) the Big Blue River basin, and (xii) the Nemaha River basin;

(b) One additional resident of each river basin which encompasses one or more cities of the metropolitan class. Each such additional basin member shall be a resident of a natural resources district which encompasses one or more cities of the metropolitan class, and shall be selected in the same manner, at the same time, and for a four-year term having the same term sequence, as provided for the other member from such basin; and

(c) Three members to be appointed by the Governor, subject to confirmation by the Legislature, who

shall serve at the pleasure of the Governor. Of the members appointed by the Governor, one shall represent municipal users of water, one shall represent surface water irrigators, and one shall represent ground water irrigators.

Successors to the members of the commission representing river basins shall be selected for four-year terms at individual caucuses of the natural resources district directors residing in the river basin from which the member is selected. Such caucuses shall be held for each basin within ten days following the first Thursday after the first Tuesday of the year the term of office of the commission member from that basin expires. The dates and locations for such caucuses shall be established by the commission. Terms of office shall follow the sequence originally determined by the river basin representatives to the commission at their first meeting on the third Thursday after the first Tuesday in January 1975. All river basin members shall take office on the third Thursday after the first Tuesday in January following their selection and any vacancy shall be filled for the unexpired term by a caucus held within thirty days following the date such vacancy is created. Each member of the commission representing a river basin shall qualify by filing with the other members of the commission an acceptance in writing of his or her selection.

Sec. 14. That section 2-1507, Revised Statutes Supplement, 1983, be amended to read as follows:

2-1507. In addition to the duties and powers otherwise conferred by law upon the Nebraska Natural Resources Commission, it shall have the following duties and powers: (1) To offer such assistance as may be appropriate to the Water Management Board and 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 cooperation and 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; (6) to plan, develop, and ~~promote encourage~~ the implementation 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; (7) when necessary for the proper administration of the functions of the department, to rent or lease space outside the State Capitol; and (8) to assist such local governmental organizations as villages, towns, cities, counties, and natural resources 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.

Sec. 15. There is hereby created the Nebraska Water Management Fund to be established and maintained as a cash fund. The fund shall consist of (1) appropriations to such fund by the Legislature, (2) fees, deposits, payments, and repayments relating to the fund, (3) donations, gifts, or other contributions to such fund, and (4) grants from any agency of the federal government. The purpose of the fund shall be to provide financial assistance to sponsors of a major water development project costing more than ten million dollars.

The Water Management Board may award grants or loans from the fund for planning studies and construction by any political subdivision which has authority to develop the state's water and related land resources. No grant shall exceed seventy-five per cent of a project's costs. The board shall not commit more funds than are available in the fund.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 16. That section 2-3263, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3263. It is hereby recognized that it is the public purpose of this state to properly develop the water and related land resources of the state and that it is in the public interest of this state (1) to financially assist in programs and projects necessary to the development, preservation, and maintenance of Nebraska's water and related land resources, including programs and projects for the abatement of pollution, potential reduction of flood damages, reservation of lands for resource development projects, provision of public irrigation facilities, preservation and development of fish and wildlife resources, protection and improvement of public lands, provision of public outdoor recreation lands and facilities, provision and preservation of the waters of this state for all beneficial uses, including domestic, agricultural, and manufacturing uses, conservation of land resources, and protection of the health, safety, and general welfare of the people of the State of Nebraska, and (2) to financially assist natural resources districts in the preparation of management plans pursuant to section 46-673.01.

Sec. 17. That section 2-3265, Revised Statutes

Supplement, 1982, be amended to read as follows:

2-3265. Any money in the Nebraska Resources Development Fund may be allocated by the Nebraska Natural Resources Commission in accordance with the provisions of sections 2-3263 to 2-3272 for utilization by the commission, by any state office, agency, board, or commission, or by any political subdivision of the State of Nebraska to which has been granted 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 46-673.01. Funds so allocated shall not be subject to the provisions of sections 2-3263 to 2-3272.

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

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, which 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. 18. That section 2-3269, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3269. Any organization qualified to apply for and receive funds from the Nebraska Resources Development Fund may file an application with the commission for a grant or loan from such fund. Applications for grants to the commission itself shall be filed by the commission. ~~directly with the advisory board.~~ Each application shall be filed in such manner and form, and be accompanied by such information, as may be prescribed by the ~~advisory board and the commission.~~ Any ; Provided, that any such application filed under the provisions of sections 2-3263 to 2-3272 shall: (1) Describe the nature and purpose of the proposed program or project; (2) set forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the ~~advisory board and the commission;~~ (3) state whether money other than that for which the application is made will be used to help in meeting program or project costs and whether such money is available or has

been sought for this purpose; (4) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands, and has or may acquire all water rights necessary for the proposed project; (5) show that the applicant possesses all necessary authority to undertake or participate in the proposed program or project; and (6) demonstrate the probable environmental and ecological consequences that may result from such proposed program or project. Upon receipt of an application, the commission shall refer it to the advisory board which director who shall evaluate and investigate all aspects of the proposed program or project and the proposed schedule for development and completion of such program or project, determine the eligibility of the program or project for funding, and make appropriate recommendations to the commission pursuant to the provisions of sections 2-3263 to 2-3272. As a part of its his or her investigation, the advisory board director shall consider whether the plan for development of the program or project is satisfactory. If the board director determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make its determinations, it the director shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan or the application satisfactory.

