

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1071

Introduced by Haar, 21.

Read first time January 20, 2016

Committee: Natural Resources

1 A BILL FOR AN ACT relating to energy development; to amend section
2 81-1607, Reissue Revised Statutes of Nebraska, and sections 81-1601,
3 81-1602, 81-1603, 81-1605, and 81-1607.01, Revised Statutes
4 Supplement, 2015; to adopt the Solar Energy Economic Development
5 Act; to provide duties and powers for the State Energy Office; to
6 harmonize provisions; to repeal the original sections; and to
7 declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Solar Energy Economic Development Act.

3 Sec. 2. The Legislature finds and declares that:

4 (1) Solar energy provides many benefits including, but not limited
5 to, the following:

6 (a) Reducing reliance on fossil fuels;

7 (b) Providing energy at times of peak demand for electricity;

8 (c) The capability of being scaled up or down in size depending on
9 the needs of a project;

10 (d) The capability of being sited in both rural and urban areas and
11 located near the place of energy usage;

12 (e) Helping businesses and residences reduce their energy usage and
13 lower their energy bills;

14 (f) Reducing the cost of local government by reducing long-term
15 utility cost growth;

16 (g) Locking in rates at times when the costs of fossil fuels are
17 escalating; and

18 (h) Keeping energy dollars in the local community instead of sending
19 those dollars outside the state.

20 (2) It is the policy of the State of Nebraska to promote solar
21 energy development. There is a great deal of interest in solar energy
22 among Nebraskans, and Nebraska has great potential for solar energy
23 development, yet very little solar development has occurred in the state.
24 Solar energy development can help Nebraska meet compliance requirements
25 under the federal Environmental Protection Agency's Clean Power Plan.
26 Solar energy can help Nebraska's public power industry by providing
27 economic development in their service areas, and solar energy can attract
28 new business to the state. Incentives are needed for solar energy
29 development to provide much needed economic and environmental benefits to
30 the people of Nebraska.

31 Sec. 3. It is the intent of the Legislature that four million

1 dollars be appropriated during fiscal year 2016-17 to the State Energy
2 Office Cash Fund for the State Energy Office to provide grants for the
3 purpose of supporting solar energy development in Nebraska under the
4 Solar Energy Economic Development Act.

5 Sec. 4. (1) Grants provided under section 3 of this act shall be
6 allocated as follows:

7 (a) To electric utilities that have established solar energy
8 incentive programs that recognize and support the value of solar energy
9 for their customers;

10 (b) To local governments; or

11 (c) To businesses, tax exempt organizations, and individuals.

12 (2) The following levels of solar energy incentive programs are
13 authorized:

14 (a) Net metering as defined in section 70-2002;

15 (b) Business solar which means a solar electric generation facility
16 owned by a for-profit entity with a nameplate capacity rating of two
17 megawatts or less and which has an agreement to sell its electric
18 generation output to an electric utility or another political subdivision
19 of the State of Nebraska; and

20 (c) Community solar which means a solar electric generation facility
21 with a nameplate capacity rating of two megawatts or less in which the
22 subscribers of the facility receive a bill credit for the electricity
23 generated in proportion to the amount of subscription and which has an
24 agreement to sell its electric output to an electric utility or another
25 political subdivision of the State of Nebraska. A community solar program
26 may be established and operated by one or more nonprofit organizations or
27 cooperatives or political subdivisions, and may be operated in
28 conjunction with a for-profit entity in order to monetize tax credits.

29 (3) For purposes of this section: (a) Subscriber means a person who
30 has invested in a community solar project in an amount with a value equal
31 to at least a two hundred watt nameplate capacity rating. A subscriber

1 can be an individual, a business, or a nonprofit entity; (b) nameplate
2 capacity has the same meaning as in section 77-6202. In determining the
3 nameplate capacity rating, individual solar generation units may be
4 aggregated; (c) solar energy incentive program means financial assistance
5 provided to stimulate investment in solar energy; and (d) value of solar
6 energy means economic and environmental value provided to electric
7 utilities and their customers.

8 (4) Grants shall be allocated equally across the state to the
9 greatest extent possible. For purposes of the Solar Energy Economic
10 Development Act, electric utility has the same meaning as in section
11 70-802.

