

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 742

Introduced by Schilz, 47; Langemeier, 23.

Read first time January 04, 2012

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to electric power generation; to amend section
2 70-1014.01, Revised Statutes Cumulative Supplement, 2010;
3 to change provisions relating to application for
4 development of renewable energy resources; and to repeal
5 the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 70-1014.01, Revised Statutes
2 Cumulative Supplement, 2010, is amended to read:

3 70-1014.01 (1) Except as provided in subsection (2) of
4 this section, an application by a municipality, a registered group of
5 municipalities, a public power district, a public power and
6 irrigation district, an electric cooperative, an electric membership
7 association, or any other governmental entity, for a facility that
8 will generate not more than ten thousand kilowatts of electric energy
9 at rated capacity and will generate electricity using solar, wind,
10 biomass, landfill gas, methane gas, or hydropower generation
11 technology or an emerging generation technology, including, but not
12 limited to, fuel cells and micro-turbines, shall be deemed a special
13 generation application. Such application shall be approved by the
14 board if the board finds that (a) the application qualifies as a
15 special generation application, (b) the application will provide
16 public benefits sufficient to warrant approval of the application,
17 although it may not constitute the most economically feasible
18 generation option, and (c) the application under consideration
19 represents a separate and distinct project from any previous special
20 generation application the applicant may have filed.

21 (2)(a) An application by a municipality, a registered
22 group of municipalities, a public power district, a public power and
23 irrigation district, an electric cooperative, an electric membership
24 association, or any other governmental entity for a facility that
25 will generate more than ten thousand kilowatts of electric energy at

1 rated capacity and will generate electricity using renewable energy
2 sources such as solar, wind, biomass, landfill gas, methane gas, or
3 new hydropower generation technology or an emerging technology,
4 including, but not limited to, fuel cells and micro-turbines, may be
5 filed with the board if (i) the total production from all such
6 renewable projects, excluding sales from such projects to other
7 electric-generating entities, does not exceed ten percent of total
8 energy sales as shown in the producer's Annual Electric Power
9 Industry Report to the United States Department of Energy and (ii)
10 the applicant's governing body conducts at least one advertised
11 public hearing which affords the ratepayers of the applicant a chance
12 to review and comment on the subject of the application.

13 (b) The application shall be approved by the board if the
14 board finds that (i) the applicant is using renewable energy sources
15 described in this subsection, (ii) total production from all
16 renewable projects of the applicant does not exceed ten percent of
17 the producer's total energy sales as described in subdivision (2)(a)
18 of this section, and (iii) the applicant's governing body has
19 conducted at least one advertised public hearing which affords its
20 ratepayers a chance to review and comment on the subject of the
21 application.

22 (3) A community-based energy development project
23 organized pursuant to the Rural Community-Based Energy Development
24 Act or any private developer which intends to develop renewable
25 energy sources for sale to one or more Nebraska electric utilities

1 described in this section may also make an application to the board
2 pursuant to subsection (2) of this section if (a) the purchasing
3 electric utilities conduct a public hearing described in such
4 subsection, ~~and~~ (b) the power and energy from the renewable energy
5 sources is sold exclusively to such electric utilities for a term of
6 at least twenty years, and (c) the total production from all such
7 renewable projects, excluding sales from such projects to other
8 electric-generation entities, does not exceed ten percent of total
9 energy sales as shown in the producer's Annual Electric Power
10 Industry Report to the United States Department of Energy or the
11 successor to such report.

12 (4) No facility or part of a facility which is approved
13 pursuant to this section is subject to eminent domain by any electric
14 supplier, or by any other entity if the purpose of the eminent domain
15 proceeding is to acquire the facility for electric generation or
16 transmission.

17 Sec. 2. Original section 70-1014.01, Revised Statutes
18 Cumulative Supplement, 2010, is repealed.