Requests for utilization of the Nebraska Resources Development Fund for state participation in any water and related land-water resources projects through acquisition of a state interest therein shall also be filed with the commission and directed by it to the advisory board director for ~~their~~ his or her evaluation, investigation, and recommendations. Such requests shall be filed in the manner and form and be accompanied by such information as shall be prescribed by the advisory board and the commission.

Sec. 19. That section 2-3270, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3270. Each program or project for which funding is requested, whether such request has as its origin an application or the action of the commission itself, shall be reviewed as provided in sections 2-3263 to 2-3272 by the advisory board director prior to the approval of any allocation for such program or project by the commission. The advisory board director shall within a reasonable time, not to exceed six months, after receipt of such request, report to the commission the results of its his or her review and shall recommend approval or rejection of funding for the program or project, for funding eligibility. The advisory board director shall indicate what form of allocation it he or she deems to be

appropriate. In the case of an approved application recommended for a loan, the ~~board shall also recommend~~ ~~commission shall indicate~~ the appropriate repayment period and the rate of interest. The commission shall act in accordance with such recommendations unless action to the contrary is approved by each commission member eligible to vote on the specific recommendation under consideration. No member of the commission shall be eligible to participate in the action of the commission concerning an application for funding to any entity in which such commission member has any interest. The ~~advisory board director may also upon request advise the commission on any other matter regarding the administration of the fund and may, by the commission,~~ be delegated additional responsibilities consistent with the purposes of sections 2-3263 to 2-3272. It shall be the sole responsibility of the commission to determine the priority in which funds are allocated for eligible programs and projects under sections 2-3263 to 2-3272.

Sec. 20. That section 2-3271, Revised Statutes Supplement, 1982, be amended to read as follows:

2-3271. The ~~advisory board~~ director may recommend approval of and the commission may approve grants or loans for program or project costs or acquisition of interests in projects if after investigation and evaluation ~~the board and the commission find~~ finds that: (1) The plan does not conflict with any existing Nebraska state land plan; (2) the proposed program or project is economically and financially feasible based upon standards adopted by the ~~advisory board commission~~ pursuant to ~~the provisions of~~ sections 2-3263 to 2-3272; (3) the plan for development of the proposed program or project is satisfactory; (4) the plan of development minimizes any adverse impacts on the natural environment; (5) the applicant is qualified, responsible, and legally capable of carrying out the program or project; (6) in the case of a loan, the borrower has demonstrated the ability to repay the loan and there is assurance of adequate operation, maintenance, and replacement during the repayment life of the project; (7) the plan considers other plans and programs of the state in accordance with ~~the provisions of~~ section 84-135, and resources development plans of the political subdivisions of the state; and (8) the money required from the development fund is available.

Sec. 21. That section 2-3272, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3272. If after review of the recommendation by the ~~advisory board director~~ the commission determines that an application for a grant, loan, acquisition of an interest, or combination thereof pursuant to ~~the provisions of~~ sections 2-3263 to 2-3272 is satisfactory and qualified to be approved, before the final approval of such application may be given and the funds allocated, the

commission shall enter into an agreement in the name of the state with the applicant agency or organization and with any other organizations it deems to be involved in the program or project to which funds shall be applied. The commission shall also enter into such agreements as are appropriate before allocation of any funds for the acquisition of interest in any qualified project when such acquisition is initiated by the commission itself pursuant to ~~the provisions of~~ section 2-3267. All agreements entered into pursuant to this section shall include, but not be limited to, a specification of the amount of funds involved, whether the funds are considered as a grant, loan, or for the acquisition of an interest in the name of the state and if a combination of these is involved, the amount of funds allocated to each category, the specific purpose for which the allocation is made, the terms of administration of the allocated funds, and any penalties to be imposed upon the applicant organization should it fail to apply or repay the funds in accordance with the agreement.

If the allocation to be approved is a loan, the commission and the applicant or applicants shall include in the agreement provisions for repayment to the fund of money loaned together with any interest at reasonable rates as established by the commission. ~~after recommendation from the advisory board.~~ The agreement shall further provide that repayment of the loan, together with any interest thereon, shall commence no later than one full year after construction of the project is completed, and that repayment shall be completed within the time period specified by the commission. The repayment period shall not exceed fifty years, except that the commission may extend the time for making repayment in the event of extreme emergency or hardship. Such agreement shall also provide for such assurances of, and security for, repayment of the loan as shall be considered necessary by the commission.

With the express approval of the commission, an applicant may convey its interest in a project to a successor. The commission shall contract with the qualified successor in interest of the original obligor for repayment of the loan, together with any interest thereon, and for succession to its rights and obligations in any contract with the commission.

The state shall have a lien upon a project constructed, improved, or renovated with money from the fund for the amount of the loan, together with any interest thereon. This lien shall attach to all project facilities, equipment, easements, real property, and property of any kind or nature in which the loan recipient has an interest and which is associated with the project. The commission shall file a statement of the lien, its amount, terms, and a description of the project with the county register of

deeds of each county in which the project or any part thereof is located. The county register of deeds shall record the lien in a book kept for the recording of liens and it shall be indexed as other liens are required by law to be indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens. Any lien provided for by this section may be subordinate to that which secures federal assistance or other secured assistance received on the same project.

