

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 621**

Introduced by Kolowski, 31.

Read first time January 23, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to solar energy; to amend sections 66-901,  
2 66-913, and 66-914, Reissue Revised Statutes of Nebraska; to restate  
3 findings; to change provisions relating to considerations for zoning  
4 regulations, ordinances, and comprehensive development plans; to  
5 prohibit certain restrictions relating to solar energy collection  
6 and use; to provide a cause of action; to provide severability; and  
7 to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-901, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 66-901 The Legislature hereby finds and declares that the use of  
4 solar energy and wind energy in Nebraska: (1) Can help reduce the  
5 nation's reliance upon irreplaceable domestic and imported fossil fuels;  
6 (2) can reduce air and water pollution resulting from the use of  
7 conventional energy sources; (3) requires effective legislation and  
8 efficient administration of state and local programs to be of greatest  
9 value to its citizens; and (4) is of such importance to the public  
10 health, safety, and welfare that the state should take appropriate action  
11 to encourage its use. The Legislature further finds that the foregoing  
12 policy is of utmost importance to the state and the use of solar energy  
13 and wind energy generation sources in a distributed manner is inherent  
14 within the police power of the state and its municipalities to safeguard  
15 the interests of citizens.

16 There is an increasing need for the use of solar energy and wind  
17 energy devices as an alternative to domestic and imported fossil fuels.  
18 Distributed generation is one form of solar energy generation in  
19 particular that contributes positively to future energy production ~~As the~~  
20 ~~use of solar energy and wind energy devices increases, the possibility of~~  
21 ~~future shading and obstruction of such devices by structures or~~  
22 ~~vegetation will also increase.~~ The Legislature therefor declares that the  
23 purpose of sections 66-901 to 66-914 is to promote the public health,  
24 safety, and welfare by protecting access to solar energy and wind energy  
25 as provided in sections 66-901 to 66-914.

26 Sec. 2. Section 66-913, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 66-913 All counties or municipalities having zoning or subdivision  
29 jurisdiction are hereby authorized to include considerations for the  
30 encouragement of solar energy and wind energy use and the protection of  
31 access to solar energy and wind energy in all applicable zoning

1 regulations or ordinances and comprehensive development plans. Such  
2 considerations may include, but not be limited to, regulation of height,  
3 location, setback, and use of structures, regulation of the height and  
4 location of vegetation with respect to property boundary lines and the  
5 right to direct sunlight, the type and location of energy systems or  
6 their components, ~~and~~ the use of districts to encourage the use of solar  
7 energy systems and wind energy conversion systems and protect access to  
8 solar energy and wind energy, and the use of a solar access permit to  
9 regulate an impermissible interference with the right to direct sunlight.  
10 Comprehensive development plans may contain an element for protection and  
11 development of solar energy and wind energy access which will promote  
12 energy conservation and ensure coordination of solar energy and wind  
13 energy use with conventional energy use.

14 Sec. 3. Section 66-914, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 66-914 (1) When the application of any zoning or subdivision  
17 regulation or ordinance would prevent or unduly restrict the use of solar  
18 energy systems or wind energy conversion systems, the governing body of  
19 the county or municipality having zoning or subdivision jurisdiction is  
20 authorized to grant a variance or exception from the strict application  
21 thereof so as to relieve such restriction and protect access to solar  
22 energy or wind energy if such relief may be granted without substantial  
23 detriment to the public good and without substantially impairing the  
24 intent and purpose of such regulation or ordinance.

25 (2) Any instrument governing or regulating the ownership or use of  
26 real property which purports to forbid or outright restrict the  
27 installation or use of a solar energy collector or solar energy system or  
28 the building of structures that facilitate the collection of solar energy  
29 in any form, including, but not limited to, any covenant, declaration,  
30 bylaw, deed, lease, contract or other agreement, term, provision, or  
31 condition, shall be void and unenforceable.

1       (3) No homeowners association as defined in section 18-3102 or  
2 similar mutual benefit association or corporation organized for the  
3 purpose of enforcing restrictive covenants established on real property  
4 shall adopt or enforce any rule, covenant, condition, restriction, or  
5 other regulation that violates subsection (2) of this section.

6       (4) No homeowners association as defined in section 18-3102 or  
7 similar mutual benefit association or corporation organized for the  
8 purpose of enforcing restrictive covenants established on real property  
9 shall assess or charge a homeowner any fee for the placement of any solar  
10 energy collector or solar energy system.

11       (5) Any existing covenant, declaration, bylaw, deed, lease, contract  
12 or other agreement, term, provision, or condition that violates  
13 subsection (2) of this section is void and unenforceable.

14       (6) A homeowner or tenant shall have a civil cause of action against  
15 any homeowners association or similar mutual benefit association or  
16 corporation described in subsections (3) and (4) of this section,  
17 landlord, or other person for violations of this section.

18       Sec. 4. If any section in this act or any part of any section is  
19 declared invalid or unconstitutional, the declaration shall not affect  
20 the validity or constitutionality of the remaining portions.

21       Sec. 5. Original sections 66-901, 66-913, and 66-914, Reissue  
22 Revised Statutes of Nebraska, are repealed.