12 Sec. 5. Grants to electric utilities shall be used to support solar
13 energy incentive programs and to help cover the cost of solar energy
14 development. Preference shall be given to projects which provide local
15 governments or electric utilities with an option to purchase the solar
16 energy development project after a period of time. Businesses, tax exempt
17 organizations, local governments, and individuals may apply for grants to
18 help them cover the cost to develop solar energy. Preference shall be
19 given to applicants whose electric utility does not offer a solar energy
20 incentive program applicable to their proposed program. No grant pursuant
21 to the Solar Energy Economic Development Act shall exceed fifteen percent
22 of the total cost of the solar energy project or more than one hundred
23 fifty thousand dollars.

24 Sec. 6. The State Energy Office may establish criteria for the
25 approval of grant applications and may adopt and promulgate rules and
26 regulations deemed necessary to carry out the purposes of the Solar
27 Energy Economic Development Act.

28 Sec. 7. Section 81-1601, Revised Statutes Supplement, 2015, is
29 amended to read:

30 81-1601 (1) There is hereby created an agency of state government to
31 be known as the State Energy Office. The office may be a separate

1 division within an existing executive department.

2 (2) The chief executive officer shall be known as the Director of
3 the State Energy Office and shall be appointed by the Governor with the
4 advice and consent of the Legislature. The director shall administer the
5 affairs of the office and shall serve at the pleasure of the Governor.
6 The director may employ such assistants, professional staff, and other
7 employees as may be deemed necessary to effectively carry out the
8 provisions of sections 81-1601 to 81-1605 and the Solar Energy Economic
9 Development Act within such appropriations as the Legislature may
10 provide. The salary of the director shall be fixed by the Governor unless
11 otherwise expressly provided for by law.

12 Sec. 8. Section 81-1602, Revised Statutes Supplement, 2015, is
13 amended to read:

14 81-1602 The State Energy Office shall have the following duties:

15 (1) To serve as or assist in developing and coordinating a central
16 repository within state government for the collection of data on energy;

17 (2) To undertake a continuing assessment of the trends in the
18 availability, consumption, and development of all forms of energy;

19 (3) To collect and analyze data relating to present and future
20 demands and resources for all sources of energy and to specify energy
21 needs for the state;

22 (4) To recommend to the Governor and the Legislature energy policies
23 and conservation measures for the state and to carry out such measures as
24 are adopted;

25 (5) To provide for public dissemination of appropriate information
26 on energy, energy sources, and energy conservation;

27 (6) To accept, expend, or disburse funds, public or private, made
28 available to it for research studies, demonstration projects, or other
29 activities which are related either to energy conservation and efficiency
30 or development;

31 (7) To study the impact and relationship of state energy policies to

1 national and regional energy policies and engage in such activities as
2 will reasonably insure that the State of Nebraska and its citizens
3 receive an equitable share of energy supplies, including the
4 administration of any federally mandated or state-mandated energy
5 allocation programs;

6 (8) To actively seek the advice of the citizens of Nebraska
7 regarding energy policies and programs;

8 (9) To prepare emergency allocation plans suggesting to the Governor
9 actions to be taken in the event of serious shortages of energy;

10 (10) To design a state program for conservation of energy and energy
11 efficiency;

12 (11) To provide technical assistance to local subdivisions of
13 government;

14 (12) To provide technical assistance to private persons desiring
15 information on energy conservation and efficiency techniques and the use
16 of renewable energy technologies;

17 (13) To develop a strategic state energy plan pursuant to section
18 81-1604;

19 (14) To develop and disseminate transparent and objective energy
20 information and analysis while utilizing existing energy planning
21 resources of relevant stakeholder entities;

22 (15) To actively seek to maximize federal and other nonstate funding
23 and support to the state for energy planning; ~~and~~

24 (16) To monitor energy transmission capacity planning and policy
25 affecting the state and the regulatory approval process for the
26 development of energy infrastructure and make recommendations to the
27 Governor and electronically to the Legislature as necessary to facilitate
28 energy infrastructure planning and development; and -

29 (17) To provide grants for the purpose of supporting solar energy
30 development in Nebraska under the Solar Energy Economic Development Act.