Sec. 22. That section 37-435, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-435. (1) The commission shall establish such programs, including acquisition of land or aquatic habitat or interests therein, as are necessary for the conservation of nongame, threatened, or endangered species of wildlife or wild plants. Acquisition for the purposes of this subsection shall not include the power to obtain by eminent domain.

(2) In carrying out programs authorized by this section, the commission shall consult with other states having a common interest in particular species of nongame, endangered, or threatened species of wildlife or wild plants and may enter into agreements with federal agencies, other states, political subdivisions of this state, or with private persons with respect to programs designed to conserve such species including, when appropriate, agreements for administration and management of any area established under this section or utilized for conservation of such species.

(3) The Governor shall review other programs administered by him or her and utilize such programs in furtherance of the purposes of sections 37-430 to 37-438. All other state departments and agencies, except as provided in section 5 of this act, shall, in consultation with and with the assistance of the commission, utilize their authorities in furtherance of the purposes of sections 37-430 to 37-438 by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 37-434, and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species which is determined by the commission to be critical.

Sec. 23. The Legislature finds that the maintenance, conservation, management, storage, and timely release of the waters of the natural streams within the State of Nebraska are in the public interest and are practices essential to the well-being of present and future generations. In furtherance of these practices,

the public interest demands the recognition of instream uses for fish, recreation, and wildlife. The Legislature also finds that proposals for future water development should fully consider multiple uses, including instream flows whether from natural flow or from reservoir releases, and recognizes the positive impact of impoundments which can provide significant instream flow benefits.

Sec. 24. As used in sections 23 to 35 of this act, unless the context otherwise requires, instream appropriation shall mean the undiverted application of the waters of a natural stream within or bordering upon the state for recreation or fish and wildlife purposes. An instream appropriation may be obtained only by the Nebraska Natural Resources Commission and only for that amount of water necessary for recreation or fish and wildlife. An instream appropriation shall be considered a beneficial use of water.

Sec. 25. Each natural resources district and the Game and Parks Commission shall report to the Nebraska Natural Resources Commission the specific stream segments which the district or commission considers to have a critical need for instream flows. The district or commission shall, following notice and a public hearing, identify the locations on the stream at which the need for instream flows begins and ends and the time of year when instream flows are most critical and shall provide a detailed description of the amount of water necessary to provide adequate instream flows. Any district or the Game and Parks Commission may request the assistance of the Conservation and Survey Division of the University of Nebraska, the Nebraska Natural Resources Commission, the Game and Parks Commission, and the Department of Water Resources in order to comply with this section.

Sec. 26. The Nebraska Natural Resources Commission shall file an application in the name of the State of Nebraska for a permit to appropriate water for instream flows in each stream segment identified by a natural resources district or the Game and Parks Commission. The Director of Water Resources shall not grant any permit to appropriate water for instream flows prior to the completion of the study required by section 27 of this act, which shall be completed within one year from the date of the commission's application, and the hearing required by section 30 of this act.

Sec. 27. Immediately after receiving a report pursuant to section 25 of this act, the Nebraska Natural Resources Commission shall, in consultation with the Conservation and Survey Division of the University of Nebraska and the Game and Parks Commission, determine the feasibility of providing instream flows for each identified stream segment from unappropriated natural flow, existing storage facilities, or new storage

facilities. The study shall address the availability of storage sites, the estimated cost of providing any required storage, and such other findings and conclusions as the commission deems appropriate.

Sec. 28. If the Nebraska Natural Resources Commission determines that the appropriation of natural flow appears to be sufficient to provide the instream flows requested in the application filed pursuant to section 26 of this act, the commission shall request that the Director of Water Resources act on the application.

Sec. 29. If the Nebraska Natural Resources Commission determines that natural flow is not sufficient to provide the requested instream flows, but that the storage of water to provide instream flows is feasible and in the interest of the State of Nebraska, it shall cooperate with the natural resources district or districts in which the identified stream segment is located or the Game and Parks Commission in the design and construction of storage facilities and the storage of sufficient water for such purpose. The cost of the project may be shared with other water users benefiting from the project or paid solely from funds appropriated by the Legislature.

Sec. 30. Prior to the granting or denying of an instream appropriation, the Director of Water Resources shall conduct any studies he or she deems necessary to evaluate the proposed instream appropriation and the necessary amount of water for recreation or fish and wildlife and shall hold a public hearing. Notice of the hearing shall be published in a newspaper of general circulation in the area of the stream segment and also in a newspaper of statewide circulation at least seven days prior to the date set for the hearing. At the hearing, the Nebraska Natural Resources Commission and either the appropriate natural resources district or the Game and Parks Commission shall present their studies and any interested parties may present views on the proposed instream flow appropriation.

Sec. 31. An application for an instream appropriation shall be approved by the Director of Water Resources if he or she finds that:

(1) The appropriation is necessary to maintain the instream use or uses for which the appropriation has been requested;

(2) The appropriation will not interfere with any senior surface water appropriation;

(3) The rate and timing of the flow is the minimum necessary to maintain the instream use or uses for which the appropriation has been requested; and

(4) The application is in the public interest.

