

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 808

Introduced by Harr, 8.

Read first time January 04, 2018

Committee:

1 A BILL FOR AN ACT relating to agriculture; to amend section 51-201.01,
2 Reissue Revised Statutes of Nebraska, sections 2-302, 2-303, 2-304,
3 and 19-5210, Revised Statutes Cumulative Supplement, 2016, and
4 section 2-301, Revised Statutes Supplement, 2017; to rename the
5 Community Gardens Act; to restate legislative findings and intent;
6 to define and redefine terms; to change provisions relating to use
7 of vacant public land; to create a fund and provide for grants and
8 annual reports; to transfer funds; to provide for the use of seed
9 libraries at public libraries; to harmonize provisions; to repeal
10 the original sections; and to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-301, Revised Statutes Supplement, 2017, is
2 amended to read:

3 2-301 Sections 2-301 to 2-304 and section 5 of this act shall be
4 known and may be cited as the Community Food Production Gardens Act.

5 Sec. 2. Section 2-302, Revised Statutes Cumulative Supplement, 2016,
6 is amended to read:

7 2-302 (1) The Legislature finds and declares that:

8 (a) Community food production provides ~~gardens provide~~ significant
9 health, educational, and social benefits to the general public,
10 especially for those who reside in urban and suburban areas of this
11 state;

12 (b) The community food production ~~garden~~ movement (i) continues to
13 provide low-cost food that is fresh and nutritious for those who may be
14 unable to readily afford fresh fruits and vegetables for themselves or
15 their families, (ii) promotes public health and healthier individual
16 lifestyles by encouraging better eating habits and increased physical
17 activity by growing food, (iii) fosters the retention and expansion of
18 open spaces, particularly in urban environments, (iv) enhances urban and
19 suburban environmental quality and community beautification, (v) provides
20 inexpensive community building activities, recreation, and physical
21 exercise for all age groups, (vi) establishes a safe place for community
22 involvement and helps to reduce the incidence of crime, (vii) engenders a
23 closer relationship between urban residents, nature, and the local
24 environment, and (viii) fosters green job training and ecological
25 education at all levels; and

26 (c) It is the public policy of this state to promote and foster
27 growth ~~in the number~~ of community food production ~~gardens and the acreage~~
28 ~~of such gardens.~~

29 (2) It is the intent of the Legislature and the purpose of the
30 Community Food Production ~~Gardens~~ Act to foster growth in the ~~number,~~
31 ~~size,~~ and scope of community food production ~~gardens~~ in this state by

1 encouraging state agencies, municipalities, and private parties in their
2 efforts to promote community gardens and urban agriculture.

3 Sec. 3. Section 2-303, Revised Statutes Cumulative Supplement, 2016,
4 is amended to read:

5 2-303 For purposes of the Community Food Production Gardens Act:

6 (1) Community garden means a piece or parcel of public or private
7 land cultivated for the purposes of not-for-profit food production by one
8 or more organizations located within a municipality upon which
9 individuals have the opportunity to raise a garden on land which they do
10 not themselves own;

11 (2) Department means the Department of Agriculture;

12 (3) Director means the Director of Agriculture;

13 (4) Food production ~~(2) Garden~~ means ~~a piece or parcel of land~~
14 ~~appropriate for~~ cultivation of herbs, fruits, flowers, nuts, honey,
15 poultry for egg production, maple syrup, ornamental or vegetable plants,
16 nursery products, or vegetables;

17 (5) ~~(3)~~ Municipality means any county, village, or city or any
18 office or agency of a county, village, or city;

19 (6) ~~(4)~~ State agency means any department or other agency of the
20 State of Nebraska;

21 (7) Urban agriculture means a piece or parcel of public or private
22 land cultivated for the purposes of for-profit food production by one or
23 more organizations located within a municipality;

24 (8) ~~(5)~~ Use means to avail oneself of or to employ without
25 conveyance of title food production gardens on vacant public land by any
26 individual or organization; and

27 (9) ~~(6)~~ Vacant public land means any land owned by the state or
28 another governmental subdivision, including a municipality, that is not
29 in use for a public purpose, is otherwise unoccupied, idle, or not being
30 actively utilized for a period of at least six months, and is suitable
31 for food production garden use.

1 Sec. 4. Section 2-304, Revised Statutes Cumulative Supplement, 2016,
2 is amended to read:

3 2-304 (1) A state agency or municipality having title to vacant
4 public land may permit community garden or urban agriculture
5 organizations to use such lands for food production ~~community garden~~
6 purposes. Such use of vacant public land may be conditioned on the
7 community garden or urban agriculture organization having liability
8 insurance and accepting liability for injury or damage resulting from use
9 of the vacant public land for food production ~~community garden~~ purposes.
10 State agencies and municipalities may adopt and promulgate rules,
11 regulations, ordinances, or resolutions to establish an application
12 process for a community garden or urban agriculture use. The applicant
13 may include a request for access to a fire hydrant or other source of
14 water owned or operated by the state agency or municipality or by a
15 utility district in order to provide water for food production purposes
16 ~~to the community garden~~. The state agency, municipality, or utility
17 district shall consider whether to supply the water to the applicant at a
18 reduced or fixed rate.

19 (2) A state agency or municipality which receives an application
20 pursuant to this section shall respond to the applicant within sixty days
21 from the date on which the application is received and shall make a final
22 determination within one hundred eighty days from such date.

