

LEGISLATIVE BILL 412

Approved by the Governor May 26, 2015

Introduced by Mello, 5.

A BILL FOR AN ACT relating to the Rural Community-Based Energy Development Act; to amend section 70-1907, Reissue Revised Statutes of Nebraska, and section 70-1903, Revised Statutes Cumulative Supplement, 2014; to redefine terms; to change requirements for project developers; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 70-1903, Revised Statutes Cumulative Supplement, 2014, is amended to read:

70-1903 For purposes of the Rural Community-Based Energy Development Act:

(1) C-BED project or community-based energy development project means a new energy generation project using wind, solar, biomass, or landfill gas as the fuel source that:

(a) Has at least twenty-five percent of the gross power purchase agreement payments flowing to the qualified owner or owners or as payments to the local community; and

(b) Has a resolution of support or zoning approval adopted:

(i) By the county board of each county in which the C-BED project is to be located and which has adopted zoning regulations that require planning commission, county board, or county commission approval for the C-BED project; or

(ii) By the tribal council for a C-BED project located within the boundaries of an Indian reservation;

(2) Electric utility means an electric supplier that:

(a) Owns more than one hundred miles of one-hundred-fifteen-kilovolt or larger transmission lines in the State of Nebraska;

(b) Owns more than two hundred megawatts of electric generating facilities; and

(c) Has the obligation to directly serve more than two hundred megawatts of wholesale or retail electric load in the State of Nebraska;

(3) Gross power purchase agreement payments means the total amount of payments during the first twenty years of the agreement;

(4) Payments to the local community include, but are not limited to:

(a) Lease and easement payments to property owners made as part of a C-BED project;

(b) Contract payments for concrete, steel, gravel, towers, turbines, blades, wire, or engineering, procurement, construction, geotechnical, environmental, meteorological, or legal services or payments for other components, equipment, materials, or services that are necessary to permit or construct the C-BED project and that are provided by a company that has been organized or incorporated in Nebraska under Nebraska law and has employed at least five Nebraska residents for at least eighteen months prior to the date of the project application for certification as a C-BED project; and

(c) Payments that are for physical parts, materials, or components that are manufactured, assembled, or fabricated in Nebraska and that are not described in subdivision (a) or (b) of this subdivision.

Such payments need not be made directly from power purchase agreement revenue and may be made from other funds in advance of receiving power purchase agreement revenue; and

(5) Qualified owner means:

(a) A Nebraska resident;

(b) A limited liability company that is organized under the Nebraska Uniform Limited Liability Company Act and that is made up of members who are Nebraska residents;

(c) A Nebraska nonprofit corporation organized under the Nebraska Nonprofit Corporation Act;

(d) An electric supplier as defined in section ~~70-1014.02~~ ~~70-1001.01~~, except that qualified ownership in a single C-BED project is limited to no more than:

(i) Fifteen percent either directly or indirectly by a single electric supplier; and

(ii) A combined total of twenty-five percent ~~ownership~~ either directly or indirectly by multiple electric suppliers;

(e) A tribal council;

(f) A domestic corporation organized in Nebraska under the Business Corporation Act and domiciled in Nebraska; or

(g) A cooperative corporation organized under sections 21-1301 to 21-1306 and domiciled in Nebraska.

Sec. 2. Section 70-1907, Reissue Revised Statutes of Nebraska, is amended to read:

70-1907 To the extent feasible, a C-BED project developer shall provide, in writing, notice of incentives pursuant to the Rural Community-Based Energy Development Act for local ownership and local participation in a C-BED project

~~to each property owner on whose property a turbine will be located and to the elected governing body of each municipality or political subdivision in which a turbine will be located an opportunity to become a qualified owner in the C-BED project to each property owner on whose property a turbine will be located.~~

Sec. 3. Original section 70-1907, Reissue Revised Statutes of Nebraska, and section 70-1903, Revised Statutes Cumulative Supplement, 2014, are repealed.