The application may be granted for a rate of flow that is less than that requested by the applicant or for a shorter period of time than requested by the applicant.

Sec. 32. In determining whether the application

is in the public interest, the director shall consider the following factors:

(1) The economic, social, and environmental value of the instream use or uses including, but not limited to, recreation, fish and wildlife, induced recharge for municipal water systems, and water quality maintenance; and

(2) The economic, social, and environmental value of reasonably foreseeable alternative out-of-stream uses of water that will be foregone or accorded junior status if the appropriation is granted.

Sec. 33. An instream appropriation shall be reviewed by the Water Management Board when a project sponsor files an application which meets the criteria of section 8 of this act and granting the project application would potentially conflict with the instream appropriation.

The Water Management Board shall determine whether the state's interest demands the modification of the instream appropriation.

The Director of Water Resources may modify the instream appropriation only in the manner recommended by the Water Management Board, except that the director may find the instream appropriation should not be modified.

Modification of an instream appropriation may mean a reduction in the volume or rate approved for instream use as recommended by the Water Management Board.

Sec. 34. (1) All water used to provide instream flows shall be applied only to that segment of the stream for which the appropriation is granted. The stream segment and the determination of a reasonable and necessary amount of water required for instream flow purposes shall be defined specifically by the Director of Water Resources in the permit.

(2) After the water allowed for instream flows has passed through the defined stream segment, all rights to such water shall be deemed relinquished and the water shall be available for appropriation.

Sec. 35. Instream appropriations shall be administered in the same manner as prescribed by Chapter 46, article 2, for other appropriations, except that existing reservoirs shall not be required by the Director of Water Resources to release impounded water for instream appropriations. Instream flows appropriations shall not be superior to existing storage rights as provided in section 46-241.

Sec. 36. That section 46-209, Revised Statutes Supplement, 1982, be amended to read as follows:

46-209. The Department of Water Resources is given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes and drainage, except as such jurisdiction is specifically limited by statute. Such department shall adopt rules

governing matters coming before it. It may refuse to allow any water to be used by claimants until their rights have been determined and made of record. It may request information relative to irrigation, water power, and drainage works from any and all county, irrigation, power, or drainage officers and from any other person or persons. It shall have public hearings on complaints, petitions, or applications in connection with any of the above matters. Such hearings may be had at the time and place designated by the department. The department shall have power to certify ~~to~~ official acts, compel attendance of witnesses, take testimony by deposition as in suits at law, ~~to~~ and examine books, papers, documents, and records of any county, party, or parties interested in any of the matters hereinbefore mentioned, or have such examinations made by its qualified representative, and shall make and preserve a true and complete transcript of its proceedings and hearings. If a hearing is held at the request of one or more parties, the department may require each such requesting party and each person thereafter who requests to be made a party to such hearing to pay the proportional share of the cost of such transcript. Upon any hearing, the department shall receive any evidence relevant to the matter under investigation and the burden of proof shall be upon the person making the complaint, petition, and application. After such hearing and investigation, the department shall render a decision in the premises in writing and shall issue such order or orders duly certified as it may deem necessary.

The department may submit any application received by it to the Water Management Board for review pursuant to sections 4 to 6 of this act.

Sec. 37. That section 46-673.01, Revised Statutes Supplement, 1983, be amended to read as follows:

46-673.01. in order to initiate designation of a management area within its jurisdictional limits, a
Prior to January 1, 1986, each district shall prepare a ground water management plan based upon the best available information and submit such plan to the director for review and approval. If on the operative date of this act a control or management area has been designated in a district, the district shall not be required to prepare a plan for the geographical area encompassed by such control or management area.

The plan shall include, but not be limited to, the identification to the extent possible of:

- (1) Proposed geographic and stratigraphic boundaries of the management area;
- (2) Ground water supplies within the area including transmissivity, saturated thickness maps, and other ground water reservoir information, if available;
- (3) Local recharge characteristics and rates from any sources, if available;

- (4) Average annual precipitation and the variations within the area;
- (5) Crop water needs within the area;
- (6) Current ground water data collection programs;
- (7) Past, present, and potential ground water use within the area;
- (8) Ground water quality concerns within the area;
- (9) Proposed water conservation and supply augmentation programs for the area;
- (10) The availability of supplemental water supplies, including the opportunity for ground water recharge;
- (11) The opportunity to integrate and coordinate the use of water from different sources of supply;
- (12) Ground water management objectives, including a proposed ground water reservoir life goal for the area;
- (13) The controls enumerated in sections 46-673.08 to 46-673.12 proposed to achieve the ground water reservoir life goal; and the impact of such controls on the goal;
- (14) Existing subirrigation uses within the area; and
- (15) The relative economic value of different uses of ground water proposed or existing within the area.

If the expenses incurred by a district preparing a ground water management plan exceed twenty-five per cent of the district's current budget, the district may make application to the Nebraska Resources Development Fund for assistance.

