LEGISLATION OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 600

Introduced by Brandt, 32.
Read first time January 20, 2021
Committee: Transportation and Telecommunications

A BILL FOR AN ACT relating to broadband; to amend sections 18-2603, 18-2609, 70-625.01, 70-701, and 70-704, Reissue Revised Statutes of Nebraska, and section 70-625, Revised Statutes Cumulative Supplement, 2020; to redefine terms and change a bond issuance provision under the Municipal Infrastructure Redevelopment Act; to change powers of public power districts and electric cooperatives as prescribed; to define terms; to state legislative findings and declarations; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 18-2603, Reissue Revised Statutes of Nebraska, is amended to read:

18-2603 For purposes of the Municipal Infrastructure Redevelopment Fund Act:

(1) Bond means any evidence of indebtedness, including, but not limited to, bonds, notes including notes issued pending long-term financing arrangements, warrants, debentures, obligations under a loan agreement or a lease-purchase agreement, or any similar instrument or obligation;

(2) Fund means the Municipal Infrastructure Redevelopment Fund;

(3) Infrastructure project means any of the following projects, or any combination thereof, to be owned or operated by a municipality: (a) Solid waste management facilities; (b) wastewater, storm water, and water treatment works and systems, water distribution facilities, and water resources projects, including, but not limited to, pumping stations, transmission lines, and mains and their appurtenances; (c) hazardous waste disposal systems; (d) resource recovery systems; (e) airports; (f) port facilities; (g) buildings and capital equipment used in the operations and activities of municipal government and to provide services to the residents of the municipality; (h) broadband facilities and infrastructure to support economic development and job creation projects in rural areas; (i) convention and tourism facilities; (j) redevelopment projects as defined in section 18-2103; and (k) mass transit and other transportation systems, including parking facilities and excluding public highways and bridges and municipal roads, streets, and bridges. For purposes of subdivision (3)(h) of this section, broadband means advanced telecommunications capability service as defined in section 86-103.01;

(4) Municipal allocation amount means, for each municipality, the amount derived by multiplying the amount to be allocated by the fraction determined by dividing the total population of the municipality by the total population of the state living in municipalities, each as
determined by the most recent federal census figures certified by the Tax
Commissioner as provided in section 77-3,119; and

(5) Municipality means any city of the primary class, except that
for purposes of subdivision (3)(h) of this section, municipality means
any city of the first class, city of the second class, and village.

Sec. 2. Section 18-2609, Reissue Revised Statutes of Nebraska, is
amended to read:

18-2609 Any municipality may by ordinance issue bonds in one or more
series for the construction or acquisition of an infrastructure project
or any portion thereof and pay the principal of and interest on any such
bonds by pledging funds received from the fund. Such bonds shall have a
final maturity not later than thirty years after the date of issuance
August 1, 2009, and the aggregate debt service payments and related
expenses with respect to all series of such bonds for any twelve-month
period during which such bonds are outstanding shall not exceed the
anticipated receipts from the fund by such municipality. For purposes of
this section, anticipated receipts means the amount received by the
municipality from the fund for the twelve-month period immediately
preceding the date of issuance of such bonds.

Any municipality which has or may issue bonds under this section may
dedicate a portion of its property tax levy authority as provided in
section 77-3442 to meet debt service obligations under the bonds, but
only to the extent the receipts from the fund pledged to the payment of
such bonds and any other money made available and used for that purpose
are insufficient to pay the principal of and interest on such bonds as
they mature.

Sec. 3. Section 70-625, Revised Statutes Cumulative Supplement,
2020, is amended to read:

70-625 (1) Subject to the limitations of the petition for its
creation and all amendments to such petition, a public power district has
all the usual powers of a corporation for public purposes and may
purchase, hold, sell, and lease personal property and real property reasonably necessary for the conduct of its business. No district may sell household appliances at retail if the retail price of any such appliance exceeds fifty dollars, except that newly developed electrical appliances may be merchandised and sold during the period of time in which any such appliances are being introduced to the public. New models of existing appliances shall not be deemed to be newly developed appliances. An electrical appliance shall be considered to be in such introductory period of time until the particular type of appliance is used by twenty-five percent of all the electrical customers served by such district, but such period shall in no event exceed five years from the date of introduction by the manufacturer of the new appliance to the local market.

(2) In addition to its powers authorized by Chapter 70 and specified in its petition for creation, as amended, a public power district may sell, lease, and service satellite television signal descrambling or decoding devices, satellite television programming, and equipment and services associated with such devices and programming, except that this section does not authorize public power districts (a) to provide signal descrambling or decoding devices or satellite programming to any location (i) being furnished such devices or programming on April 24, 1987, or (ii) where community antenna television service is available from any person, firm, or corporation holding a franchise pursuant to sections 18-2201 to 18-2206 or a permit pursuant to sections 23-383 to 23-388 on April 24, 1987, or (b) to sell, service, or lease C-band satellite dish systems or repair parts.

