

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 30
FINAL READING

Introduced by Schrock, 38

Read first time January 9, 2003

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Nebraska Ground Water Management and
2 Protection Act; to amend section 46-656.10, Reissue
3 Revised Statutes of Nebraska; to provide for enforcement
4 of certain violations; to create a fund; to eliminate a
5 penalty; to repeal the original section; and to declare
6 an emergency.

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

1 Section 1. Section 46-656.10, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 46-656.10. ~~Any violation of a cease and desist order~~
4 ~~issued by a district pursuant to section 46-656.08 shall be a Class~~
5 ~~IV misdemeanor~~ (1) Any person who violates a cease and desist order
6 issued by a district pursuant to section 46-656.08 shall be subject
7 to a civil penalty of not less than one thousand dollars and not
8 more than five thousand dollars for each day an intentional
9 violation occurs. In assessing the amount of the civil penalty,
10 the court shall consider the degree and extent of the violation,
11 the size of the operation, whether the violator has been previously
12 convicted or subjected to a civil penalty under this section, and
13 any economic benefit derived from noncompliance. Any civil penalty
14 assessed and unpaid shall constitute a debt to the state which may
15 be collected in the manner of a lien foreclosure or sued for and
16 recovered in a proper form of action in the name of the state in
17 the district court of the county in which the violator resides or
18 owns property. The court shall, within thirty days after receipt,
19 remit the civil penalty to the State Treasurer for credit to the
20 permanent school fund.

21 (2) (a) Prior to issuing a cease and desist order against
22 a public water supplier as defined in section 46-638, the district
23 shall consult with the Attorney General. If the Attorney General
24 determines that the district does not have sufficient grounds to
25 issue a cease and desist order, the district shall abide by such
26 determination and shall not issue a cease and desist order. The
27 Attorney General shall have exclusive authority to enforce actions
28 under this subsection.

1 (b) Any determination as to whether a water well is
2 properly registered under sections 46-602 to 46-604 or whether a
3 water well is properly permitted under the Municipal and Rural
4 Domestic Ground Water Transfers Permit Act shall be made by the
5 Department of Natural Resources.

6 (3) When the Attorney General, a county attorney, or a
7 private attorney brings an action on behalf of a district to
8 recover a civil penalty under this section, the district shall
9 recover the costs of the action if a civil penalty is awarded. Any
10 recovered costs of the action shall be: (a) Remitted to the State
11 Treasurer for credit to the Department of Justice Natural Resources
12 Enforcement Fund if the action is brought by the Attorney General;
13 (b) credited to the applicable county fund if the action is brought
14 by the county attorney; and (c) remitted to the district if the
15 action is brought by the district's private attorney.

16 (4) The Department of Justice Natural Resources
17 Enforcement Fund is created. The fund shall consist of money
18 credited pursuant to subsection (3) of this section. Money in the
19 fund shall be used to reimburse the office of the Attorney General
20 for the costs incurred in enforcing this section. Any money in the
21 fund available for investment shall be invested by the state
22 investment officer pursuant to the Nebraska Capital Expansion Act
23 and the Nebraska State Funds Investment Act.

24 Sec. 2. Original section 46-656.10, Reissue Revised
25 Statutes of Nebraska, is repealed.

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