

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 567

Introduced by Bostelman, 23.

Read first time January 17, 2023

Committee:

- 1 A BILL FOR AN ACT relating to power districts and corporations; to amend
- 2 sections 70-619, 70-1001, 70-1001.01, and 70-1025, Reissue Revised
- 3 Statutes of Nebraska; to change qualifications to be eligible to
- 4 serve as a member of the board of directors of a public power and
- 5 irrigation district; to change a provision relating to state policy;
- 6 to define a term; to change requirements for an annual report as
- 7 prescribed; to harmonize provisions; and to repeal the original
- 8 sections.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 70-619, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 70-619 (1) The corporate powers of the district shall be vested in
4 and exercised by the board of directors of the district. No person shall
5 be qualified to hold office as a member of the board of directors unless
6 (a) he or she is a registered voter (i) of such chartered territory, (ii)
7 of the subdivision from which a director is to be elected if such
8 chartered territory is subdivided for election purposes as provided in
9 subsection (1), (2), or (3) of section 70-612, or (iii) of one of the
10 combined subdivisions from which directors are to be elected at large as
11 provided in section 70-612 or (b) he or she is a retail customer duly
12 certified in accordance with subsection (3) of section 70-604.03.

13 ~~(2) (2)(a) No person who is a full-time or part-time employee of the~~
14 ~~district shall be eligible to serve as a member of the board of directors~~
15 ~~of that district and no high-level manager employed by a district may~~
16 ~~serve as a member of the board of directors of any district unless such~~
17 ~~person (i) resigns or (ii) assumes an unpaid leave of absence for the~~
18 ~~term as a member. The employing district shall grant such leave of~~
19 ~~absence when requested by any employee for the purpose of the employee~~
20 ~~serving as a member of such board. A member of a governing body of any~~
21 ~~one of the municipalities within the areas of the district may not serve~~
22 ~~on the original board of directors under sections 70-603 to 70-609.~~

23 ~~(b) For purposes of this subsection, high-level manager means a~~
24 ~~person employed by a district who serves in a high-level managerial~~
25 ~~position, including chief executive officer, president, vice president,~~
26 ~~chief financial officer, chief operations officer, general manager, or~~
27 ~~assistant general manager.~~

28 Sec. 2. Section 70-1001, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 70-1001 (1) In order to provide the citizens of the state with
31 adequate and reliable electric service at as low overall cost as

1 possible, consistent with sound business practices, it is the policy of
2 this state to avoid and eliminate conflict and competition between public
3 power districts, public power and irrigation districts, individual
4 municipalities, registered groups of municipalities, electric membership
5 associations, and cooperatives in furnishing electric energy to retail
6 and wholesale customers, to avoid and eliminate the duplication of
7 facilities and resources which result therefrom, and to facilitate the
8 settlement of rate disputes between suppliers of electricity.

9 (2) It is also the policy of the state to prepare for an evolving
10 retail electricity market if certain conditions are met which indicate
11 that retail competition is in the best interests of the citizens of the
12 state. The determination on the timing and form of competitive markets is
13 a matter properly left to the states as each state must evaluate the
14 costs and benefits of a competitive retail market based on its own unique
15 conditions. Consequently, there is a need for the state to monitor
16 whether the conditions necessary for its citizens to benefit from retail
17 competition exist.

18 (3) It is also the policy of the state to encourage and allow
19 opportunities for private developers to develop, own, and operate
20 renewable energy facilities intended for sale at wholesale under a
21 statutory framework which protects the ratepayers of consumer-owned
22 utility systems operating in the state from subsidizing the costs of such
23 export facilities through their rates.

