

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 923

Introduced by Dubas, 34.

Read first time January 14, 2008

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to energy; to amend sections 66-902, 66-910,
2 and 66-911.01, Reissue Revised Statutes of Nebraska;
3 to change provisions relating to leases and easements
4 relating to wind energy and solar power; 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. Section 66-902, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 66-902 For purposes of sections 66-901 to 66-914 and
4 section 2 of this act, unless the context otherwise requires, the
5 definitions found in sections 66-903 to 66-909.03 apply.

6 Sec. 2. No interest in any resource located on a tract of
7 land and associated with the production or potential production of
8 energy from wind or solar power on the tract of land may be severed
9 from the real property, except that such interest may be leased for
10 a period not to exceed fifty years. Any such lease is void if no
11 development of the potential to produce energy from wind or solar
12 power has occurred on the tract of land within five years after the
13 lease begins. The payment of any such lease shall be on an annual
14 basis.

15 Sec. 3. Section 66-910, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 66-910 Any property owner may grant a solar skyspace
18 easement or wind energy easement in the same manner and with the
19 same effect as a conveyance of any other interest in real property.
20 The easement shall be created in writing and shall be filed, duly
21 recorded, and indexed in the office of the register of deeds of
22 the county in which the real property subject to the easement
23 is located. No duly recorded easement shall be unenforceable on
24 account of lack of privity of estate or privity of contract. Such
25 ~~easements~~ easement shall run with the land or lands benefited.

1 The term of such an easement shall not exceed fifty years. A and
 2 burdened and shall constitute a perpetual easement, except that a
 3 solar skyspace easement or wind energy easement may terminate upon
 4 the conditions stated therein or by agreement of the owners of the
 5 lands benefited and burdened.

6 Sec. 4. Section 66-911.01, Reissue Revised Statutes of
 7 Nebraska, is amended to read:

8 66-911.01 (1) An instrument creating a lease or an option
 9 to lease real property or the vertical space above real property
 10 for a solar energy system or for a wind energy conversion system
 11 shall be created in writing and shall be filed, duly recorded,
 12 and indexed in the office of the register of deeds of the county
 13 in which the real property subject to the easement is located. An
 14 instrument creating a lease or an option to lease real property or
 15 the vertical space above real property for wind measuring equipment
 16 may be created in writing and may be filed, duly recorded, and
 17 indexed in the office of the register of deeds of the county in
 18 which the real property subject to the easement is located. Such
 19 lease or lease option document shall include, but the contents are
 20 not limited to:

- 21 ~~(1)~~ (a) The names of the parties;
- 22 ~~(2)~~ (b) A legal description of the real property
- 23 involved;
- 24 ~~(3)~~ (c) The nature of the interest created;
- 25 ~~(4)~~ (d) The consideration paid for the transfer; and

1 ~~(5)~~ (e) The terms or conditions, if any, under which the
2 interest may be revised or terminated.

3 (2) A wind energy or solar energy easement is void if
4 no development of the potential to produce energy from wind power
5 or solar power associated with the easement has occurred within
6 five years after the lease begins. Any payments associated with the
7 granting or continuance of any such easement shall be made on an
8 annual basis to the owner of record of the real property at the
9 time the payment is made.

10 Sec. 5. Original sections 66-902, 66-910, and 66-911.01,
11 Reissue Revised Statutes of Nebraska, are repealed.