

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB302

Hearing Date: Wednesday January 30, 2019
Committee On: Natural Resources
Introducer: Hughes
One Liner: Merge the State Energy Office with and rename the Department of Environmental Quality

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Geist, Gragert, Halloran, Hughes, Moser, Quick
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Dan Hughes
Jim Macy

David Bracht
John McClure
Lance Hedquist
Gina Cotton
Troy Bredenkamp
Karl Barfuss
Craig Mielke
Patrick O'Brien
Lash Chaffin
Chris Peterson

Representing:

Introducer
Nebraska Environmental Quality, Nebraska Energy Office
self
Nebraska Public Power District
South Sioux City
4 Lanes 4 Nebraska
self
Nucor Steel
American Council of Engineering Companies
Nebraska Association of Resources Districts
League of Nebraska Municipalities
KAAPA Ethanol

Opponents:

Representing:

Neutral:

Jonathan Leo

Representing:

self

Summary of purpose and/or changes:

LB 302 would merge the Nebraska Energy Office into the Department of Environmental Quality, and rename the department the Department of Environment and Energy. The bill would also authorize the new department to seek delegation from the federal government to administer a permit program under section 404 of the Clean Water Act.

New Language:

Sections 1 through 6 create new language that would, on or after July 1, 2019:

- Merge the State Energy Office into the Department of Environmental Quality renaming the department as the

Department of Environment and Energy;

- Name the director of Environmental Quality as the Director of the new agency;

Transfer employees of the Energy Office to the Department of Environment and Energy;

- Appropriate Energy Office funding, and obligations, to the Department of Environment and Energy;

- Authorize the transfer of all contracts, previous funding, and corresponding documents and records of the two agencies to the Department of Environment and Energy;

- Authorize the transfer of any pending legal or administrative actions of either agency to the Department of Environment and Energy;

- Authorize all references in law of either department to be changed to the Department of Environment and Energy; and

- Authorize the transfer of all real and personal property from the Energy Office to the Department of Environment and Energy.

Changing the name of the department from DEQ to Department of Environment and Energy:

Sections 7 through 62 amend statutes affecting programs in, and the administration of, the Department of Natural Resources, the Game and Parks Commission, the Department of Agriculture, cities and counties and natural resources districts.

Sections 65 through 68 amend 60-6,363, 60-6,364, 60-6,367, and 60-6,368, which cover requirements for smoke emissions and noise of certain motor vehicles, by changing references to the Department and Director of Environmental Quality to the Department of Environment and Energy.

Sections 78 through 82, 84 and 85, 88 through 91, 94 through 103, 173, 174, 177 and 178 are statutes containing a variety of topics for which DEQ is the regulating administrative entity or is a participating state agency. These statutes cover the following topics: geothermal resources permitting, ethanol production facility approval, the Petroleum Release Remedial Action Act, degradable personal property, the Plastic Container Coding Act, the Environmental Quality Council, clandestine drug lab reporting, the Radiation Control Act, drinking water standards, the Drinking Water State Revolving Fund Act, the Uniform Environmental Covenants Act, the Air and Water Pollution Control Tax Refund Act, the Nebraska Advantage Rural Development Act, the Biodiesel Facility Investment Credit, livestock production zoning, the Engineers and Architects Regulation Act, the Geographic Information Systems Council, and grain warehouses.

Sections 106, 109, 113 through 134, and 136 to 153 amend sections in Chapter 15, the state's Environmental Protection Act.

Each of these sections simply remove statutory references to the Department of Environmental Quality and replaces them with the Department of Environment and Energy.

Changing references to the State Energy Office to the Department of Environment and Energy, thereby placing authorities, duties and responsibilities of the State Energy Office with the Department of Environment and Energy:

Sections 64, 69, 70, 75 to 77, 83, 86, 87, 92, 93, 104, and 154 to 172, 175 and 176 contain statutes authorizing or requiring the State Energy Office or its director to perform certain duties. Each section replaces references to the State Energy Office to the Department of Environment and Energy, thereby transferring the corresponding duties. The affected statutes are:

58-221, which requires the State Energy Office director to determine which energy efficiency heating systems are residential energy conservation devices for purposes of the Nebraska Investment Finance Authority Act;

66-203 and 66-204, which authorizes rebate program and fund for qualified clean-burning motor vehicle fuel property;

66-489.02, which requires collection of a motor vehicle tax for the Highway Trust Fund based on average wholesale price based on data provided by the State Energy Office.