31 Sec. 9. Section 81-1603, Revised Statutes Supplement, 2015, is

1 amended to read:

2 81-1603 The office shall have the power to do such things as are
3 necessary to carry out sections 81-1601 to 81-1605 and the Solar Energy
4 Economic Development Act, including, but not limited to, the following:

5 (1) To adopt rules and regulations, pursuant to the Administrative
6 Procedure Act, to carry out the purposes of sections 81-1601 to 81-1605
7 and the Solar Energy Economic Development Act;

8 (2) To make all contracts pursuant to sections 81-1601 to 81-1605
9 and the Solar Energy Economic Development Act and do all things to
10 cooperate with the federal government, and to qualify for, accept,
11 expend, and dispense public or private funds intended for the
12 implementation of sections 81-1601 to 81-1605 and the Solar Energy
13 Economic Development Act;

14 (3) To contract for services, if such work or services cannot be
15 satisfactorily performed by employees of the agency or by any other part
16 of state government;

17 (4) To enter into such agreements as are necessary to carry out
18 energy research and development with other states;

19 (5) To carry out the duties and responsibilities relating to energy
20 as may be requested or required of the state by the federal government;

21 (6) To cooperate and participate with the approval of the Governor
22 in the activities of organizations of states relating to the
23 availability, conservation, development, and distribution of energy;

24 (7) To engage in such activities as will seek to insure that the
25 State of Nebraska and its citizens receive an equitable share of energy
26 supplies at a fair price; and

27 (8) To form advisory committees of citizens of Nebraska to advise
28 the director of the energy office on programs and policies relating to
29 energy and to assist in implementing such programs. Such committees shall
30 be of a temporary nature and no member shall receive any compensation for
31 serving on any such committee but, with the approval of the Governor,

1 members shall receive reimbursement for actual and necessary expenses as
2 provided in sections 81-1174 to 81-1177. The minutes of meetings of and
3 actions taken by each committee shall be kept and a record shall be
4 maintained of the name, address, and occupation or vocation of every
5 individual serving on any committee. Such minutes and records shall be
6 maintained in the State Energy Office and shall be available for public
7 inspection during regular office hours.

8 Sec. 10. Section 81-1605, Revised Statutes Supplement, 2015, is
9 amended to read:

10 81-1605 Notwithstanding any provisions of sections 81-1601 to
11 81-1605 and the Solar Energy Economic Development Act, the State Energy
12 Office shall not perform any duties or exercise any powers which are
13 delegated to other agencies or subdivisions of state government.

14 Sec. 11. Section 81-1607, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-1607 (1) On or before February 15 of each year, the Director of
17 the State Energy Office shall transmit to the Governor and the Clerk of
18 the Legislature a comprehensive report designed to identify emerging
19 trends related to energy supply, demand, and conservation and to specify
20 the level of statewide energy need within the following sectors:
21 Agricultural, commercial, residential, industrial, transportation,
22 utilities, government, and any other sector that the director determines
23 to be useful. The report submitted to the Clerk of the Legislature shall
24 be submitted electronically.

25 (2) The report shall include, but not be limited to:

26 (a) An assessment of the state's energy resources, including
27 examination of the current energy supplies and any feasible alternative
28 sources;

29 (b) The estimated reduction in annual energy consumption resulting
30 from various energy conservation measures;

31 (c) The status of the office's ongoing studies;

1 (d) Recommendations to the Governor and the Legislature for
2 administrative and legislative actions to accomplish the purposes of
3 sections 70-625, 70-704, 81-161, 81-1602, 81-1606, and 81-1607 and the
4 Solar Energy Economic Development Act; and

5 (e) The use of funds disbursed during the previous year under
6 sections 81-1635 to 81-1641. The use of such funds shall be reported each
7 year until the funds are completely disbursed and all contractual
8 obligations have expired or otherwise terminated.

9 Sec. 12. Section 81-1607.01, Revised Statutes Supplement, 2015, is
10 amended to read:

11 81-1607.01 The State Energy Office Cash Fund is hereby created. The
12 fund shall consist of funds received pursuant to section 57-705 and as
13 appropriated by the Legislature. The fund shall be used for the
14 administration of sections 81-1601 to 81-1607, for energy conservation
15 activities, for carrying out the purposes of the Solar Energy Economic
16 Development Act, and for providing technical assistance to communities in
17 the area of natural gas other than assistance regarding ownership of
18 regulated utilities, except that transfers may be made from the fund to
19 the General Fund at the direction of the Legislature. Any money in the
20 State Energy Office Cash Fund available for investment shall be invested
21 by the state investment officer pursuant to the Nebraska Capital
22 Expansion Act and the Nebraska State Funds Investment Act.

23 Sec. 13. Original section 81-1607, Reissue Revised Statutes of
24 Nebraska, and sections 81-1601, 81-1602, 81-1603, 81-1605, and
25 81-1607.01, Revised Statutes Supplement, 2015, are repealed.

26 Sec. 14. Since an emergency exists, this act takes effect when
27 passed and approved according to law.