

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 863

Introduced by Schilz, 47.

Read first time January 11, 2016

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to the State Energy Office; to amend section
2 81-1607, Reissue Revised Statutes of Nebraska, and sections 81-1601,
3 81-1602, 81-1603, 81-1605, 81-1606, and 81-1607.01, Revised Statutes
4 Supplement, 2015; to adopt the Wind Energy Expansion Act; to provide
5 duties; to harmonize provisions; and to repeal the original
6 sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 4 of this act shall be known and may be
2 cited as the Wind Energy Expansion Act.

3 Sec. 2. The Legislature finds and declares that wind energy
4 production has a growing role in the economic vitality of rural areas of
5 the state and in the state's overall economy. The growth and vitality of
6 the state's wind energy production is important to the continued
7 prosperity of the state and its citizens. The Legislature further finds
8 and declares that a public interest exists in assisting efforts of the
9 wind energy industry and rural communities to preserve and enhance wind
10 energy production as an essential element of economic development and
11 that a need exists to provide aid, resources, and assistance to rural
12 communities and counties seeking opportunities in the growth of wind
13 energy production. It is the intent of the Legislature to seek reasonable
14 means to nurture and support wind energy production in this state.

15 Sec. 3. (1) The Director of the State Energy Office shall establish
16 a process, including criteria and standards, to recognize and assist
17 efforts of counties to create, maintain, or expand their wind energy
18 sectors under the Wind Energy Expansion Act. A county that meets the
19 criteria may apply to the director to be designated a wind energy
20 friendly county. A county may remove itself from the process at any time.
21 Such criteria and standards may include, but are not limited to, the
22 following factors: (a) Consideration of the diversity of energy
23 development activities currently underway or being initiated by a county;
24 (b) a formal expression of interest by a county board by a duly enacted
25 resolution following a public hearing for developing wind energy
26 production sectors of such county's economy; (c) an assurance that such
27 county intends to work with all other governmental jurisdictions within
28 its boundaries in implementing wind energy development within the county;
29 and (d) flexible and individual treatment allowing each county to design
30 its own wind energy development program according to its own timetable.

31 (2) The designation of any county as a wind energy friendly county

1 shall not indicate or suggest that any other county that does not seek or
2 obtain such a designation is not friendly to wind energy production.

3 (3) Nothing in this section shall prohibit or prevent any county
4 board from adopting a resolution that designates the county as a wind
5 energy friendly county.

6 Sec. 4. In order to assist any county with information and
7 technology pursuant to the purposes of the Wind Energy Expansion Act, the
8 State Energy Office shall establish a resource data base to provide, upon
9 written request of the county zoning authority or county board,
10 information sources that may be useful to the county in evaluating and
11 crafting wind energy production conditional use permits that meet the
12 objectives of the county and the wind energy producer applicant.

13 Sec. 5. Section 81-1601, Revised Statutes Supplement, 2015, is
14 amended to read:

15 81-1601 (1) There is hereby created an agency of state government to
16 be known as the State Energy Office. The office may be a separate
17 division within an existing executive department.

18 (2) The chief executive officer shall be known as the Director of
19 the State Energy Office and shall be appointed by the Governor with the
20 advice and consent of the Legislature. The director shall administer the
21 affairs of the office and shall serve at the pleasure of the Governor.
22 The director may employ such assistants, professional staff, and other
23 employees as may be deemed necessary to effectively carry out the
24 provisions of sections 81-1601 to 81-1605 and the Wind Energy Expansion
25 Act within such appropriations as the Legislature may provide. The salary
26 of the director shall be fixed by the Governor unless otherwise expressly
27 provided for by law.

