

LEGISLATIVE BILL 277

Approved by the Governor March 27, 1991

Introduced by Schmit, 23

AN ACT relating to water; to amend section 46-242, Reissue Revised Statutes of Nebraska, 1943; to authorize permits to appropriate certain water for instream uses; and to repeal the original section.

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

Section 1. That section 46-242, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-242. (1) After the completion to the satisfaction of the Department of Water Resources of a storage reservoir for which a permit has been obtained pursuant to section 46-241, any person, proposing to apply to beneficial use the water stored, shall file with the department an application for a permit, particularly describing the use to which the water is to be applied and, if for irrigation, describing the land to be irrigated.

(2) Application may be made for a permit to appropriate water for the irrigation of land lying both upstream and downstream from a storage reservoir or intentional underground water storage facility. Under an approved application for a permit to appropriate water stored in a reservoir or facility for use on land upstream from such reservoir or facility, water may be diverted from the stream by the applicant and a compensating amount of water shall be released from the reservoir or facility for the use of downstream appropriators, but the rights of prior appropriators shall not be adversely affected by such exchange of water.

(3) The owner of a storage reservoir shall have a preferred right to make such application for a period of six months from the time limited for the completion of such reservoir. The date of the expiration of such period shall be endorsed upon the application when allowed. If an application is made by any other than such owner of a reservoir at any time, the same shall not be approved by the department until the applicant shall show, by documentary evidence, sufficient interest in such storage reservoir to entitle

the applicant to enough water for the purpose set forth in the application.

(4) Application may be made for a permit to appropriate water from a storage reservoir, subject to subsection (3) of this section, or an intentional underground water storage facility, subject to subsection (3) of section 46-241, for instream use of water for recreation or fish and wildlife if the appropriation will not prejudice the rights of any prior appropriator for a beneficial use.

(5) An unapproved application for a permit pursuant to this section, which is pending on August 26, 1983, may be amended to include use of stored water for intentional underground water storage.

Sec. 2. That original section 46-242, Reissue Revised Statutes of Nebraska, 1943, is repealed.