

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB545

Hearing Date: Monday February 25, 2013
Committee On: Transportation and Telecommunications
Introducer: Dubas
One Liner: Change Public Service Commission appeal procedures

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Brasch, Dubas, Hadley, Janssen, McCoy, Price, Watermeier, Smith
Nay:
Absent:
Present Not Voting:

Proponents: Joselyn Luedtke Jerry Vap Eric Carstenson Jill Becker Andy Pollock	Representing: Introducer Public Service Commission Nebraska Telecommunications Association Black Hills Energy NorthWestern Energy
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Opponents:	Representing:
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Neutral:	Representing:
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Summary of purpose and/or changes:

LB545 changes the process for appeals to final orders of the Public Service Commission. Under the bill appeals are filed in the Court of Appeals instead of the District Court as currently required under the Administrative Procedures Act. The change is made to save time and money for both the Commission and the participants in the proceedings. The Court of Appeals will review the Commission's decision for arbitrary and capriciousness, whereas the District Court conducted a de novo review, which was costly and time consuming considering the often highly technical subject matter.

Explanation of amendments:

The amendment becomes the bill. AM422 takes into consideration issues the natural gas industry raised during negotiations, and corrects dates and titles from last years draft.

Section by Section description of AM422 to LB545

Section 1 amends 57-1409 of the Major Oil Pipeline Siting Act to strike "Administrative Procedures Act" and add "section 75-136".

Section 2 amends 71-1567 of the Nebraska Uniform Standards for Modular Housing Units Act to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 3 amends 71-4609 of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles to strike the requirements that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 4 amends 75-134(2) of the Public Service Commission statutes to allow the commission to make orders effective at an "alternate" date rather than a "later" date. Strikes language referencing orders under 84-917, adds reference to orders by the commission or the Court of Appeals. Creates a new subsection (4) to automatically stay rate orders under the State Natural Gas Regulation Act pending resolution of the appeal.

Section 5: Amends 75-136 of the Public Service Commission statutes to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be taken in the same manner as appeals from the District Court. Adds process to perfect a filing. Adds language to advance rate order appeals.

Section 6 amends 75-139 of the Public Service Commission statutes to exempt Natural Gas Regulation Act rate orders from the standard effective dates.

Section 7 adds new section. Orders of the commission, except Natural Gas Regulation Act rate orders, may be reconsidered within 10 business days after the effective date of the order. Adds language to suspend the time for filing a notice of intention to appeal pending resolution of a motion to reconsider. The Commission has sixty days to dispose of such a motion or the motion is deemed denied.

Creates a new process for Natural Gas Regulation Act rate orders, allowing parties to file a motion for reconsideration within 30 days and may file an appeal 30 days after the order. The motion for reconsideration stays the order until the earlier of the date the commission enters an order resolving the motion, or 120 days from the date of the original order.

Section 8 amends 75-156(6), the penalties section of the Public Service Commission statutes, to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 9 amends 75-722, the transmission lines section of the Public Service Commission statutes, requiring appeals be made in accordance 75-136.

Section 10 amends 86-123 of the Nebraska Telecommunications Regulation Act to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 11 amends 86-158 of the Nebraska Telecommunications Regulation Act to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 12 amends 86-209 of the Telephone Consumer Slamming Prevention Act to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 13 amends 86-255 of the Automatic Dialing-Announcing Devices Act to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 14 amends 86-269(4) of the Intrastate Pay-Per-Call Regulation Act to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 15 amends 86-578, regarding dark fiber, to strike the requirement that appeals be made in accordance with the Administrative Procedures Act, and add language for appeals to be done under section 75-136.

Section 16 clarifies that section 7 will be assigned to Chapter 75, article 1.

Section 17 repeals original sections.

Annette Dubas, Chairperson