(3) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, the board of directors of a public power district may apply for and use funds available from the United States Department of Agriculture or other federal agencies for grants or loans to promote economic development and job creation projects
in rural areas as permitted under the rules and regulations of the federal agency from which the funds are received, including, but not limited to, the development of broadband facilities and infrastructure. Any loan to be made by a district shall only be made in participation with a bank pursuant to a contract. The district and the participating bank shall determine the terms and conditions of the contract. In addition, in rural areas of the district, the board of directors of such district may provide technical or management assistance to prospective, new, or expanding businesses, including home-based businesses, provide assistance to a local or regional industrial or economic development corporation or foundation located within or contiguous to the district's service area, and provide youth and adult community leadership training.

(4) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, a public power district may sell or lease its dark fiber as permitted by law and except as provided in section 86-595, own, construct, operate or contract to operate, or lease broadband facilities and infrastructure to promote economic development and job creation projects in rural areas pursuant to sections 86-574 to 86-578.

(5) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, a public power district may develop, manufacture, use, purchase, or sell at wholesale advanced biofuels and biofuel byproducts and other fuels and fuel byproducts so long as the development, manufacture, use, purchase, or sale of such biofuels and biofuel byproducts and other fuels and fuel byproducts is done to help offset greenhouse gas emissions.

(6) Notwithstanding any law, ordinance, resolution, or regulation of any political subdivision to the contrary, each public power district may receive funds and extend loans pursuant to the Nebraska Investment Finance Authority Act or pursuant to this section. In addition to the powers authorized by Chapter 70 and specified in its petition for

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creation, as amended, and without the need for further amendment thereto,

a public power district may own and operate, contract to operate, or

lease energy equipment and provide billing, meter reading, surveys, or

evaluations and other administrative services, but not to include natural
gas services, of public utility systems within a district's service

territory.

(7) For purposes of this section, broadband means advanced
telecommunications capability service as defined in section 86-103.01.

Sec. 4. Section 70-625.01, Reissue Revised Statutes of Nebraska, is

amended to read:

70-625.01 The Legislature finds and declares that:

(1) There are rural areas in the state which are experiencing
declines in economic activity and the outmigration of rural residents
which is eroding the tax base of those rural areas and undermining the
ability of the state and local governments to provide essential public
services;

(2) Rural economic development efforts can increase the productivity
of economic resources, create and enhance employment opportunities,
increase the level of income and quality of life for rural residents,
assist in slowing or reversing the outmigration of rural residents, and
help maintain essential public services to the advantage not only of
those rural areas but also of the state as a whole and the electric
utilities serving those rural areas;

(3) Funds may be available from the United States Department of
Agriculture or other federal agencies to suppliers of electricity in
rural areas to promote economic development and job creation projects;

(4) It is the policy of this state to promote economic development
and job creation projects in rural areas through the use of federal funds
and other funds which may be available as authorized in subsection (3) of
section 70-625;

(5) Public power districts operating in rural areas of this state
are uniquely situated through their boards of directors to know and understand the need to promote economic development and job creation projects in their service areas; and

(6) Involvement by publicly owned electric utilities operating in rural areas in such economic development activities serves a public purpose and it is the public policy of this state to allow public power districts to promote economic development and job creation projects in rural areas as provided in subsections subsection (3) and (4) of section 70-625.

Sec. 5. Section 70-701, Reissue Revised Statutes of Nebraska, is amended to read:

70-701 Sections 70-701 to 70-738 and section 7 of this act may be cited as the Electric Cooperative Corporation Act.

Sec. 6. Section 70-704, Reissue Revised Statutes of Nebraska, is amended to read:

70-704 (1) Each corporation shall have power: (a) (1) To sue and be sued, complain, and defend, in its corporate name; (b) (2) to have perpetual succession unless a limited period of duration is stated in its articles of incorporation; (c) (3) to adopt a corporate seal, which may be altered at pleasure, and to use it or a facsimile thereof, as required by law; (d) (4) to generate, manufacture, purchase, acquire, and accumulate electric energy and to transmit, distribute, sell, furnish, and dispose of such electric energy; (e) (5) to acquire, own, hold, use, exercise and, to the extent permitted by law, to sell, mortgage, pledge, hypothecate, and in any manner dispose of franchises, rights, privileges, licenses, rights-of-way, and easements necessary, useful, or appropriate; (f) (6) to purchase, receive, lease as lessee, or in any other manner acquire, own, hold, maintain, sell, exchange, and use any and all real and personal property or any interest therein for the purposes expressed herein; (g) (7) to borrow money and otherwise contract indebtedness, to issue its obligations therefor, and to secure the payment thereof by
mortgage, pledge, or deed of trust of all or any of its property, assets,
franchises, revenue, or income; (h) (8) to sell and convey, mortgage,
pledge, lease as lessor, and otherwise dispose of all or any part of its
property and assets; (i) (9) to have the same powers now exercised by law
by public light and power districts or private corporations to use any of
the streets, highways, or public lands of the state or its political
subdivisions in the manner provided by law; (j) (10) to have and exercise
the power of eminent domain for the purposes expressed in section 70-703
in the manner set forth in sections 76-704 to 76-724 and to have the
powers and be subject to the restrictions of electric light and power
corporations and districts as regards the use and occupation of public
highways and the manner or method of construction and physical operation
of plants, systems, and transmission lines; (k) (11) to accept gifts or
grants of money, services, or property, real or personal; (l) (12) to
make any and all contracts necessary or convenient for the exercise of
the powers granted herein; (m) (13) to fix, regulate, and collect rates,
fees, rents, or other charges for electric energy furnished by the
corporation; (n) (14) to elect or appoint officers, agents, and employees
of the corporation and to define their duties and fix their compensation;
(o) (15) to make and alter bylaws not inconsistent with the articles of
incorporation or with the laws of this state for the administration and
regulation of the affairs of the corporation; (p) (16) to sell or lease
its dark fiber as permitted by law pursuant to sections 86-574 to 86-578;
and (q) (17) to do and perform, either for itself or its members or for
any other corporation organized under the Electric Cooperative
Corporation Act or for the members thereof, any and all acts and things
and to have and exercise any and all powers as may be necessary,
convenient, or appropriate to effectuate the purpose for which the
corporation is organized. Notwithstanding any law, ordinance, resolution,
or regulation of any political subdivision to the contrary, each
corporation may receive funds and extend loans pursuant to the Nebraska
Investment Finance Authority Act.

(2) In addition to the powers authorized by Chapter 70 and specified in its petition for creation as amended, the board of directors of a corporation may apply for and use funds available from the United States Department of Agriculture or other federal agencies for grants or loans to promote economic development and job creation projects in rural areas as permitted under the rules and regulations of the federal agency from which the funds are received including, but not limited to, the development of broadband facilities and infrastructure. Any loan to be made by a corporation shall only be made in participation with a bank pursuant to a contract. The corporation and the participating bank shall determine the terms and conditions of the contract. In addition, in rural areas of the corporation, the board of directors of such corporation may provide technical or management assistance to prospective, new, or expanding businesses, including home-based businesses, provide assistance to a local or regional industrial or economic development corporation or foundation located within or contiguous to the corporation's service area, and provide youth and adult community leadership training.

(3) In addition to the powers authorized by Chapter 70 and specified in its articles of incorporation, the board of directors of a corporation may own, construct, operate or contract to operate, or lease broadband facilities and infrastructure to promote economic development and job creation projects in rural areas.

(4) For purposes of this section, broadband means advanced telecommunications capability service as defined in section 86-103.01.

Sec. 7. The Legislature finds and declares that:

(1) There are rural areas in the state which are experiencing declines in economic activity and the outmigration of rural residents which is eroding the tax base of those rural areas and undermining the ability of the state and local governments to provide essential public services;
(2) Rural economic development efforts can increase the productivity of economic resources, create and enhance employment opportunities, increase the level of income and quality of life for rural residents, assist in slowing or reversing the outmigration of rural residents, and help maintain essential public services to the advantage not only of those rural areas but also of the state as a whole and the electric utilities serving those rural areas;

(3) Funds may be available from the United States Department of Agriculture or other federal agencies to suppliers of electricity in rural areas to promote economic development and job creation projects;

(4) It is the policy of this state to promote economic development and job creation projects in rural areas through the use of federal funds and other funds which may be available as authorized in subsection (2) of this section 70-704;

(5) Corporations operating in rural areas of this state are uniquely situated through their boards of directors to know and understand the need to promote economic development and job creation projects in their service areas; and

(6) Involvement by corporations operating in rural areas in such economic development activities serves a public purpose and it is the public policy of this state to allow corporations to promote economic development and job creation projects in rural areas as provided in subsections (2) and (3) of section 70-704.

Sec. 8. Original sections 18-2603, 18-2609, 70-625.01, 70-701, and 70-704, Reissue Revised Statutes of Nebraska, and section 70-625, Revised Statutes Cumulative Supplement, 2020, are repealed.