

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 904

Introduced by Bolz, 29; Brewer, 43.

Read first time January 10, 2020

Committee:

- 1 A BILL FOR AN ACT relating to the Water Sustainability Fund; to amend
- 2 sections 61-222 and 61-223, Reissue Revised Statutes of Nebraska,
- 3 sections 2-1506, 2-1508, 2-1512, and 2-1513, Revised Statutes
- 4 Cumulative Supplement, 2018, and section 2-1507, Revised Statutes
- 5 Supplement, 2019; to provide an additional use of the fund; to
- 6 restate intent; to provide and change transfers from the General
- 7 Fund; to harmonize provisions; and to repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-1506, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 2-1506 (1) The goals of the Water Sustainability Fund are to: (a)
4 Provide financial assistance to programs, projects, or activities that
5 increase aquifer recharge, reduce aquifer depletion, and increase
6 streamflow; (b) remediate or mitigate threats to drinking water; (c)
7 promote the goals and objectives of approved integrated management plans
8 or ground water management plans; (d) contribute to multiple water supply
9 management goals including flood control, reducing threats to property
10 damage, agricultural uses, municipal and industrial uses, recreational
11 benefits, wildlife habitat, conservation, and preservation of water
12 resources; (e) assist municipalities with the cost of constructing,
13 upgrading, developing, and replacing sewer infrastructure facilities as
14 part of a combined sewer overflow project; (f) provide increased water
15 productivity and enhance water quality; (g) promote the sustainable use
16 of water in food production; (h) use the most cost-effective solutions
17 available; and (i) ~~(h)~~ comply with interstate compacts, decrees, other
18 state contracts and agreements, and federal law.

19 (2) The Legislature finds that the goals of the Water Sustainability
20 Fund can be met by equally considering programs, projects, or activities
21 in the following categories: (a) Research, data, and modeling; (b)
22 rehabilitation or restoration of water supply infrastructure, new water
23 supply infrastructure, or water supply infrastructure maintenance or
24 flood prevention for protection of critical infrastructure; (c)
25 conjunctive management, storage, and integrated management of ground
26 water and surface water; (d) sustainable use of water as it relates to
27 food production; and (e) ~~(d)~~ compliance with interstate compacts or
28 agreements, or other formal state contracts or agreements, or federal
29 law.

30 Sec. 2. Section 2-1507, Revised Statutes Supplement, 2019, is
31 amended to read:

1 2-1507 (1) It is the intent of the Legislature that the Water
2 Sustainability Fund be equitably distributed statewide to the greatest
3 extent possible for the long term and give priority funding status to
4 projects which are the result of federal mandates.

5 (2) Distributions to assist municipalities with the cost of
6 constructing, upgrading, developing, and replacing sewer infrastructure
7 facilities as part of a combined sewer overflow project shall be based on
8 a demonstration of need and shall equal ten percent of the total annual
9 appropriation to the Water Sustainability Fund if (a) applicants have
10 applied for such funding as required under section 2-1509 and (b) any
11 such application has been recommended for further consideration by the
12 director and is subsequently approved for allocation by the commission
13 pursuant to subsection (1) of section 2-1511. If more than one
14 municipality demonstrates a need for funds pursuant to this subsection,
15 funds shall be distributed proportionally based on population.

16 (3) Distributions to assist the University of Nebraska with the
17 operation of the Daugherty Water for Food Institute created to conduct
18 scientific and policy research into how to achieve more food security
19 with less pressure on scarce water resources shall equal nine hundred
20 thousand dollars annually. The institute shall submit to the director a
21 summary of ongoing and planned research initiatives to be conducted using
22 such funds, including descriptions of how the initiatives directly relate
23 to sustainability of water use and food production.

24 (4) ~~(3)~~ Any money in the Water Sustainability Fund after the
25 distribution pursuant to subsection (3) of this section may be allocated
26 by the commission to applicants in accordance with sections 2-1506 to
27 2-1513. Such money may be allocated in the form of grants or loans for
28 water sustainability programs, projects, or activities undertaken within
29 the state. The allocation of funds to a program, project, or activity in
30 one form shall not of itself preclude additional allocations in the same
31 or any other form to the same program, project, or activity.

