

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB858

Hearing Date: Wednesday January 22, 2020
Committee On: Natural Resources
Introducer: Hughes
One Liner: Change provisions of the Municipal Cooperative Financing Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Geist, Gragert, Halloran, Hughes, Moser, Quick

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator Dan Hughes
Chris Dibbern
Shelley Sahling-Zart
Lash Chaffin

Representing:

Introducer
Municipal Energy Agency of Nebraska
Nebraska Power Association & Lincoln Electric System
League of Nebraska Municipalities

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 858 reorganizes, simplifies, and streamlines the governance of the Municipal Energy Agency of Nebraska (MEAN) by amending MEAN's governing document, the Municipal Cooperative Financing Act (Sections 18-2401 to 18-2485). The bill amends provisions relating to qualifications, terms, removal procedure, and votes by the directors of an agency. It inserts language to exclude work on an agency's headquarters from the definition of "project." LB 858 also amends qualifications of a municipality or group of municipalities to participate in an agency, sets a procedure for termination, expulsion, and suspension of a municipality or group of municipalities, and provides due process for a municipality or group of municipalities facing termination, expulsion, or suspension. It also specifies voting membership classes for municipalities and groups of municipalities, and amends bonding obligations, insurance requirements, and financial reporting requirements of an agency. The bill amends language to allow an agency to submit audits at the end of the fiscal instead of the calendar year. Finally, LB 858 inserts language to allow an agency to sell power projects to certain public entities, and to engage in joint electrical generation or transmission ventures with nonprofit cooperatives.

Section by section summary of LB 858:

Section 1 amends section 18-2409 by inserting language specifying that the governing body of an agency comprised primarily of municipalities is the board of directors.

Section 2 amends section 18-2401 by inserting language extending the definition of "municipality" to agencies

comprised primarily of municipalities.

Section 3 amends section 18-2413 by inserting hydroelectric power to the definition of "power project(s)."

Section 4 amends section 18-2413 by inserting language specifying that the definition of "project" does not include construction, maintenance, or remodeling of an agency's headquarters.

Section 5 amends section 18-2414 by striking language that names the director as elector for a municipality. Replaces it with language allowing the board to set the qualifications for appointment as a director in its bylaws.

Section 6 amends section 18-2427 by eliminating a requirement that the residence of each director be included in an agency creation petition to the Nebraska Power Review Board.

Section 7 amends section 18-2435 by inserting language to allow an agency's board of directors to remove a director and to set term length pursuant to its bylaws.

Section 8 amends section 18-2436 by inserting language to allow an agency's board to decide how many votes to allocate to each director voting class.

Section 9 amends section 18-2439 by inserting language to:

- allow an agency's board, in its bylaws, to specify how a municipality will terminate participation in an agency, and
- provide due process to a municipality facing termination, suspension, or expulsion.

Section 10 amends section 18-2445 inserting language to set the penal sum of a contractor's bond at the lesser of the contract amount or \$200,000,000, and may be satisfied by a corporate surety bond, letter of credit, or a combination, as approved by the agency, and cleans up language. Adds language stating this provision only applies to electric generation facilities.

Section 11 amends section 18-2446 by:

- inserting language to allow agencies to allocate funds by adopting a budget, to distribute funds using any method authorized by the agency, and striking previous language specifying authorized ways to allocate funds,
- clarifying reporting requirement,
- inserting language requiring an agency be covered by bonds or insurance policies that adequately cover risks. Strikes previous surety bond requirement.

Section 12 amends section 18-2451 by replacing the deadline for audits from the end of the calendar year to the end of the fiscal year.

Section 13 amends section 18-2461 by inserting language allowing agencies to sell power projects, power plants, electrical generation plants, electrical distribution systems, or any parts thereof, to public power districts, irrigation districts, and cities and villages. Inserts additional language also allowing agencies to engage in joint ventures and do business with nonprofit electrical cooperatives.

