

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1255

Introduced by Prokop, 27; Bostar, 29.

Read first time January 21, 2026

Committee: Judiciary

1 A BILL FOR AN ACT relating to eminent domain; to amend section 70-670,
2 Reissue Revised Statutes of Nebraska, and section 70-1409, Revised
3 Statutes Cumulative Supplement, 2024; to prohibit public power
4 suppliers from exercising the power of eminent domain; to harmonize
5 provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** (1) Notwithstanding any other provision of law,
2 beginning on the effective date of this act, public power suppliers shall
3 be prohibited from exercising the power of eminent domain.

4 (2) For purposes of this section, public power supplier means a
5 public power district, a municipal electric utility, or any other
6 government entity providing electric service.

7 **Sec. 2.** Section 70-670, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 70-670 (1)(a) Except as otherwise provided in subsection (2) of this
10 section, in (1) In addition to any other rights and powers conferred upon
11 any district organized under or subject to Chapter 70, article 6, each
12 such district shall have and exercise the power of eminent domain to
13 acquire from any person, firm, association, or private corporation any
14 and all property owned, used, or operated, or useful for operation, in
15 the generation, transmission, or distribution of electrical energy,
16 including an existing electric utility system or any part thereof. The
17 procedure to condemn property shall be exercised in the manner set forth
18 in Chapter 76, article 7.

19 (b) (2) In the case of the acquisition through the exercise of the
20 power of eminent domain of an existing electric utility system or part
21 thereof, the Attorney General shall, upon request of any district,
22 represent such district in the institution and prosecution of
23 condemnation proceedings. After acquisition of an existing electric
24 utility system through the exercise of the power of eminent domain, the
25 district shall reimburse the state for all costs and expenses incurred in
26 the condemnation proceedings by the Attorney General.

27 (c) (3) A district may agree to limit its exercise of the power of
28 eminent domain to acquire a project which is a renewable energy
29 generation facility producing electricity with wind and any related
30 facilities.

31 (d) (4) No property owned, used, or operated as part of a privately

1 developed renewable energy generation facility meeting the requirements
2 of section 70-1014.02 shall be subject to eminent domain by any consumer-
3 owned electric supplier operating in the State of Nebraska.

4 (2) A district shall not exercise the power of eminent domain
5 pursuant to this section on or after the effective date of this act.

6 **Sec. 3.** Section 70-1409, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 70-1409 Each joint authority shall have all the rights and powers
9 necessary or convenient to carry out and effectuate the purposes and
10 provisions of the Joint Public Power Authority Act including, but not
11 limited to, the right and power:

12 (1) To adopt bylaws for the regulation of the affairs and the
13 conduct of its business and to prescribe rules, regulations, and policies
14 in connection with the performance of its functions and duties;

15 (2) To adopt an official seal and alter the same at pleasure;

16 (3) To maintain an office at such place or places as it may
17 determine;

18 (4) To sue and be sued in its own name and to plead and be
19 impleaded;

20 (5) To receive, administer, and comply with the conditions and
21 requirements respecting any gift, grant, or donation of any property or
22 money;

23 (6) To acquire by purchase, lease, gift, or otherwise, or to obtain
24 options for the acquisition of, any property, real or personal, improved
25 or unimproved, including an interest in land less than an interest in
26 fee;

27 (7) To sell, lease, exchange, transfer, or otherwise dispose of, or
28 to grant options for any such purposes with respect to, any real or
29 personal property or interest in such property;

30 (8) To pledge or assign any money, rents, charges, or other revenue
31 and any proceeds derived by the joint authority from the sales of

1 property, insurance, or condemnation awards;

2 (9) To issue bonds of the joint authority for the purpose of
3 providing funds for any of its corporate purposes;

4 (10) To authorize the construction, operation, or maintenance of any
5 project or projects by any person, firm, or corporation, including
6 political subdivisions and agencies of any state or of the United States;