1 (5) ~~(4)~~ When the commission has approved an allocation of funds to a
2 program, project, or activity, the Department of Natural Resources shall
3 establish a subaccount in the Water Sustainability Fund and credit the
4 entire amount of the allocation to the subaccount. Individual subaccounts
5 shall be established for each program, project, or activity approved by
6 the commission. The commission may approve a partial allocation to a
7 program, project, or activity based upon available unallocated funds in
8 the Water Sustainability Fund, but the amount of unfunded allocations
9 shall not exceed twelve ~~eleven~~ million dollars. Additional allocations to
10 a program, project, or activity shall be credited to the same subaccount
11 as the original allocation. Subaccounts shall not be subject to transfer
12 out of the Water Sustainability Fund, except that the commission may
13 authorize the transfer of excess or unused funds from a subaccount and
14 into the unreserved balance of the fund.

15 (6) ~~(5)~~ A natural resources district is eligible for funding from
16 the Water Sustainability Fund only if the district has adopted or is
17 currently participating in the development of an integrated management
18 plan pursuant to subdivision (1)(a) or (b) of section 46-715.

19 (7) ~~(6)~~ The commission shall utilize the resources and expertise of
20 and collaborate with the Department of Natural Resources, the University
21 of Nebraska, the Department of Environment and Energy, the Nebraska
22 Environmental Trust Board, and the Game and Parks Commission on funding
23 and planning for water programs, projects, or activities.

24 (8) ~~(7)~~ A biennial report shall be made to the Clerk of the
25 Legislature describing the work accomplished by the use of funds towards
26 the goals of the Water Sustainability Fund beginning on December 31,
27 2015. The report submitted to the Clerk of the Legislature shall be
28 submitted electronically.

29 Sec. 3. Section 2-1508, Revised Statutes Cumulative Supplement,
30 2018, is amended to read:

31 2-1508 The commission shall rank and score applications for funding

1 based on criteria that demonstrate the extent to which a program,
2 project, or activity:

3 (1) Remediates or mitigates threats to drinking water;

4 (2) Meets the goals and objectives of an approved integrated
5 management plan or ground water management plan;

6 (3) Contributes to water sustainability goals by increasing aquifer
7 recharge, reducing aquifer depletion, or increasing streamflow;

8 (4) Contributes to multiple water supply management goals,
9 including, but not limited to, flood control, agricultural use, municipal
10 and industrial uses, recreational benefits, wildlife habitat,
11 conservation of water resources, and preservation of water resources;

12 (5) Maximizes the beneficial use of Nebraska's water resources for
13 the benefit of the state's residents;

14 (6) Is cost-effective;

15 (7) Contributes to scientific and policy research regarding
16 sustainable water use and food production;

17 (8) (7) Helps the state meet its obligations under interstate
18 compacts, decrees, or other state contracts or agreements or federal law;

19 (9) (8) Reduces threats to property damage or protects critical
20 infrastructure that consists of the physical assets, systems, and
21 networks vital to the state or the United States such that their
22 incapacitation would have a debilitating effect on public security or
23 public health and safety;

24 (10) (9) Improves water quality;

25 (11) (10) Has utilized all available funding resources of the local
26 jurisdiction to support the program, project, or activity;

27 (12) (11) Has a local jurisdiction with plans in place that support
28 sustainable water use;

29 (13) (12) Addresses a statewide problem or issue;

30 (14) (13) Contributes to the state's ability to leverage state
31 dollars with local or federal government partners or other partners to

1 maximize the use of its resources;

2 ~~(15)~~ ~~(14)~~ Contributes to watershed health and function; and

3 ~~(16)~~ ~~(15)~~ Uses objectives described in the annual report and plan of
4 work for the state water planning and review process issued by the
5 department.

