

E AND R AMENDMENTS TO LB 561

Introduced by Enrollment and Review Committee: Nordquist, 7,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 70-670, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           70-670 In addition to any other rights and powers  
6 hereinabove conferred upon any district organized under or subject  
7 to Chapter 70, article 6, each such district shall have and  
8 exercise the power of eminent domain to acquire from any person,  
9 firm, association, or private corporation any and all property  
10 owned, used, or operated, or useful for operation, in the  
11 generation, transmission, or distribution of electrical energy,  
12 including an existing electric utility system or any part thereof.  
13 The procedure to condemn property shall be exercised in the manner  
14 set forth in Chapter 76, article 7. In the case of the acquisition  
15 through the exercise of the power of eminent domain of an existing  
16 electric utility system or part thereof, the Attorney General  
17 shall, upon request of any district, represent such district  
18 in the institution and prosecution of condemnation proceedings.  
19 After acquisition of an existing electric utility system through  
20 the exercise of the power of eminent domain, the district shall  
21 reimburse the state for all costs and expenses incurred in the  
22 condemnation proceedings by the Attorney General. A district may  
23 agree to limit its exercise of the power of eminent domain to

1 acquire a project which is a renewable energy generation facility  
2 producing electricity with wind and any related facilities.

3           Sec. 2. Section 70-1014.01, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           70-1014.01 ~~An~~ (1) Except as provided in subsection  
6 (2) of this section, an application by a municipality, a  
7 registered group of municipalities, a public power district, a  
8 public power and irrigation district, an electric cooperative, an  
9 electric membership association, or any other governmental entity  
10 for a facility that will generate not more than ten thousand  
11 kilowatts of electric energy at rated capacity and will generate  
12 electricity using solar, wind, biomass, landfill gas, methane gas,  
13 or hydropower generation technology or an emerging generation  
14 technology, including, but not limited to, fuel cells and  
15 micro-turbines, shall be deemed a special generation application.  
16 Such application shall be approved by the board if the board finds  
17 that ~~(1)~~ (a) the application qualifies as a special generation  
18 application, ~~(2)~~ (b) the application will provide public benefits  
19 sufficient to warrant approval of the application, although it may  
20 not constitute the most economically feasible generation option,  
21 and ~~(3)~~ (c) the application under consideration represents a  
22 separate and distinct project from any previous special generation  
23 application the applicant may have filed.

24           (2)(a) An application by a municipality, a registered  
25 group of municipalities, a public power district, a public power  
26 and irrigation district, an electric cooperative, an electric  
27 membership association, or any other governmental entity for a

1 facility that will generate more than ten thousand kilowatts of  
2 electric energy at rated capacity and will generate electricity  
3 using renewable energy sources such as solar, wind, biomass,  
4 landfill gas, methane gas, or new hydropower generation technology  
5 or an emerging technology, including, but not limited to, fuel  
6 cells and micro-turbines, may be filed with the board if (i)  
7 the total production from all such renewable projects, excluding  
8 sales from such projects to other electric-generating entities,  
9 does not exceed ten percent of total energy sales as shown in  
10 the producer's Annual Electric Power Industry Report to the United  
11 States Department of Energy and (ii) the applicant's governing body  
12 conducts at least one advertised public hearing which affords the  
13 ratepayers of the applicant a chance to review and comment on the  
14 subject of the application.

15 (b) The application shall be approved by the board if  
16 the board finds that (i) the applicant is using renewable energy  
17 sources described in this subsection, (ii) total production from  
18 all renewable projects of the applicant does not exceed ten percent  
19 of the producer's total energy sales as described in subdivision  
20 (2)(a) of this section, and (iii) the applicant's governing body  
21 has conducted at least one advertised public hearing which affords  
22 its ratepayers a chance to review and comment on the subject of the  
23 application.

24 (3) A community-based energy development project  
25 organized pursuant to the Rural Community-Based Energy Development  
26 Act which intends to develop renewable energy sources for sale to  
27 one or more Nebraska electric utilities described in this section

1 may also make an application to the board pursuant to subsection  
2 (2) of this section if (a) the purchasing electric utilities  
3 conduct a public hearing described in such subsection and (b)  
4 the power and energy from the renewable energy sources is sold  
5 exclusively to such electric utilities for a term of at least  
6 twenty years.

7           Sec. 3. Original sections 70-670 and 70-1014.01, Reissue  
8 Revised Statutes of Nebraska, are repealed.

9           2. On page 1, strike beginning with "public" in line  
10 1 through line 4 and insert "electricity; to amend sections  
11 70-670 and 70-1014.01, Reissue Revised Statutes of Nebraska; to  
12 permit public power districts to agree to limit the power of  
13 eminent domain; to change provisions relating to special generation  
14 applications for electric generation facilities; and to repeal the  
15 original sections."