7 (11) To acquire by negotiated purchase or lease an existing project,
8 a project under construction, or other property, either individually or
9 jointly, with one or more public power districts in this state or with
10 any political subdivisions or agencies of this state or any other state
11 or with other joint authorities created pursuant to the Joint Public
12 Power Authority Act;

13 (12) To dispose of by negotiated sale or lease an existing project,
14 a project under construction, or other property, either individually or
15 jointly, with one or more public power districts in this state, with any
16 political subdivisions or agencies of this state or any other state or,
17 with other joint authorities created pursuant to the Joint Public Power
18 Authority Act, except that no such sale or lease of any project located
19 in this state shall be made to any private person, firm, or corporation
20 engaged in the business of generating, transmitting, or distributing
21 electricity for profit;

22 (13) To fix, charge, and collect rents, rates, fees, and charges for
23 electric power or energy, hydrogen, or ethanol and other services,
24 facilities, and commodities sold, furnished, or supplied through any
25 project;

26 (14) To generate, produce, transmit, deliver, exchange, purchase, or
27 sell for resale only electric power or energy, to produce, store,
28 deliver, or distribute hydrogen for use in fuel processes, or to produce,
29 deliver, or distribute ethanol and to enter into contracts for any or all
30 such purposes, subject to sections 70-1410 and 70-1413;

31 (15) To negotiate and enter into contracts for the purchase,

1 exchange, interchange, wheeling, pooling, or transmission of electric
2 power and energy with any public power district, any other joint
3 authority, any political subdivision or agency of this state or any other
4 state, any electric cooperative, or any municipal agency which owns
5 electric generation, transmission, or distribution facilities in this
6 state or any other state;

7 (16) To negotiate and enter into contracts for the sale or use of
8 electric power and energy, hydrogen, or ethanol with any joint authority,
9 electric cooperative, any political subdivision or agency or any public
10 or private electric utility of this state or any other state, any joint
11 agency, electric cooperative, municipality, public or private electric
12 utility, or any state or federal agency or political subdivision, subject
13 to sections 70-1410 and 70-1413;

14 (17) To make and execute contracts and other instruments necessary
15 or convenient in the exercise of the powers and functions of the joint
16 authority under the Joint Public Power Authority Act, including contracts
17 with persons, firms, corporations, and others;

18 (18) To apply to the appropriate agencies of the state, the United
19 States, or any other state and to any other proper agency for such
20 permits, licenses, certificates, or approvals as may be necessary to
21 construct, maintain, and operate projects in accordance with such
22 licenses, permits, certificates, or approvals, and to obtain, hold, and
23 use the same rights granted in any licenses, permits, certificates, or
24 approvals as any other person or operating unit would have under such
25 documents;

26 (19) To employ engineers, architects, attorneys, appraisers,
27 financial advisors, and such other consultants and employees as may be
28 required in the judgment of the joint authority and to fix and pay their
29 compensation from funds available to the joint authority. The joint
30 authority may employ technical experts and such other officers, agents,
31 and employees as it may require and shall assess their qualifications,

1 duties, compensation, and term of office. The board may delegate to one
2 or more of the joint authority's employees or agents such powers and
3 duties as the board may deem proper;

4 (20) To make loans or advances for long-term, supplemental, short-
5 term, and interim financing for both capital projects and operational
6 purposes to those member districts on such terms and conditions as the
7 board of directors of the joint authority may deem necessary and to
8 secure such loans or advances by assignment of revenue, receivables, or
9 other sums of the member district and such other security as the board of
10 directors of the joint authority may determine; and

11 (21) To sell, lease, or license its dark fiber pursuant to sections
12 86-574 to 86-578.

13 ~~Any joint authority shall have the same power of eminent domain as~~
14 ~~the public power districts have under section 70-670.~~

15 **Sec. 4.** Original section 70-670, Reissue Revised Statutes of
16 Nebraska, and section 70-1409, Revised Statutes Cumulative Supplement,
17 2024, are repealed.