6 Sec. 4. Section 2-1512, Revised Statutes Cumulative Supplement,
7 2018, is amended to read:

8 2-1512 In order to develop Nebraska's water resources, the
9 department, using the process provided for in subsection (4) of section
10 2-1509, and with the approval of the commission, may acquire interests in
11 water and related land resources projects in the name of the state
12 utilizing the Water Sustainability Fund. Such use of the fund shall be
13 made when the public benefits obtained from the projects or a part
14 thereof are statewide in nature and when associated costs are determined
15 to be more appropriately financed by other than a local organization.
16 Such use of the fund may be made upon the determination by the department
17 and the commission that such acquisition is appropriate under sections
18 2-1506 to 2-1513. The department, with the approval of the commission,
19 may also acquire interests in water resource projects in the name of the
20 state to meet future demands for usable water. Such water resource
21 projects may include, but not be limited to, the construction of dams and
22 reservoirs to provide surplus water storage capacity for municipal and
23 industrial water demands, for food production, and for other projects to
24 assure an adequate quantity of usable water. In furtherance of these
25 goals, the department may contract with the federal government or any of
26 its agencies or departments for the inclusion of additional water supply
27 storage space behind existing or proposed structures.

28 Sec. 5. Section 2-1513, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 2-1513 The Appropriations Committee of the Legislature shall,
31 beginning with the FY2023-25 biennial budget review process, conduct a

1 biennial analysis of the financial status of the Water Sustainability
2 Fund, including a review of the committed and uncommitted balance of the
3 fund pursuant to sections 2-1506 to 2-1512 and the financial impact of
4 pending programs, projects, or activities. The committee shall base its
5 recommendation for transfers to the Water Sustainability Fund upon
6 information provided in the review process.

7 Sec. 6. Section 61-222, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 61-222 The Water Sustainability Fund is created in the Department of
10 Natural Resources. The fund shall be used in accordance with sections
11 2-1506 to 2-1513 ~~the provisions established in Laws 2014, LB1098,~~ and for
12 costs directly related to the administration of the fund.

13 The fund shall consist of money transferred to the fund by the
14 Legislature, other funds as appropriated by the Legislature, and money
15 donated as gifts, bequests, or other contributions from public or private
16 entities. Funds made available by any department or agency of the United
17 States may also be credited to the fund if so directed by such department
18 or agency. Any money in the fund available for investment shall be
19 invested by the state investment officer pursuant to the Nebraska Capital
20 Expansion Act and the Nebraska State Funds Investment Act. Investment
21 earnings from investment of money in the fund shall be credited to the
22 fund.

23 It is the intent of the Legislature that twenty-one million dollars
24 be transferred from the General Fund to the Water Sustainability Fund in
25 fiscal year 2014-15, ~~and~~ that eleven million dollars be transferred from
26 the General Fund to the Water Sustainability Fund each fiscal year
27 beginning in fiscal year 2015-16 through fiscal year 2019-20, and that
28 twelve million dollars be transferred from the General Fund to the Water
29 Sustainability Fund each fiscal year beginning in fiscal year 2020-21. ~~It~~
30 ~~is the intent of the Legislature that three million dollars be~~
31 ~~transferred annually from the Water Sustainability Fund to the Nebraska~~

1 ~~Resources Development Fund in FY2015-16 and in FY2016-17.~~

2 Sec. 7. Section 61-223, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 61-223 The Legislature finds that water sustainability programs,
5 projects, and activities are complex, multiyear endeavors that require a
6 stable source of state funding support in order for the required matching
7 funds to be secured and for projects to be completed in a timely and
8 successful manner. It is the intent of the Legislature that transfers of
9 money from the General Fund to the Water Sustainability Fund be
10 maintained at the level established in section 61-222 through fiscal year
11 2029-30 ~~for a minimum of ten fiscal years.~~

12 Sec. 8. Original sections 61-222 and 61-223, Reissue Revised
13 Statutes of Nebraska, sections 2-1506, 2-1508, 2-1512, and 2-1513,
14 Revised Statutes Cumulative Supplement, 2018, and section 2-1507, Revised
15 Statutes Supplement, 2019, are repealed.