



**Ninety-Ninth Legislature - First Session - 2005**  
**Committee Statement**  
**LB 748**

---

**Hearing Date:** February 8, 2005  
**Committee On:** Urban Affairs

**Introducer(s):** (Bourne, Janssen, Synowiecki)

**Title:** Change provisions relating to natural gas and eliminate the Municipal Natural Gas System Condemnation Act

---

**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
- 

**Vote Results:**

- |   |                     |   |
|---|---------------------|---|
| 6 | Yes                 | Friend, Combs, Connealy, Cornett, Janssen, Landis |
|   | No                  |   |
| 1 | Present, not voting | Schimek   |
|   | Absent              |   |
- 

**Proponents:**

Senator Patrick Bourne, Introducer  
 Lynn Rex  
 Dennis Mullen  
 Terry Hunter  
 Doug Oakeson  
 Marvin Schultes  
 Brian Leahy  
 Lowell Johnson  
 Sam Scarpello  
 Larry Ruth  
 Jack Vavra  
 Randy Gates  
 Chris Anderson  
 Gary Troutman  
 Chris Dibbern  
 Doug Clark

**Representing:**

League of NE Municipalities  
 Self  
 Self  
 SID #1  
 City of Hastings Utilities  
 IBEW 1521 Local for MUD  
 City of Wayne  
 Omaha Building and Construct. Trades Council  
 Eastern NE Development Council  
 City of York  
 City of Norfolk  
 Central City  
 City of Bellevue  
 NE Municipal Power Pool  
 Metropolitan Utilities District

**Opponents:**

Alan Dietrich  
 Richard Haubensak  
 Shirley Petsche

**Representing:**

Northwestern Corporation  
 Cornerstone Energy  
 Boone County Development Agency

---

Cara Pavlicek  
Bud Becker  
Steve Pella

City of LaVista  
Kinder Morgan, Inc.  
Aquila

**Neutral:**

Dave Ulozas  
Laura Demman

**Representing:**

Sheldon-Beatrice Station Mgr. NPPD  
NE Public Service Commission

---

**Summary of purpose and/or changes:** This legislation revises the current natural gas regulatory scheme to provide locally governed municipal natural gas utility systems and metropolitan utilities districts with new, expanded authority to pursue their own governance and grow without additional state regulatory oversight. It clarifies the regulatory framework that applies to municipalities and metropolitan utilities districts and strengthens the ability of such entities to expand existing gas systems and acquire all or portions of existing gas systems. It strengthens the current statutory prohibition that municipal utilities and MUDs are not subject to the State Natural Gas Regulation Act or the jurisdiction of the Public Service Commission. It also clarifies that municipal utilities and MUDs have the powers of competitive natural gas providers without PSC certification. It repeals the Municipal Natural Gas System Condemnation Act (enacted in 2002), replacing it terms with the admonition that condemnation of a natural gas utility by a municipality would be done by the general eminent domain procedures and that the pursuit of system takeovers would be subject only to limited referendum by municipal voters. The bill broadens MUD's eminent domain power (currently restricted to its exercise within the boundaries of it's parent metropolitan class city and limits applicability the of LB 78 (sections 57-1301 to 57-1307) by adding an express restriction upon the exercise of PSC jurisdiction over new infrastructure involving connections with a town border station. The bill extends municipal natural gas system powers in annexed territory, provides municipalities with a right of first refusal if the natural gas provider receives an offer to buy or lease the natural gas system, and authorizes municipalities to obtain natural gas service if the natural gas pipeline supplier is unwilling.

### Section – By – Section Summary

Sec. 1 – “Right of First Refusal” Establishes that a city has the right to purchase or acquire the system of the jurisdictional utility serving the city upon the same terms and conditions as have been offered to the utility by any other party (sixty days from written notice of offer for city to accept with an optional additional sixty days upon a request from the city). The right is assignable at the discretion of the city.

Sec. 2 – City may contract with another public or private utility for additional infrastructure to serve its community if investor-owned utility serving city does not commit to meet the projected need within six months and complete construction of the proposed infrastructure within an additional six months.

Sec. 3 - (Following with later repeal of Municipal Natural Gas System Condemnation Act) Authorizes municipal condemnation of all or any part of a natural gas system serving a community in the same fashion as any other land condemnation and without any vote requirement (either of the takeover or of the issuance of bonds). Following condemnation and take-over, natural gas provider is required to continue providing natural gas service at wholesale. Authorizes the issuance of revenue bonds to finance the condemnation.

Sec. 4 - Upon annexation, all customers of investor-owned utility become customers of the city-owned utility within thirty days. The city is authorized to extend any infrastructure into the area as it chooses. The price of the system take-over is determined as provided in general condemnation statutes.

Sec. 5 - Authority for all cities and villages and MUD to serve as marketers without PSC certification.

Sec. 6 - Natural gas service issue “unlinked” from merger statutes – city/county merger process authorized to proceed without any further resolution of natural gas service territory issues.

Sec. 7 - Extends MUD authority to condemn to all areas within the limits of the district.

Secs. 8, 9, 10, 11, 12: Conforming existing statutes to changes.

Sec. 13, 14, and 15: Removes from initiative and referendum power the right to force citizen vote of natural gas system takeover, retaining only right of limited referendum.

Sec. 16 - Removes double-piping prohibition as it related to any natural gas main extension connecting a town border station to an existing natural gas distribution system.

Sec. 17 - Removes in every respect PSC jurisdiction over city-owned systems and MUD.

Sec. 18 - Removes marketing restrictions applicable to MUD.

Sec. 19 - Conforms reference.

Sec. 20 and Sec. 21 - Repealer, including Condemnation Act.

Sec. 22 - Emergency Clause.

**Explanation of amendments, if any:** The Committee Amendments basically do three things.

First, while they continue to provide that cities, villages, and metropolitan utilities districts can serve as competitive natural gas providers, the amendments would now require that they be certified to do so by the Public Service Commission under the existing requirements of the State Natural Gas Regulation Act.

Second, section 1 of the original bill (creating the municipal “right of first refusal” when a natural gas system owned by an operated by a jurisdictional utility is being sold) is stricken from the bill.

Finally, the expanded authority to condemn natural gas system property granted to a metropolitan utilities district is made subject to formal city or village approval when the property sought by the MUD is located within the corporate boundaries or

extraterritorial zoning jurisdiction of a primary, first, or second class city or village or when the facilities are located on property owned or leased by such entities.

**Explanation of amendments, if any:**

---

**Senator Mike Friend, Chairperson**