Sec. 38. That section 2-3283, Revised Statutes Supplement, 1982, be amended to read as follows:

2-3283. The state water planning and review process shall be conducted under the guidance and general supervision of the Nebraska Director of Natural Resources. ~~Commission-~~ The Nebraska Natural Resources Commission shall ~~also be responsible for determining~~ approve the form and content of all reports produced through the planning process. ~~Recommendations or findings contained in such reports or attachments thereto shall be construed as being those of the commission unless otherwise noted-~~ The commission director shall be assisted in the state water planning and review process by the Department of Water Resources, the Game and Parks Commission, the Department of Agriculture, the Policy Research Office, the Department of Health, the Department of Environmental Control, and the University of Nebraska-Lincoln Water Resources Center and Conservation and Survey Division. In addition, ~~the commission director~~ may obtain assistance from any private individual, organization, political subdivision, or agency of the

state or federal government.

Sec. 39. That section 2-3286, Revised Statutes Supplement, 1982, be amended to read as follows:

2-3286. The Public Advisory Board shall have no specific authority in the planning process but Nebraska Natural Resources Commission shall provide the commission Director of Natural Resources and the Legislature upon request with the opinion of the general public and various water interests in the state. It is the intent of the Legislature that the Public Advisory Board commission consider the different opinions of the individual members but, as a body, it shall provide the commission director with input and comments on state water planning and review process activities as they relate to the overall use of Nebraska's water resources. The functions of the Public Advisory Board commission shall include providing upon request advice and assistance in the planning process by: (1) Identifying legislative and administrative policy issues; (2) developing and reviewing alternative solutions for legislative and administrative policy problems, including impact assessment; (3) recommending the types of problems needing analysis and where such problems are located or likely to be located; (4) disseminating information and materials generated by the planning process to the interest groups the members of the board represent and the public; generally; and (5) determining the conditions under which and the methods by which additional public input is to be obtained. Members of the Public Advisory Board shall be reimbursed by the commission for actual and necessary expenses as provided for in sections 84-306-01 to 84-306-05 for state employees.

Sec. 40. That section 2-3287, Revised Statutes Supplement, 1982, be amended to read as follows:

2-3287. The Public Advisory Board Nebraska Natural Resources Commission shall review draft reports produced through the planning process for submission to the Legislature and, if it deems appropriate, provide the Nebraska Director of Natural Resources Commission with comments and recommended changes. It shall also review all reports completed by the commission director for submission to the Legislature and any comments and recommendations resulting therefrom shall be submitted to the Legislature and Governor at the time the final report is forwarded by the commission director or as soon thereafter as they are prepared.

Sec. 41. That section 2-3288, Revised Statutes Supplement, 1982, be amended to read as follows:

2-3288. It is the intent of the Legislature that the public have maximum input into the formulation of state water policy. The Nebraska Director of Natural Resources Commission shall conduct one or more public hearings prior to the completion of any recommendations to the

Legislature on methods of addressing water policy issues. All materials produced as part of the state water planning and review process shall be available to interested persons and groups upon request. The commission or other agency providing such material may make a charge therefor which does not exceed the actual cost of providing the same.

Sec. 42. That section 2-3289, Revised Statutes Supplement, 1982, be amended to read as follows:

2-3289. On or before September 15 of each year, the Nebraska Director of Natural Resources Commission shall submit an annual report and plan of work for the state water planning and review process to the Legislature and Governor. The report shall include a listing of expenditures for the past fiscal year, a summary and analysis of work completed in the past fiscal year, funding requirements for the next fiscal year, and a projection and analysis of work to be completed and estimated funding requirements for such work for the next succeeding four years. The explanation of future funding requirements shall include an explanation of the proposed use of such funds and the anticipated results of the expenditure of such funds. The report shall, to the extent possible, identify such information as it affects each agency or other recipient of program funds. The explanation of future funding requirements shall be in a form suitable for providing an explanation of that portion of the commission budget request pertaining to the state water planning and review process.

Sec. 43. There is hereby appropriated (1) \$5,000,000 from the General Fund for the period February 15, 1985, to June 30, 1985, to the Nebraska Resources Development Fund, which fund is hereby appropriated, to be used as provided in sections 2-3263 to 2-3272, and (2) \$5,000,000 from the General Fund for the period February 15, 1985, to June 30, 1985, to the Nebraska Water Management Fund, which fund is hereby appropriated, to be used as provided in section 15 of this act.

Sec. 44. Sections 44 to 71 of this act shall be known and may be cited as the Nebraska Water Project Revenue Bonding Act.

Sec. 45. The Legislature acknowledges that the construction of water retention and impoundment structures for the purposes of water conservation and management will promote the general welfare of the citizens of the state and contribute to the development of the natural resources of the state.

The Legislature finds that a state agency should be designated to acquire and finance interests in such structures on behalf of the people of the state. The Legislature further finds that in order to finance such structures, it is necessary to borrow in anticipation of revenue to be received from their operation. The purpose

of the Nebraska Water Project Revenue Bonding Act is to provide a procedure for borrowing for such purposes and to authorize the creation of debt to finance these structures. The Legislature recognizes that the Nebraska Natural Resources Commission may acquire an interest in a water resources project in the name of the state as provided in sections 2-3264 to 2-3272. The Legislature hereby designates the Nebraska Natural Resources Commission as the state agency responsible for acquiring and financing interests in water retention and impoundment structures in the name of the state pursuant to the Nebraska Water Project Revenue Bonding Act.