23 Sec. 5. (1) The Community Food Production Water Fund is created.
24 The fund shall be used to provide financial assistance for water-related
25 costs associated with community garden purposes. Such water-related costs
26 include water hook-up fees, water usage fees, and water conservation
27 efforts. The fund shall consist of money appropriated or transferred by
28 the Legislature, any money made available by any department or agency of
29 the United States if so directed by such department or agency, and any
30 donations, gifts, bequests, or other contributions to the fund from
31 public or private entities. Any money in the fund available for

1 investment shall be invested by the state investment officer pursuant to
2 the Nebraska Capital Expansion Act and the Nebraska State Funds
3 Investment Act. Investment earnings from money in the fund shall be
4 credited to the fund.

5 (2) Beginning in fiscal year 2018-19 and each fiscal year
6 thereafter, the director shall award grants from the Community Food
7 Production Water Fund so that the grant funds awarded are approximately
8 equal for each congressional district, except that if there are not
9 sufficient qualified applicants in any congressional district, the
10 director may award the unused grant funds to applicants in another
11 congressional district. Any money in the fund not distributed during a
12 fiscal year shall be retained by the department to be distributed as
13 grants in the next fiscal year and shall not be expended by the
14 department for any other purpose. No grant shall be awarded from the
15 Community Food Production Water Fund pursuant to this section until the
16 director has received evidence that the entity receiving such grant has
17 either received matching funds from another source or irrevocably
18 committed funds of the entity to be used for the purposes of the grant in
19 an amount equal to or greater than the amount of the grant. Such matching
20 funds may be from any public or private source, except that no money
21 appropriated by the Legislature shall be used to provide the matching
22 funds.

23 (3) On or before November 1, 2019, and on or before each November 1
24 thereafter, the director shall report to the Governor and the Clerk of
25 the Legislature on the distribution and use of the grants distributed
26 under the Community Food Production Water Fund, including how many
27 entities applied to receive grants, how many entities received grants,
28 how grant funds were used, and the amount of used and unused funds. The
29 report to the Clerk of the Legislature shall be submitted electronically.

30 (4) The department shall adopt and promulgate rules and regulations
31 to carry out the purposes of the Community Food Production Water Fund.

1 The rules and regulations shall include, but not necessarily be limited
2 to, application timelines and requirements, guidelines for evaluating
3 applications, a plan for evaluating the effectiveness of programs,
4 services, and training, and a reporting process for grant recipients.

5 Sec. 6. The State Treasurer shall transfer one hundred thousand
6 dollars from the Water Sustainability Fund to the Community Food
7 Production Water Fund on or before July 1, 2018.

8 Sec. 7. Section 19-5210, Revised Statutes Cumulative Supplement,
9 2016, is amended to read:

10 19-5210 (1) A land bank shall hold in its own name all real property
11 acquired by the land bank irrespective of the identity of the transferor
12 of such property.

13 (2) A land bank shall maintain and make available for public review
14 and inspection an inventory of all real property held by the land bank.

15 (3) A land bank shall determine and set forth in policies and
16 procedures of the board the general terms and conditions for
17 consideration to be received by the land bank for the transfer of real
18 property and interests in real property, which consideration may take the
19 form of monetary payments and secured financial obligations, covenants
20 and conditions related to the present and future use of the property,
21 contractual commitments of the transferee, and such other forms of
22 consideration as determined by the board to be in the best interest of
23 the land bank.

24 (4) A land bank may convey, exchange, sell, transfer, grant, release
25 and demise, pledge, and hypothecate any and all interests in, upon, or to
26 real property of the land bank. A land bank may lease as lessor real
27 property of the land bank for a period not to exceed twelve months,
28 except that such twelve-month limitation shall not apply if the real
29 property of the land bank is subject to a lease with a remaining term of
30 more than twelve months at the time such real property is acquired by the
31 land bank.

1 (5) The municipality or municipalities that created the land bank
2 may establish by resolution or ordinance a hierarchical ranking of
3 priorities for the use of real property conveyed by a land bank. Such
4 ranking shall take into consideration the highest and best use that, when
5 possible, will bring the greatest benefit to the community. The
6 priorities may include, but are not limited to, (a) use for purely public
7 spaces and places, (b) use for affordable housing, (c) use for retail,
8 commercial, and industrial activities, (d) use for urban agricultural
9 activities including community gardens and urban agriculture ~~the~~
10 ~~establishment of community gardens~~ as defined in section 2-303, and (e)
11 such other uses and in such hierarchical order as determined by the
12 municipality or municipalities.

13 (6) The municipality or municipalities that created the land bank
14 may require by resolution or ordinance that any particular form of
15 disposition of real property, or any disposition of real property located
16 within specified jurisdictions, be subject to specified voting and
17 approval requirements of the board. Except and unless restricted or
18 constrained in this manner, the board may delegate to officers and
19 employees the authority to enter into and execute agreements, instruments
20 of conveyance, and all other related documents pertaining to the
21 conveyance of real property by the land bank.

22 Sec. 8. Section 51-201.01, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 51-201.01 For purposes of sections 51-201 to 51-219:

25 (1) Basic services shall include, but not be limited to, free loan
26 of circulating print and nonprint materials from the local collection and
27 general reference and information services; and

28 (2) Nonbasic services shall include, but not be limited to, use of:

29 (a) Photocopying equipment;

30 (b) Telephones, facsimile equipment, and other telecommunications
31 equipment;

- 1 (c) Media equipment;
- 2 (d) Personal computers;~~and~~
- 3 (e) Videocassette recording and playing equipment; and ~~and~~
- 4 (f) Seed libraries as defined in section 81-2,147.01.

5 Sec. 9. Original section 51-201.01, Reissue Revised Statutes of
6 Nebraska, sections 2-302, 2-303, 2-304, and 19-5210, Revised Statutes
7 Cumulative Supplement, 2016, and section 2-301, Revised Statutes
8 Supplement, 2017, are repealed.

9 Sec. 10. Since an emergency exists, this act takes effect when
10 passed and approved according to law.