28 Sec. 6. Section 81-1602, Revised Statutes Supplement, 2015, is
29 amended to read:

30 81-1602 The State Energy Office shall have the following duties:

31 (1) To serve as or assist in developing and coordinating a central

1 repository within state government for the collection of data on energy;

2 (2) To undertake a continuing assessment of the trends in the
3 availability, consumption, and development of all forms of energy;

4 (3) To collect and analyze data relating to present and future
5 demands and resources for all sources of energy and to specify energy
6 needs for the state;

7 (4) To recommend to the Governor and the Legislature energy policies
8 and conservation measures for the state and to carry out such measures as
9 are adopted;

10 (5) To provide for public dissemination of appropriate information
11 on energy, energy sources, and energy conservation;

12 (6) To accept, expend, or disburse funds, public or private, made
13 available to it for research studies, demonstration projects, or other
14 activities which are related either to energy conservation and efficiency
15 or development;

16 (7) To study the impact and relationship of state energy policies to
17 national and regional energy policies and engage in such activities as
18 will reasonably insure that the State of Nebraska and its citizens
19 receive an equitable share of energy supplies, including the
20 administration of any federally mandated or state-mandated energy
21 allocation programs;

22 (8) To actively seek the advice of the citizens of Nebraska
23 regarding energy policies and programs;

24 (9) To prepare emergency allocation plans suggesting to the Governor
25 actions to be taken in the event of serious shortages of energy;

26 (10) To design a state program for conservation of energy and energy
27 efficiency;

28 (11) To provide technical assistance to local subdivisions of
29 government;

30 (12) To provide technical assistance to private persons desiring
31 information on energy conservation and efficiency techniques and the use

1 of renewable energy technologies;

2 (13) To develop a strategic state energy plan pursuant to section
3 81-1604;

4 (14) To develop and disseminate transparent and objective energy
5 information and analysis while utilizing existing energy planning
6 resources of relevant stakeholder entities;

7 (15) To actively seek to maximize federal and other nonstate funding
8 and support to the state for energy planning;~~and~~

9 (16) To monitor energy transmission capacity planning and policy
10 affecting the state and the regulatory approval process for the
11 development of energy infrastructure and make recommendations to the
12 Governor and electronically to the Legislature as necessary to facilitate
13 energy infrastructure planning and development; and -

14 (17) To carry out the purposes of the Wind Energy Expansion Act.

15 Sec. 7. Section 81-1603, Revised Statutes Supplement, 2015, is
16 amended to read:

17 81-1603 The office shall have the power to do such things as are
18 necessary to carry out sections 81-1601 to 81-1605 and the Wind Energy
19 Expansion Act , including, but not limited to, the following:

20 (1) To adopt rules and regulations, pursuant to the Administrative
21 Procedure Act, to carry out the purposes of sections 81-1601 to 81-1605
22 and the Wind Energy Expansion Act;

23 (2) To make all contracts pursuant to sections 81-1601 to 81-1605
24 and do all things to cooperate with the federal government, and to
25 qualify for, accept, expend, and dispense public or private funds
26 intended for the implementation of sections 81-1601 to 81-1605 and the
27 Wind Energy Expansion Act;

28 (3) To contract for services, if such work or services cannot be
29 satisfactorily performed by employees of the agency or by any other part
30 of state government;

31 (4) To enter into such agreements as are necessary to carry out

1 energy research and development with other states;

2 (5) To carry out the duties and responsibilities relating to energy
3 as may be requested or required of the state by the federal government;

4 (6) To cooperate and participate with the approval of the Governor
5 in the activities of organizations of states relating to the
6 availability, conservation, development, and distribution of energy;

7 (7) To engage in such activities as will seek to insure that the
8 State of Nebraska and its citizens receive an equitable share of energy
9 supplies at a fair price; and

10 (8) To form advisory committees of citizens of Nebraska to advise
11 the director of the energy office on programs and policies relating to
12 energy and to assist in implementing such programs. Such committees shall
13 be of a temporary nature and no member shall receive any compensation for
14 serving on any such committee but, with the approval of the Governor,
15 members shall receive reimbursement for actual and necessary expenses as
16 provided in sections 81-1174 to 81-1177. The minutes of meetings of and
17 actions taken by each committee shall be kept and a record shall be
18 maintained of the name, address, and occupation or vocation of every
19 individual serving on any committee. Such minutes and records shall be
20 maintained in the State Energy Office and shall be available for public
21 inspection during regular office hours.