66-1004 and 66-1009, which provide for loans from publicly owned electric utilities for energy conservation measures;

66-2001, which establishes and requires the Natural Gas Fuel Board to advise the State Energy Office;

70-1003, which requires the Nebraska Power Review Board to provide reports to the State Energy Office;

70-1032, which calls for the State Energy Office to participate in a study;

72-804 and 72-805, which assign certain consulting duties under the 2009 International Energy Conservation Code to the State Energy Office;

81-1108.55, which requires the state building administrator to provide certain procurement reports to the State Energy Office;

81-1604, which calls for the State Energy Office to develop an integrated and comprehensive strategic state energy plan;

81-1606, which requires the State Energy Office to develop and maintain a central data repository for energy-related statistics;

81-1607, which requires the State Energy Office to report to the Governor and Legislature a comprehensive assessment of state energy supply, demand, and conservation;

81-1607.01, which renames the State Energy Office Cash Fund to the State Energy Cash fund and requires the state treasurer to transfer money from the old to the new fund;

81-1609, which defines terms related to uniform energy efficient standards;

81-1611, which authorizes the adoption of rules and regulations on alternative standards to the Nebraska Energy Code;

81-1612, which authorizes adoption of rules and regulations by the State Energy Office pursuant to the Administrative Procedures Act;

81-1613, which authorizes the production of manuals related to Nebraska's Energy Code for use by architects, engineers, prime contractors and owners;

81-1616 and 81-1617, which authorize the State Energy Office to inspect and investigate to determine compliance with the Nebraska Energy Code;

81-1618, which authorizes the State Energy Office to review local lighting and thermal efficiency codes;

81-1620, which authorizes the State Energy Office to establish a training program in the Nebraska Energy Code for local code officials, and residential and commercial builders;

81-1625, which authorizes the State Energy Office to order compliance with the Nebraska Energy Code and take action for failure to comply;

81-1635 to 81-1638, 81-1640 and 81-1641, which provide duties for the State Energy Office to administer the Nebraska Energy Settlement Fund containing settlement awards or allocations made on behalf of consumers of petroleum products from oil companies that overcharged customers;

84-166, which authorizes the Governor to delegate authority to the State Energy Office during a vital resource emergency; and

84-602.04, which allows redaction of financing information from State Energy Office Dollar and Energy Saving Loan Program contracts from the State Treasurer's database.

Other:

Section 63 amends 57-1503, which provides duties under in the oil and gas statutes, by changing the name of the Department of Environmental Quality Cash Fund to the Environmental Cash Fund.

Sections 71 through 74 amend 66-301 through 66-304, which assign duties to the Department of Environmental Quality and the State Energy Office for a state assessment pursuant to federal EPA carbon dioxide emissions regulations and requires the development of a state energy plan, by placing such responsibilities with the Department of Environment and Energy.

Section 105 amends 81-1316, by deleting an obsolete reference to the State Energy Office being a part of the Governor's Policy Research Office.

Section 107 amends 81-1503, by deleting obsolete language that provided for membership of the Environmental Quality Council before April 28, 2005.

Section 108 amends 81-1504, which provides power and duties for the DEQ under the Environmental Protection Act, by adding the authority, delegated by the federal government, to administer a permit program for the discharge of dredged or fill material consistent with section 404 of the Clean Water Act. This section also transfers power and duties that are

now granted to the State Energy Office to the Department of Environment and Energy, including: serving as a central energy data repository; collecting and assessing data on energy needs and demands; disseminating information on energy; developing a strategic plan; providing technical assistance to the public; maintaining a state program for conservation of energy and energy efficiency; entering into contracts and agreements to support energy programs; utilizing and maximizing funds; and forming advisory committees to advise the agency director on energy programs and policies.

Section 110 amends 81-1505, which authorizes the Environmental Quality Council to provide rules and regulations, by adding authority to adopt and promulgate rules and regulations for federal Clean Water Act section 404 permits, relating to the discharge of dredged or fill material into the waters of the United States.

Section 111 amends 81-1505.01, which creates the Department of Environmental Quality Cash Fund, by replacing the fund with the Environmental Cash Fund, and requiring the state treasurer to transfer money from the old fund to the new one.

Section 112 amends 81-1506, which provides for unlawful acts under the Environmental Protection Act, by making it unlawful to discharge any dredged or fill material into the water of the United States without a federal Clean Water Act section 404 permit and when required by the Environmental Quality Council.

Section 135 deletes obsolete language regarding a transfer of the balance of the Low-Level Radioactive Waste Cash Fund and changes the agency name from Department of Environmental Quality to the Department of Environment and Energy.

Section 179 provides an operative date of July 1, 2019.

Section 180 repeals the original sections.

Section 181 repeals outright the following sections because they will become obsolete under this bill:
69-2505, which authorizes the Environmental Quality Council to adopt rules and regs for the Plastic Container Coding Act but federal standards have already been adopted;
81-1601, which creates the State Energy Office as an agency;
81-1602, which provides the duties of the State Energy Office that will be transferred;
81-1603, which provides powers of the State Energy Office that will be transferred; and
81-1605, which provides limitations on the power and duties of the State Energy Office.

Section 182 contains an emergency clause.

Dan Hughes, Chairperson