

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 409

Introduced by Brewer, 43; Wayne, 13.

Read first time January 14, 2021

Committee: Executive Board

1 A BILL FOR AN ACT relating to public power; to amend section 70-1012,
2 Reissue Revised Statutes of Nebraska, and section 70-1015, Revised
3 Statutes Cumulative Supplement, 2020; to change provisions relating
4 to construction and unauthorized construction of electric
5 transmission lines; to provide a moratorium on the construction of
6 certain electric transmission lines as prescribed; to create the
7 Electric Transmission Line Study Committee of the Legislature; and
8 to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 70-1012, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 70-1012 (1) Except as provided in section 3 of this act, before
4 ~~Before~~ any electric generation facilities or any transmission lines or
5 related facilities carrying more than seven hundred volts are constructed
6 or acquired by any supplier, an application, filed with the board and
7 containing such information as the board shall prescribe, shall be
8 approved by the board, except that such approval shall not be required
9 (a) for the construction or acquisition of a transmission line extension
10 or related facilities within a supplier's own service area or for the
11 construction or acquisition of a line not exceeding one-half mile outside
12 its own service area when all owners of electric lines located within
13 one-half mile of the extension consent thereto in writing and such
14 consents are filed with the board, (b) for any generation facility when
15 the board finds that (i) such facility is being constructed or acquired
16 to replace a generating plant owned by an individual municipality or
17 registered group of municipalities with a capacity not greater than that
18 of the plant being replaced, (ii) such facility will generate less than
19 twenty-five thousand kilowatts of electric energy at rated capacity, and
20 (iii) the applicant will not use the plant or transmission capacity to
21 supply wholesale power to customers outside the applicant's existing
22 retail service area or chartered territory, (c) for acquisition of
23 transmission lines or related facilities, within the state, carrying one
24 hundred fifteen thousand volts or less, if the current owner of the
25 transmission lines or related facilities notifies the board of the lines
26 or facilities involved in the transaction and the parties to the
27 transaction, or (d) for the construction of a qualified facility as
28 defined in section 70-2002.

29 (2) A privately developed renewable energy generation facility is
30 exempt from this section if it complies with section 70-1014.02.

31 Sec. 2. Section 70-1015, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 70-1015 (1) If any supplier violates Chapter 70, article 10, by
3 ~~either~~ (a) commencing the construction or finalizing or attempting to
4 finalize the acquisition of any generation facilities, any transmission
5 lines, or any related facilities without first providing notice or
6 obtaining board approval, whichever is required, (b) commencing or
7 continuing construction of any transmission lines in violation of section
8 3 of this act, or (c) ~~(b)~~ serving or attempting to serve at retail any
9 customers located in Nebraska or any wholesale customers in violation of
10 section 70-1002.02, such construction, acquisition, or service of such
11 customers shall be enjoined in an action brought in the name of the State
12 of Nebraska until such supplier has complied with Chapter 70, article 10.

13 (2) If the executive director of the board determines that a private
14 electric supplier commenced construction of a privately developed
15 renewable energy generation facility less than thirty days prior to
16 providing the notice required in subdivision (2)(a) of section
17 70-1014.02, the executive director shall send notice via certified mail
18 to the private electric supplier, informing it of the determination that
19 the private electric supplier is in violation of such subdivision and is
20 subject to a fine in the amount of five hundred dollars. The private
21 electric supplier shall have twenty days from the date on which the
22 notice is received in which to submit the notice described in such
23 subdivision and to pay the fine. Within ten days after the private
24 electric supplier submits a notice compliant with subsection (2) of
25 section 70-1014.02 and payment of the fine, the executive director of the
26 board shall issue the written acknowledgment described in subsection (3)
27 of section 70-1014.02. If the private electric supplier fails to submit a
28 notice compliant with subsection (2) of section 70-1014.02 and pay the
29 fine within twenty days after the date on which the private electric
30 supplier receives the notice from the executive director of the board,
31 the private electric supplier shall immediately cease construction or

1 operation of the privately developed renewable energy generation
2 facility.