It is the intent of the Legislature that the act shall implement Article XIII, section 1, of the Constitution of Nebraska which authorizes the issuance of revenue bonds to finance the construction of water retention and impoundment structures for the purposes of water conservation and management.

Sec. 46. As used in the Nebraska Water Project Revenue Bonding Act, unless the context otherwise requires, the definitions found in sections 47 to 55 of this act shall apply.

Sec. 47. Board shall mean the Water Management Board.

Sec. 48. Bonds shall mean the debentures, bonds, notes, and warrants authorized or issued pursuant to the Nebraska Water Project Revenue Bonding Act.

Sec. 49. Construction shall mean and include acquisition, construction, reconstruction, replacement, extension, improvement, and betterment of a water retention or impoundment structure and related facilities.

Sec. 50. Cost of construction shall mean and include:

(1) Obligations to contractors and builders for construction and for the restoration of property damaged or destroyed in connection with such construction;

(2) The cost of acquiring land, property rights, rights-of-way, franchises, easements, and other interests deemed necessary or convenient by the board for construction;

(3) The cost of acquiring any property, real or personal, tangible or intangible, or any interest therein, deemed necessary or convenient by the board for construction;

(4) The interest requirements of any bonds prior to, during, and for a period of eighteen months after completion of construction;

(5) Fees and expenses of paying agents, trustees, and registrars for such bonds during any such period;

(6) The costs and expenses of preliminary investigations to determine the feasibility or practicability of such construction;

(7) The fees and expenses of engineers for making preliminary studies, surveys, reports, estimates of cost and of revenue, and other estimates, for preparing plans and specifications and supervising construction, and for the performance of all other duties of engineers in relation to such construction or the issuance of bonds;

(8) Expenses of administration during construction, legal expenses and fees, financing charges and fees, and costs of audits and of preparing and issuing such bonds; and

(9) All other items of expense incident to such construction, the financing, and the acquisition of land and property.

Sec. 51. Governmental agency shall mean any state office, agency, board, or commission, a political subdivision of the State of Nebraska, the United States or any agency thereof, any agency, commission, or authority established pursuant to an interstate compact or agreement, and other states and any agency thereof, which has been granted the authority to develop water resources.

Sec. 52. Project shall mean all or any part of a water retention or impoundment structure or related facility, including but not limited to, water distribution facilities, pumping facilities, and hydropower facilities necessary to produce the anticipated revenue.

Sec. 53. Real property shall mean any land within or without the state, improvements on such land, or any rights or interests on such land.

Sec. 54. Revenue shall mean income, receipts, profits, and all rents, fees, and charges, including demand charges, for water provided from or for the use and services, including vendibles, of any project of the board and payments in respect of any loans or advances made to governmental agencies pursuant to the Nebraska Water Project Revenue Bonding Act.

Sec. 55. Treasurer shall mean the State Treasurer.

Sec. 56. In addition to the board's other powers and duties, the board is hereby granted all the powers necessary and appropriate to carry out the purposes of the Nebraska Water Project Revenue Bonding Act, including but not limited to, the power:

(1) To acquire, lease as lessee or lessor, rent, hold, use, and dispose of real and personal property in the exercise of its powers and the performance of its duties under the act;

(2) To borrow money, issue negotiable bonds and notes, provide for and secure payment for such bonds and notes, and to provide for the rights of the holders of such bonds and notes;

(3) To acquire, hold, use, and dispose of its income, revenue, receipts, funds, and money collected pursuant to the act;

(4) To charge, alter, and collect rentals or other charges for the use or services of any project, to contract with one or more persons or governmental agencies or combinations thereof desiring the use or services of such project, and to fix the terms, conditions, rentals, or other charges for such use or services;

(5) To contract for and to accept any gifts, grants, loans, property, or financial or other aid in any form from a governmental agency or from any other source and to comply, subject to the provisions of the act, with the terms and conditions of such gifts, grants, loans, property, or aid;

(6) To acquire title and interest in land and other property, including, if there is no prudent and feasible alternative, public lands, reservations, highways, or parkways;

(7) To procure insurance, including self-insurance, against any losses in connection with its property, operations, or assets in such amounts and from such insurers as it deems desirable;

(8) To perform any act authorized by the act under, through, or by means of its officers, agents, or employees or by contracts with any person; and

(9) To adopt and promulgate rules and regulations to effectuate the powers and purposes of the act.

Sec. 57. When necessary, the board may acquire title and interest in land or other property by the exercise of the power of eminent domain. The exercise of the power of eminent domain shall be governed by the provisions of sections 76-704 to 76-724.

Sec. 58. (1) The board may issue bonds in such principal amounts as are necessary to provide sufficient funds for the purposes of the Nebraska Water Project Revenue Bonding Act including (a) the initiation, design, acquisition, construction, maintenance, repair, and operation of projects, (b) the payment, funding, or refunding of the principal of, or interest or redemption premium on, any bonds issued by it whether the bonds or interest to be funded or refunded have or have not become due, (c) the establishment or increase of reserves to secure or pay such bonds or interest, and (d) all other costs or expenses of the board incident to and necessary to carry out the board's purposes and powers.