22 Sec. 8. Section 81-1605, Revised Statutes Supplement, 2015, is
23 amended to read:

24 81-1605 Notwithstanding any provisions of sections 81-1601 to
25 81-1605 and the Wind Energy Expansion Act, the State Energy Office shall
26 not perform any duties or exercise any powers which are delegated to
27 other agencies or subdivisions of state government.

28 Sec. 9. Section 81-1606, Revised Statutes Supplement, 2015, is
29 amended to read:

30 81-1606 The Director of the State Energy Office shall develop and
31 maintain a program of collection, compilation, and analysis of energy

1 statistics and information. Existing information reporting requests,
2 maintained at the state and federal levels, shall be utilized whenever
3 possible in any data collection required under the provisions of sections
4 81-1601 to 81-1607 and the Wind Energy Expansion Act. A central state
5 repository of energy data shall be developed and coordinated with other
6 governmental data-collection and record-keeping programs. The director
7 shall, on at least an annual basis, with monthly compilations, submit to
8 the Governor and the Clerk of the Legislature a report identifying state
9 energy consumption by fuel type and by use to the extent that such
10 information is available. The report submitted to the Clerk of the
11 Legislature shall be submitted electronically. Nothing in this section
12 shall be construed as permitting or authorizing the revealing of
13 confidential information. For purposes of this section confidential
14 information shall mean any process, formula, pattern, decision, or
15 compilation of information which is used, directly or indirectly, in the
16 business of the producer, refiner, distributor, transporter, or vendor,
17 and which gives such producer, refiner, distributor, transporter, or
18 vendor an advantage or an opportunity to obtain an advantage over
19 competitors who do not know or use it.

20 Sec. 10. Section 81-1607, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-1607 (1) On or before February 15 of each year, the Director of
23 the State Energy Office shall transmit to the Governor and the Clerk of
24 the Legislature a comprehensive report designed to identify emerging
25 trends related to energy supply, demand, and conservation and to specify
26 the level of statewide energy need within the following sectors:
27 Agricultural, commercial, residential, industrial, transportation,
28 utilities, government, and any other sector that the director determines
29 to be useful. The report submitted to the Clerk of the Legislature shall
30 be submitted electronically.

31 (2) The report shall include, but not be limited to:

1 (a) An assessment of the state's energy resources, including
2 examination of the current energy supplies and any feasible alternative
3 sources;

4 (b) The estimated reduction in annual energy consumption resulting
5 from various energy conservation measures;

6 (c) The status of the office's ongoing studies;

7 (d) Recommendations to the Governor and the Legislature for
8 administrative and legislative actions to accomplish the purposes of
9 sections 70-625, 70-704, 81-161, 81-1602, 81-1606, ~~and 81-1607,~~ and the
10 Wind Energy Expansion Act; and

11 (e) The use of funds disbursed during the previous year under
12 sections 81-1635 to 81-1641. The use of such funds shall be reported each
13 year until the funds are completely disbursed and all contractual
14 obligations have expired or otherwise terminated.

15 Sec. 11. Section 81-1607.01, Revised Statutes Supplement, 2015, is
16 amended to read:

17 81-1607.01 The State Energy Office Cash Fund is hereby created. The
18 fund shall consist of funds received pursuant to section 57-705. The fund
19 shall be used for the administration of sections 81-1601 to 81-1607 and
20 the Wind Energy Expansion Act, for energy conservation activities, and
21 for providing technical assistance to communities in the area of natural
22 gas other than assistance regarding ownership of regulated utilities,
23 except that transfers may be made from the fund to the General Fund at
24 the direction of the Legislature. Any money in the State Energy Office
25 Cash Fund available for investment shall be invested by the state
26 investment officer pursuant to the Nebraska Capital Expansion Act and the
27 Nebraska State Funds Investment Act.

28 Sec. 12. Original section 81-1607, Reissue Revised Statutes of
29 Nebraska, and sections 81-1601, 81-1602, 81-1603, 81-1605, 81-1606, and
30 81-1607.01, Revised Statutes Supplement, 2015, are repealed.