

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 591

Introduced by Groene, 42.

Read first time January 20, 2021

Committee:

- 1 A BILL FOR AN ACT relating to water; to amend section 46-252, Reissue
- 2 Revised Statutes of Nebraska; to require a permit for any natural
- 3 resources district water augmentation project; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-252, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-252 (1) Any person may conduct, either from outside the state or
4 from sources located in the state, quantities of water over and above
5 those already present into or along any of the natural streams or
6 channels of this state, for purposes of instream beneficial uses or
7 withdrawal of some or all of such water for out-of-stream beneficial
8 uses, at any point without regard to any prior appropriation of water
9 from such stream, due allowance being made for losses in transit to be
10 determined by the Department of Natural Resources. The department shall
11 monitor movement of the water by measurements or other means and shall be
12 responsible for assuring that such quantities are not subsequently
13 diverted or withdrawn by others unless they are authorized to do so by
14 the person conducting the water.

15 (2) Except as provided in subsections (4) ~~(3)~~ and (5) ~~(4)~~ of this
16 section, before any person may conduct water into or along any of the
17 natural streams or channels of the state, he or she shall first obtain a
18 permit from the department. Application for the permit shall be made on
19 forms provided by the department. Applications shall include plans and
20 specifications detailing the intended times, amounts, and streamreach
21 locations and such other information as required by the department. The
22 water subject to such a permit shall be deemed appropriated for the use
23 specified in the permit. Permitholders shall be liable for any damages
24 resulting from the overflow of such stream or channel when water so
25 conducted contributed to such overflow.

26 (3) Before any natural resources district may create an augmentation
27 project to add water to a natural stream or channel of the state to
28 offset water depletion, the natural resources district shall first obtain
29 a permit from the department. Application for the permit shall be made on
30 a form provided by the department. An application shall include plans and
31 specifications detailing the intended times, amounts, stream-entry

1 locations, streamreach locations, and such other information as required
2 by the department. The water subject to such permit shall be deemed
3 appropriated for streamflow enhancement. Permitholders shall be liable
4 for any damages resulting from the overflow of such stream or channel
5 when water so conducted contributed to such overflow.

6 (4) ~~(3)~~ Any person actually engaged in the construction or operation
7 of any water power plant may, without filing with the department and upon
8 payment of all damages, use any such stream or channel for a tailrace or
9 canal and may, whenever necessary, widen, deepen, or straighten the bed
10 of any such stream. All damages resulting therefrom shall be determined
11 in the manner set forth in sections 76-704 to 76-724.

12 (5) ~~(4)~~ Any person holding a storage use permit pursuant to section
13 46-242 shall not be required to obtain the permit required by this
14 section.

15 (6) ~~(5)~~ Nothing in this section shall be construed to exempt a
16 person from obtaining any other permits required by law.

17 Sec. 2. Original section 46-252, Reissue Revised Statutes of
18 Nebraska, is repealed.