

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 742

Final Reading

Introduced by Schilz, 47; Langemeier, 23.

Read first time January 04, 2012

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to electric power generation; to amend sections
2 70-1014 and 70-1014.01, Revised Statutes Cumulative
3 Supplement, 2010; to change provisions relating to
4 applications for approval of transmission lines and
5 related facilities and development of renewable energy
6 sources; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 70-1014, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 70-1014 After hearing, the board shall have authority to
4 approve or deny the application. Except as provided in section
5 70-1014.01 for special generation applications and except as provided
6 in section 70-1014.02, before approval of an application, the board
7 shall find that the application will serve the public convenience and
8 necessity, and that the applicant can most economically and feasibly
9 supply the electric service resulting from the proposed construction
10 or acquisition, without unnecessary duplication of facilities or
11 operations.

12 If the application involves a transmission line or
13 related facilities planned and approved by a regional transmission
14 organization and the regional transmission organization has issued a
15 notice to construct or similar notice or order to a utility to
16 construct the line or related facilities, the board shall also
17 consider information from the regional transmission organization's
18 planning process and may consider the benefits to the region, which
19 shall include Nebraska, provided by the proposed line or related
20 facilities as part of the board's process in determining whether to
21 approve or deny the application.

22 Sec. 2. Section 70-1014.01, Revised Statutes Cumulative
23 Supplement, 2010, is amended to read:

24 70-1014.01 (1) Except as provided in subsection (2) of
25 this section, an application by a municipality, a registered group of

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

17 (2)(a) An application by a municipality, a registered
18 group of municipalities, a public power district, a public power and
19 irrigation district, an electric cooperative, an electric membership
20 association, or any other governmental entity for a facility that
21 will generate more than ten thousand kilowatts of electric energy at
22 rated capacity and will generate electricity using renewable energy
23 sources such as solar, wind, biomass, landfill gas, methane gas, or
24 new hydropower generation technology or an emerging technology,
25 including, but not limited to, fuel cells and micro-turbines, may be

1 filed with the board if (i) the total production from all such
2 renewable projects, excluding sales from such projects to other
3 electric-generating entities, does not exceed ten percent of total
4 energy sales as shown in the producer's Annual Electric Power
5 Industry Report to the United States Department of Energy and (ii)
6 the applicant's governing body conducts at least one advertised
7 public hearing which affords the ratepayers of the applicant a chance
8 to review and comment on the subject of the application.

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

18 ~~(3)-(3)(a)~~ A community-based energy development project
19 organized pursuant to the Rural Community-Based Energy Development
20 Act or any privately developed project which intends to develop
21 renewable energy sources for sale to one or more Nebraska electric
22 utilities described in this section may also make an application to
23 the board pursuant to ~~subsection (2) of this section if (a) this~~
24 subsection if (i) the purchasing electric utilities conduct a public
25 hearing described in ~~such subsection and (b) subdivision (2)(a) of~~

1 this section, (ii) the power and energy from the renewable energy
2 sources is sold exclusively to such electric utilities for a term of
3 at least twenty years, and (iii) the total production from all such
4 renewable projects, excluding sales from such projects to other
5 electric-generation entities, does not exceed ten percent of total
6 energy sales of such purchasing electric utilities as shown in such
7 utilities' Annual Electric Power Industry Report to the United States
8 Department of Energy or the successor to such report.

9 (b) The application filed under subdivision (3)(a) of
10 this section shall be approved by the board if the board finds that
11 the purchasing electric utilities have met the conditions described
12 in subdivision (3)(a) of this section.

13 (4) No facility or part of a facility which is approved
14 pursuant to this section is subject to eminent domain by any electric
15 supplier, or by any other entity if the purpose of the eminent domain
16 proceeding is to acquire the facility for electric generation or
17 transmission.

18 Sec. 3. Original sections 70-1014 and 70-1014.01, Revised
19 Statutes Cumulative Supplement, 2010, are repealed.