(2) Unless otherwise provided pursuant to section 60 or 61 of this act, all issues of bonds shall be a special obligation payable out of and secured by revenue and funds derived exclusively from specific projects or parts of such projects, financed in whole or in part from the proceeds of the bonds, subject only to an agreement with the holders of particular bonds pledging particular revenue or funds. The bonds may be additionally secured by a pledge of any grant, subsidy, or contribution from a

governmental agency or any person or a pledge of any income or revenue, funds, or money of the board.

(3) The bonds shall be and are hereby made negotiable instruments within the meaning and for all purposes of Article 8 of the Uniform Commercial Code, subject only to the provisions of the bonds for registration or for their issuance in book entry form.

(4) Bonds issued by the board shall be authorized by a resolution of the board which may specify that the bonds (a) be issued in one or more series, (b) bear certain maturation dates, (c) bear interest at a certain rate, (d) be in specific denomination, (e) be in a certain form, either coupon, registered, or in book entry form, (f) carry conversion or registration privileges, (g) have specific rank or priority, (h) be executed in a certain manner, (i) be payable from certain sources in a medium of payment at a place or places within or without the state, and (j) be subject to specific terms of redemption, with or without premium.

(5) The State Treasurer may, at the direction of the board, act as transfer agent or registrar for the exchange or transfer of registered bonds and notes or maintain records so that bonds and notes in book entry form may be effected and the board may contract with or otherwise designate a bank, trust company, or other person to maintain records so that bonds and notes in book entry form may be effected. Such bank, trust company, or other person, which may include the federal government or any of its agencies or instrumentalities or any officer, agency, or instrumentality of the state, may be located or have its principal office inside or outside the state. Bonds and notes in book entry form shall be effected by means of entries on the records of the State Treasurer or other designated person which shall reflect the description of the issue, the principal amount, the interest rate, the maturity date, and the owner of the bonds or notes and such other information as is deemed appropriate. The State Treasurer or other designated person may effect conversion between book entry bonds and notes and registered bonds and notes for owners of bonds and notes who request such a change. The State Treasurer or other designated transfer agent or registrar shall issue a confirmation of the transaction in the form of a written advice.

(6) The books of registry held by the State Treasurer or other designated registrar shall be confidential and the information contained in such books shall not be available to the public.

(7) Bonds issued by the board may be sold at public or private sale at a price and in such manner as the board shall determine.

(8) Bonds issued by the board shall not be a debt or liability of the state or of any political subdivision and shall not constitute a pledge of the faith and credit

of the state or political subdivision. All such bonds, unless funded or refunded by bonds issued by the board, shall be payable solely from revenue or funds pledged or available for their payment as authorized in the Nebraska Water Project Revenue Bonding Act. Each bond shall contain on its face a statement indicating that the board is obligated to pay the principal or the interest only from revenue or funds collected pursuant to the act and that neither the state nor any political subdivision is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the state or any political subdivision is pledged to the payment of the principal or of the interest on the bonds.

(9) All expenses incurred in carrying out the provisions of the Nebraska Water Project Revenue Bonding Act shall be payable solely from revenue or funds provided or to be provided under the provisions of the act and nothing in the act shall be construed to authorize the board to incur any indebtedness or liability on behalf of or payable by the state or any political subdivision.

Sec. 59. Prior to the preparation of definitive bonds, the board may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated, destroyed, stolen, or lost. In so replacing any bonds, the board shall take adequate security to protect against any loss which might be incurred as a result of replacement.

Sec. 60. In any resolution of the board empowering or relating to the issuance of any bonds, the board, in order to secure the payment of such bonds and in addition to its other powers, shall, by provisions contained in the resolution which shall constitute covenants by the board and contracts with the bondholders, have power to:

(1) Pledge all or any part of its revenue, income, or receipts in the Nebraska Water Management Fund consistent with Article XIII, section 1, of the Constitution of Nebraska, the money derived from such revenue, income, or receipts, and the proceeds of any bonds;

(2) Pledge any lease, agreement, rents, revenue, or proceeds acquired pursuant to section 56 of this act;

(3) Mortgage all or any part of its property, real or personal, acquired pursuant to section 56 of this act;

(4) Covenant against pledging all or any part of its revenue, receipts, leases, agreements, or proceeds, or against mortgaging all or any part of its real or personal property acquired pursuant to section 56 of this act, or against permitting or suffering any lien on any of its real or personal property;

(5) Covenant with respect to limitations on any right to sell, lease, or otherwise dispose of any project or any part of a project or any property of any kind acquired pursuant to the Nebraska Water Project Revenue Bonding Act;

(6) Covenant as to the limitations, terms, and conditions of any bonds, including the custody, application, investment, and disposition of the proceeds;

(7) Covenant as to the issuance of additional bonds or as to limitations on the issuance of additional bonds and on the incurring of other debts by the board;

(8) Covenant as to (a) the payment of the principal or interest on the bonds or any other obligations, (b) the sources and methods of payment, (c) the rank or priority of the bonds with respect to any lien or security, or (d) the acceleration of the maturity of bonds;

(9) Covenant against extending the time for payment of bonds or interest;

(10) Covenant as to the redemption of bonds and privileges of exchange for other bonds of the board;