3 (3) If the private electric supplier disputes that construction was
4 commenced less than thirty days prior to submitting the written notice
5 required by subdivision (2)(a) of section 70-1014.02, the private
6 electric supplier may request a hearing before the board. Such request
7 shall be submitted within twenty days after the private electric supplier
8 receives the notice sent by the executive director pursuant to subsection
9 (2) of this section. If the private electric supplier does not accept the
10 certified mail sent pursuant to such subsection, the executive director
11 shall send a second notice to the private electric supplier by first-
12 class United States mail. The private electric supplier may submit a
13 request for hearing within twenty days after the date on which the second
14 notice was mailed.

15 (4) Upon receipt of a request for hearing, the board shall set a
16 hearing date. Such hearing shall be held within sixty days after such
17 receipt. The board shall provide to the private electric supplier written
18 notice of the hearing at least twenty days prior to the date of the
19 hearing. The board or its hearing officer may grant continuances upon
20 good cause shown or upon the request of the private electric supplier.
21 Timely filing of a request for hearing by a private electric supplier
22 shall stay any further enforcement under this section until the board
23 issues an order pursuant to subsection (5) of this section or the request
24 for hearing is withdrawn.

25 (5) The board shall issue a written decision within sixty days after
26 conclusion of the hearing. All costs of the hearing shall be paid by the
27 private electric supplier if (a) the board determines that the private
28 electric supplier commenced construction of the privately developed
29 renewable energy generation facility less than thirty days prior to
30 submitting the written notice required pursuant to subsection (2) of
31 section 70-1014.02 or (b) the private electric supplier withdraws its

1 request for hearing prior to the board issuing its decision.

2 (6) A private electric supplier which the board finds to be in
3 violation of the requirements of subsection (2) of section 70-1014.02
4 shall either (a) pay the fine described in this section and submit a
5 notice compliant with subsection (2) of section 70-1014.02 or (b)
6 immediately cease construction or operation of the privately developed
7 renewable energy generation facility.

8 Sec. 3. Beginning on the effective date of this act, and until
9 January 1, 2023, no electric supplier as defined in section 70-1001.01
10 which is a public power district, public irrigation district, or public
11 power and irrigation district organized under Chapter 70, article 6,
12 shall commence or continue construction of any transmission line project
13 for which such line extends two hundred or more miles in length, or
14 expend any funds relating to such project during such time period and
15 prior to obtaining any required federal permits.

16 Sec. 4. (1) The Executive Board of the Legislative Council shall
17 appoint a special committee of the Legislature to be known as the
18 Electric Transmission Line Study Committee of the Legislature. The
19 committee shall consist of seven members of the Legislature as follows:
20 (a) Three members of the Government, Military and Veterans Affairs
21 committee of the Legislature, (b) three members of the Natural Resources
22 Committee of the Legislature, and (c) one member of the Executive Board
23 of the Legislative Council.

24 (2) The Electric Transmission Line Study Committee of the
25 Legislature shall elect a chairperson and vice-chairperson from the
26 membership of the committee. The executive board may provide the
27 committee with a legal counsel, committee clerk, and other staff as
28 required by the committee from existing legislative staff. The committee
29 shall hold at least three public hearings at the call of the chairperson
30 at such locations as the committee may decide.

31 (3) The Electric Transmission Line Study Committee of the

1 Legislature shall examine the following:

2 (a) The need and necessity for construction of long-distance
3 transmission lines;

4 (b) The process of routing transmission lines;

5 (c) The sufficiency of statutory and regulatory requirements;

6 (d) Customer and ratepayer interests;

7 (e) Private property rights; and

8 (f) Preservation of historical, cultural, and ecological resources.

9 (4) The Electric Transmission Line Study Committee of the
10 Legislature shall report its findings and any recommendations
11 electronically to the Legislature on or before December 15, 2022. The
12 committee shall terminate on December 31, 2022.

13 Sec. 5. Original section 70-1012, Reissue Revised Statutes of
14 Nebraska, and section 70-1015, Revised Statutes Cumulative Supplement,
15 2020, are repealed.