24 Sec. 3. Section 70-1001.01, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 70-1001.01 For purposes of sections 70-1001 to 70-1028, unless the
27 context otherwise requires:

28 (1) Board means the Nebraska Power Review Board;

29 (2) Electric ~~supplier suppliers~~ or ~~supplier suppliers~~ of electricity
30 means any legal entity supplying, producing, or distributing electricity
31 within the state for sale at wholesale or retail;

1 (3) Private electric supplier means an electric supplier producing
2 electricity from a privately developed renewable energy generation
3 facility that is not a public power district, a public power and
4 irrigation district, a municipality, a registered group of
5 municipalities, an electric cooperative, an electric membership
6 association, any other governmental entity, or any combination thereof;

7 (4) Privately developed renewable energy generation facility means a
8 facility that (a) generates electricity using solar, wind, geothermal,
9 biomass, landfill gas, or biogas, including all electrically connected
10 equipment used to produce, collect, and store the facility output up to
11 and including the transformer that steps up the voltage to sixty thousand
12 volts or greater, and including supporting structures, buildings, and
13 roads, unless otherwise agreed to in a joint transmission development
14 agreement, (b) is developed, constructed, and owned, in whole or in part,
15 by one or more private electric suppliers, and (c) is not wholly owned by
16 a public power district, a public power and irrigation district, a
17 municipality, a registered group of municipalities, an electric
18 cooperative, an electric membership association, any other governmental
19 entity, or any combination thereof;

20 (5) Regional transmission organization means an entity independent
21 from those entities generating or marketing electricity at wholesale or
22 retail, which has operational control over the electric transmission
23 lines in a designated geographic area in order to reduce constraints in
24 the flow of electricity and ensure that all power suppliers have open
25 access to transmission lines for the transmission of electricity;

26 (6) Reliable or reliability means the ability of an electric
27 supplier to supply the aggregate electric power and energy requirements
28 of its electricity consumers in Nebraska at all times under normal
29 operating conditions, taking into account scheduled and unscheduled
30 outages, including sudden disturbances or unanticipated loss of system
31 components that are to be reasonably expected for any electric utility

1 following prudent utility practices recognizing certain weather
2 conditions and other contingencies may cause outages at the distribution,
3 transmission, and generation level;

4 (7) ~~(6)~~ Representative organization means an organization designated
5 by the board and organized for the purpose of providing joint planning
6 and encouraging maximum cooperation and coordination among electric
7 suppliers. Such organization shall represent electric suppliers owning a
8 combined electric generation plant accredited capacity of at least ninety
9 percent of the total electric generation plant accredited capacity
10 constructed and in operation within the state;

11 (8) ~~(7)~~ State means the State of Nebraska; and

12 (9) ~~(8)~~ Unbundled retail rates means the separation of utility bills
13 into the individual price components for which an electric supplier
14 charges its retail customers, including, but not limited to, the separate
15 charges for the generation, transmission, and distribution of
16 electricity.

17 Sec. 4. Section 70-1025, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 70-1025 (1) The representative organization shall file with the
20 board a coordinated long-range power supply plan containing the following
21 information:

22 (a) The identification of all electric generation plants operating
23 or authorized for construction within the state that have a rated
24 capacity of at least twenty-five thousand kilowatts;

25 (b) The identification of all transmission lines located or
26 authorized for construction within the state that have a rated capacity
27 of at least two hundred thirty kilovolts; and

28 (c) The identification of all additional planned electric generation
29 and transmission requirements needed to serve estimated power supply
30 demands within the state for a period of twenty years.

31 (2) ~~The Beginning in 1986,~~ the representative organization shall

1 file with the board the coordinated long-range power supply plan
2 specified in subsection (1) of this section, and the board shall
3 determine the date on which such report is to be filed, except that such
4 report shall not be required to be filed more often than biennially.

5 (3) An annual load and capability report shall be filed with the
6 board by the representative organization. The report shall include:

7 (a) Statewide ~~statewide~~ utility load forecasts and the resources
8 available to satisfy the loads over a twenty-year period; and -

9 (b) Such other information the board requests if such request is
10 submitted in writing to the representative organization, is consistent
11 with the board's statutory responsibilities, and can be performed at a
12 reasonable cost.

13 (4) The annual load and capability report shall be filed on dates
14 specified by the board.

15 Sec. 5. Original sections 70-619, 70-1001, 70-1001.01, and 70-1025,
16 Reissue Revised Statutes of Nebraska, are repealed.