(11) Covenant to create special funds to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds, reserves, or other purposes and as to the use, investment, and disposition of those funds;

(12) Establish (a) a procedure by which the terms of any contract or covenant with or for the benefit of the bondholders may be amended or abrogated, (b) the amount of the bonds to which the holders must consent, and (c) the manner in which the consent must be given;

(13) Provide for the rights, liabilities, powers, and duties arising upon the breach of any covenant, condition, or obligation and prescribe the events of default and the terms and conditions upon which any or all of the bonds of the board shall become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived;

(14) Vest in a trustee within or without the state such property, rights, powers, and duties in trust as the board may determine;

(15) Execute all mortgages, bills of sale, conveyances, deeds of trust, and other instruments necessary or convenient in the exercise of its powers, covenants, or duties;

(16) Pay the costs or expenses incident to the enforcement of bonds, the provisions of the resolution, or of any covenant or agreement of the board with the bondholders;

(17) Limit the rights of the bondholders to enforce any pledge or covenants securing bonds; and

(18) Make covenants other than those expressly

authorized in this section which the board determines may be necessary, convenient, or desirable to better secure bonds or which will tend to make the bonds more marketable.

Sec. 61. Any pledge of revenue, funds, or other property made by the board shall be valid and binding from the time when the pledge is made. The revenue, funds, or other property so pledged and received by the board, unless otherwise agreed, shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kinds in tort, contract, or otherwise against the board, irrespective of whether the parties have notice of the claims. Neither the resolution nor any other instrument by which a pledge of revenue or funds is created need be filed or recorded except in the records of the board.

Sec. 62. Neither the members of the board nor any person executing bonds or notes issued pursuant to section 58 of this act shall be liable personally on the bonds by reason of the issuance of the bonds.

Sec. 63. The board may establish such reserves, funds, or accounts as may be necessary or desirable to further the accomplishment of the purposes of the board under the Nebraska Water Project Revenue Bonding Act or to comply with the provisions of any agreement made by any resolution of the board pursuant to the act.

Sec. 64. The state pledges, covenants, and agrees with the holders of any bonds issued pursuant to the authority of the Nebraska Water Project Revenue Bonding Act that the state will not limit or alter the rights or powers vested in the board that would in any way jeopardize the interest of such bondholders or perform and fulfill the terms of any agreement made with the bondholders until the bonds, together with the resulting interest and all costs and expenses in connection with any action or proceedings by or on behalf of such bondholders, are fully met and discharged.

Sec. 65. The state and all public officers and governmental units and agencies, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds or other funds belonging to them or within their control in any bonds issued pursuant to the Nebraska Water Project Revenue Bonding Act unless otherwise prohibited, and such bonds shall be authorized security for any and all public deposits.

Sec. 66. (1) The Attorney General, as legal advisor to the board, may authorize the board to employ

special bond counsel.

(2) The Auditor of Public Accounts shall audit the books of the board annually and at such other times as may be necessary.

Sec. 67. All property acquired or held by the board pursuant to the Nebraska Water Project Revenue Bonding Act is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the state or any political subdivision. When any property not occupied or to be occupied by water retention or impoundment facilities is leased by the board to another whose property is not exempt and the leasing of the property does not make the real estate taxable, the estate created by the lease and the appurtenances shall be listed as the property of the lessee and be assessed and taxed as real estate. All bonds issued pursuant to the act are declared to be issued by a public body of the state for an essential public and governmental purpose and these bonds, and the interest and income resulting from such bonds, and all funds, revenue, and other income received or to be received by the payment of the bonds or resulting interest may be issued as securities exempt from taxation by this state or any political subdivision of this state or as taxable securities.

Sec. 68. It is the intent of the Legislature that the provisions of the Nebraska Water Project Revenue Bonding Act shall not be construed as repealing or amending existing statutes but shall be construed harmoniously and implemented compatibly with them.

Sec. 69. It is the intent of the Legislature that the Nebraska Water Project Revenue Bonding Act shall be construed to comply with all federal laws and regulations.

Sec. 70. No resolution or other action of the board providing for the issuance of bonds or the refunding of bonds shall be adopted or otherwise made effective by the board in accordance with the Nebraska Water Project Revenue Bonding Act without prior approval, by legislative bill, of three-fifths of the members elected to the Legislature voting in the affirmative.

Sec. 71. Any holder of bonds issued under the provisions of the Nebraska Water Project Revenue Bonding Act or any of the appertaining coupons, except to the extent the rights given under the act may be restricted by resolution of the board, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of this state or as granted under the provisions of the act or under the resolution authorizing the issuance of the bonds and may enforce and compel the performance of all duties required by such laws or by the act or by such resolution to be performed by the board or by any employee of the board.

Sec. 72. This act shall become operative on February 15, 1985.

Sec. 73. That original sections 2-1503, 2-3263, 2-3269, 2-3270, 2-3272, and 37-435, Reissue Revised Statutes of Nebraska, 1943, sections 2-3265, 2-3271, 2-3283, 2-3286 to 2-3289, and 46-209, Revised Statutes Supplement, 1982, and sections 2-1504, 2-1507, and 46-673.01, Revised Statutes Supplement, 1983, and also section 2-3268, Revised Statutes Supplement, 1982, are repealed.