Section 14 repeals original sections.

Explanation of amendments:

Committee AM 2346 substitutes for the bill and contains the provisions of LB 858, as introduced, and in addition adds the provisions of LB 367, LB 855, and LB 856, as introduced.

The provisions of LB 858 are contained in the following sections of the committee amendment:

Section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, pp. 1-11, Section 21, p. 22, and Section 23, pp. 22-23.

LB 856

LB 856 amends sections 66-1519, 66-1523, 66-1525, and 66-1529.02 to extend the sunset date of the Petroleum Release Remedial Action Act from June 30, 2020 to June 30, 2024. The bill does this by striking 2020 and replacing it with 2024. The change is reflected throughout the bill. The bill contains an emergency clause and takes effect when passed and approved according to law.

The provisions of LB 856 are contained in the following sections of the committee amendment:
Section 14, 15, 16 and 17, pp. 11-19, Section 22, p. 22, and Section 24, p. 23.

LB 855

LB 855 eliminates legislative confirmation for members appointed to the Niobrara Council. Seven of the sixteen appointments to the Niobrara Council currently are subject to legislative confirmation after being appointed by the Governor. The would strike language in section 72-2007 that provided for legislative confirmation for the appointments representing landowners in Brown, Cherry, Keya Paha, and Rock counties, the appointment representing recreational business operating within the Niobrara scenic river corridor, and the appointment representing the timber industry operating within the Niobrara scenic river corridor.

The provisions of LB 855 are contained in the following sections of the committee amendment:
Section 18, pp. 19-21, Section 21, p. 22, and Section 23, pp 22-23

LB 367

LB 367 extends the termination date of the Nebraska Litter Reduction and Recycling Act from October 30, 2020 to September 30, 2025. The bill would also strike language allowing transfers from the Nebraska Litter Reduction and Recycling Fund to the General Fund at the direction of the Legislature.

Section 1 would amend section 81-1558 by eliminating the Legislature's ability to make transfers to the General Fund from the Nebraska Litter Reduction and Recycling Fund by striking the enabling language.

Section 2 would amend section 81-1566 to extend the Nebraska Litter Reduction and Recycling Fund's termination date from October 30, 2020 to September 30, 2025.

Section 3 would repeal the original sections.

The provisions of LB 367 are contained in the following sections of the committee amendment:

Sections 19 and 20, pp 21-22, Section 21, p. 22, and Section 23, pp. 22-23.

Public Hearing Testimony on bills contained in AM 2346 -

LB 856 Testimony
(January 23, 2020)

Proponents:

Senator Mike Moser, Introducer

Mark Whitehead, Nebraska Petroleum Marketers Association

Opponents: None

Neutral: None

LB 855 Testimony
(January 29, 2020)

Proponents:

Senator Mike Moser, Introducer
Tanya Storer, Niobrara Council
Mike Murphy, Niobrara Council

Opponents:

Jim Johnson, Nebraska Wildlife Federation

Neutral: None

LB 367 Testimony
(March 7, 2019)

Proponents:

Jeni Bohlmeyer, Introducer on behalf of Senator Dan Hughes
John Lindsay, Nebraska Beverage Association
Meagan Deichert, Keep Nebraska Beautiful
Julie Diegel, Nebraska Recycling Council
Lash Chaffin, League of Nebraska Municipalities

Opponents: None

Neutral: None

Committee Votes to add each bill to Committee Amendment -

LB 856 Amended into AM 2346 Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Geist, Gragert, Halloran, Hughes, Moser, Quick

Nay:

Absent:

Present Not Voting:

LB 855 Amended into AM 2346 Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Geist, Gragert, Halloran, Hughes, Moser, Quick

Nay:

Absent:

Present Not Voting:

LB 367 Amended into AM 2346 Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Geist, Gragert, Halloran, Hughes, Moser, Quick

Nay:
Absent:
Present Not Voting:

Dan Hughes, Chairperson